

COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 19, 2019

THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY MET IN REGULAR SESSION ON THIS DATE WITH THE FOLLOWING MEMBERS PRESENT:

Present:
Barb Lewis, President
Jeff Benton, Vice President
Gary Merrell, Commissioner

1:30 P.M. Viewing For Consideration Of The Dustin Road Drainage Improvement Petition (Vicinity of 7860 Dustin Road, Galena)

1
RESOLUTION NO. 19-803

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD AUGUST 15, 2019:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on August 15, 2019; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.11 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the electronic record of proceedings at the previous meeting.

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

2
PUBLIC COMMENT

3
RESOLUTION NO. 19-804

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0816:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0816 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
Village Network	Residential Treatment	22511607-5342	\$ 55,000.00
QTY Care	Residential Treatment	22511607-5342	\$ 45,000.00
HACH CO.	Water Reclamation -Sampler	66211900-5450	\$ 6,100.00

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

4
RESOLUTION NO. 19-805

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

The Child Support Enforcement Agency is requesting that Sue Sours attend a New Director/Administrator/Supervisor Retreat in Lewis Center, Ohio August 29, 2019, at the cost of \$125.00 (fund number 23711630).

The Child Support Enforcement Agency is requesting that Joyce Bowens attend a New Director/Administrator/Supervisor Retreat in Lewis Center, Ohio August 29, 2019, at the cost of \$125.00 (fund number 23711630).

The Adult Court Services department is requesting that Cynthia Brown attend a Subject Control Operator: Arrest & Control Training in Medina, Ohio on October 3, 2019, at the cost of \$100.00 (fund number 25622303).

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

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RESOLUTION NO 19-806

IN THE MATTER OF SETTING THE DATE AND TIME TO RECEIVE PROPOSALS FOR A CONSTRUCTION MANAGER AT RISK FOR THE ALUM CREEK WATER RECLAMATION FACILITY CLARIFIER UPGRADES FOR THE REGIONAL SEWER DISTRICT:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following:

WHEREAS, the Regional Sewer District desires to receive proposals for a Construction Manager at Risk for the Alum Creek Water Reclamation Facility Clarifier Upgrades; and

WHEREAS, the Regional Sewer District will provide the proposal request documents, including proposal requirements, format, and forms;

NOW, THEREFORE, BE IT RESOLVED that the Request for Proposal Documents for the Construction Manager at Risk for the Alum Creek Water Reclamation Facility Clarifier Upgrades are hereby approved, and the Sanitary Engineer is authorized to advertise for and receive proposals on behalf of the Board in accordance with the following Request for Proposals:

**PUBLIC NOTICE
REQUEST FOR PROPOSALS
CONSTRUCTION MANAGER AT RISK
Alum Creek Water Reclamation Facility
Clarifier Upgrades**

DELAWARE COUNTY, OHIO

The Delaware County Board of Commissioners, in accordance with Section 9.33, *et seq.*, of the Ohio Revised Code, hereby gives notice of its intent to employ a Construction Manager at Risk (CMAR) for the Alum Creek Water Reclamation Facility Clarifier Upgrades project for Delaware County, Ohio (the "Project") and invites interested parties to submit proposals for consideration.

The work is to involve the associated preconstruction services and at risk construction services for the Project. Firms are to be experienced in, but not limited to, CMAR services of scheduling, cost estimating, constructability review, "GMP" and open book pricing, and experience in public sector construction, specifically wastewater treatment facilities construction.

The complete Request for Proposals may be obtained at the County's web page, <https://regionalsewer.co.delaware.oh.us> under the heading Contractor>Advertisement for Bids or by contacting the Delaware County Regional Sewer District Office at (740) 833-2240, email bstanton@co.delaware.oh.us.

Proposals will be received at the Delaware County Regional Sewer District Office, Attention: Mr. Brad Stanton, 50 Channing Street, Delaware, Ohio 43015 by 12:00 P.M., September 23, 2019. Five (5) copies of all submittals are to be included. Submittals pursuant to this invitation will not be received after the hour and date stated above.

Vote on Motion Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

6

RESOLUTION NO. 19-807

IN THE MATTER OF APPROVING RIGHT-OF-WAY WORK PERMIT SUMMARY SHEET:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following work permits:

WHEREAS, the below requests to perform work within the right-of-way have been reviewed and approved by the Delaware County Engineer;

NOW, THEREFORE, BE IT RESOLVED that the following permits are hereby approved by the Board of Delaware County Commissioners:

Permit #	Applicant	Location	Type of Work
U19-133	Columbia Gas	Green Meadows Dr.	Place cable in ROW
U19-134	Verizon	Winter Road	Install fiber optic cable
U19-135	Columbia Gas	Adams Road	Install Gas Main
U19-136	Del-Co Water	Burnt Pond Road	Install waterline

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Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Aye

7

RESOLUTION NO. 19-808

IN THE MATTER OF ACCEPTING ROADS, ESTABLISHING STOP CONDITIONS, APPROVING RECOMMENDED SPEED LIMITS, AND RELEASING SURETIES FOR ORANGE POINT OUTPARCELS – GRAPHICS WAY, CREEKSIDE INDUSTRIAL PARK, AND HEATHER RIDGE SECTION 1:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following

Orange Point Outparcels-Graphics Way

WHEREAS, the Engineer has reviewed the roadway construction of the road within Orange Point Outparcels-Graphics Way (“Subdivision”), finds it to be constructed in accordance with the approved plans, and, therefore, recommends that the following roadway within the Subdivision be accepted into the public system:

- An addition of 0.10 mile to Township Road Number 808 Graphics Way; and

WHEREAS, the Engineer also recommends that the following stop conditions be established within the Subdivision:

- On Township Road Number 808, Graphics Way, at its intersection with Township Road Number 809, Orange Point Drive; and

WHEREAS, the Engineer also recommends that 25 mile per hour speed limits be established throughout the Subdivision; and

WHEREAS, the Engineer requests approval to return the letter of credit being held as maintenance surety to the owner, Orange Point LLC;

Creekside Industrial Park

WHEREAS, the Engineer has reviewed the roadway construction of the roads within Creekside Industrial Park (“Subdivision”), finds them to be constructed in accordance with the approved plans, and, therefore, recommends that the following roadways within the Subdivision be accepted into the public system:

- An addition of 0.34 mile to Township Road Number 409, Green Meadows Drive
- An addition of 0.29 mile to Township Road Number 1435, Corduroy Road; and

WHEREAS, the Engineer also recommends that the following stop conditions be established within the Subdivision:

- On Township Road Number 1435, Corduroy Road, at its intersection Township Road 409, Green Meadows Drive; and

WHEREAS, the Engineer also recommends that 25 mile per hour speed limits be established throughout the Subdivision; and

WHEREAS, the Engineer requests approval to return the bond being held as maintenance surety to the owner, HighDEV II, LLC;

Heather Ridge Section 1

WHEREAS, the Engineer has reviewed the roadway construction of the roads within Heather Ridge Section 1 (“Subdivision”), finds them to be constructed in accordance with the approved plans, and, therefore, recommends that the following roadways within the Subdivision be accepted into the public system:

- Heather Ridge Drive, to be known as Township Road Number 1726
- Copeland Court, to be known as Township Road Number 1727
- Maize View Drive, to be known as Township Road Number 1728; and

WHEREAS, the Engineer also recommends that the following stop conditions be established within the Subdivision:

- On Township Road Number 1726, Heather Ridge Drive, at its intersection with County Road Number 123, Hyatts Road
- On Township Road Number 1727, Copeland Court, at its intersection with Township Road Number 1726, Heather Ridge Drive

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- On township Road Number 1728, Maize View Drive, at its intersection with Township Road Number 1726, Heather Ridge Drive; and

WHEREAS, the Engineer also recommends that 25 mile per hour speed limits be established throughout the Subdivision; and

WHEREAS, the Engineer requests approval to return the letter of credit being held as maintenance surety to the owner, Homewood Corporation;

NOW, THEREFORE BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby accepts the Engineer’s recommendations stated herein and accepts the roads, establishes stop conditions, approves speed limits and releases sureties in accordance with the Engineer’s recommendations stated herein.

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

**8
RESOLUTION NO. 19-809**

IN THE MATTER OF APPROVING DEVELOPER’S AGREEMENT FOR CHESHIRE ROAD CONTRIBUTION:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, the Engineer recommends approving the Developer’s Agreement for Cheshire Road contribution in conjunction with Howard Farms;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Developer’s Agreement for Cheshire Road contribution in conjunction with Howard Farms as follows:

DEVELOPER’S AGREEMENT

THIS AGREEMENT made and entered into this 19th day of August, 2019, by and between the **COUNTY OF DELAWARE** (acting through its **BOARD OF COUNTY COMMISSIONERS**), hereinafter called the **COUNTY**, and **HOMEWOOD CORPORATION**, hereinafter called the **OWNER**, is governed by the following considerations, to wit:

- 1) The **OWNER** is constructing a development known as Howard Farms (the “Development”), which will include a new roadway access to Cheshire Road and contribute to the need for improvements to Cheshire Road or other roadways in the vicinity of the Development which shall be constructed by the **COUNTY** (the “Improvements”).
- 2) On or before June 30, 2021, the **OWNER** shall pay to the **COUNTY** Two Hundred Ninety-One Thousand Four Hundred Fifteen Dollars (\$291,415), mutually agreed to be the **OWNER’S** proportional share of, and contribution toward, the cost and expense of the Improvements. **OWNER** further agrees that such contribution may be used as determined by the **COUNTY** for improvements to Cheshire Road, or any other public roadway in the vicinity thereof, benefitting the Development.
- 3) The **OWNER** is to provide a bond, irrevocable letter of credit, or other approved financial warranty in the amount of Two Hundred Ninety-One Thousand Four Hundred Fifteen Dollars (\$291,415), payable to the **BOARD OF COUNTY COMMISSIONERS**, to insure the faithful performance of this **AGREEMENT**. Said financial warranty will be released and returned to the **OWNER** within thirty (30) days of the receipt of payment as required in Section 2 hereof.
- 4) To the extent the **OWNER**, either directly or through its agents or contractors, performs any work within the **COUNTY’S** right-of-way, the **OWNER** shall indemnify and hold the **COUNTY** free and harmless from any and all claims for damages of every nature arising or growing out of the work.
- 5) The **OWNER** further agrees that any violation of or noncompliance with any of the provisions as stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **Delaware County Engineer** shall have the right to suspend or terminate any permit for access to or work within the **COUNTY** right-of-way.
- 6) If the **OWNER** should become unable to carry out the provisions of this **AGREEMENT**, the **OWNER’S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.
- 7) In consideration whereof, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants to the **OWNER** or his agent the right and privilege to access the Improvements stipulated herein, subject to the issuance of a right-of-way work permit.

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

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RESOLUTION NO. 19-810

IN THE MATTER OF ADOPTING A DELAWARE COUNTY FACILITY USE POLICY FOR DELAWARE COUNTY:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following:

WHEREAS, the Director of Communications recommends the adoption of a Facility Use Policy;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, approves the following Facility Use Policy:

DELAWARE COUNTY FACILITY USE POLICY

Title	Effective	Supersedes
Facility Use Policy	08/19/2019	Resolution No. 02-758, adopted 06/10/2002

1.0 Authority

The Delaware County Board of Commissioners (the “Board”) adopts this policy pursuant to sections 307.01, 307.02, and 307.03 of the Revised Code.

2.0 Purpose

The primary public purpose of Delaware County facilities, buildings, and grounds is for the necessary and efficient operation of county government offices and agencies. Access to and use of facilities, buildings, and grounds by the general public serves a secondary public purpose by meeting the needs and interests of and benefiting the Delaware County community at large through providing clean, safe, and accessible spaces for public meetings and gatherings, provided such secondary purpose does not disrupt or interfere with the primary purpose. This policy establishes procedures, regulations, and fees for permitting the general public access to and use of certain facilities, buildings, and grounds owned by and under the control of the Board.

3.0 Scope

This policy shall apply to all Delaware County facilities, buildings, and grounds owned by and under the control of the Board. Only those facilities, buildings, and grounds determined by the Board, in its sole discretion, to be amenable to the public purpose stated herein shall be available for use by the general public. Specifically, the Board finds and determines that the following facilities, buildings, and grounds are amenable to the public purpose stated herein and shall be available for use by the general public, subject to this policy: (1) conference and meeting rooms in the Rutherford B. Hayes Building and Frank B. Willis Building; (2) the Commissioners’ Meeting Room; and (3) the areas outside Delaware County buildings, including lawns, courtyards, and plazas, but not parking lots or facilities, except as used as parking for permitted events. Offices assigned to Delaware County elected officials and their employees shall not be made available for use. Access to and use of any other facilities, buildings, or grounds shall be subject to approval by the Board. Courtrooms and other areas necessary for the efficient operation of the courts of Delaware County shall not be available for use pursuant to this policy, and any request to use such facilities shall be submitted to, and subject to approval by, the applicable court or judge.

4.0 Permitted Uses

- 4.1** Speaking engagements on a matter of public concern
- 4.2** Political campaign functions or events (permitted on outside grounds only)
- 4.3** Public meetings, conferences, seminars, and symposia
- 4.4** Community-oriented programs and activities

5.0 Prohibited Uses

- 5.1** Private social functions, such as receptions or parties
- 5.2** For-profit commercial or business activities, except upon a determination by the Board that such activity serves a public purpose
- 5.3** Political events for the primary purpose of fundraising
- 5.4** Any activity that involves the following: fires; permanent attachment to structures; fireworks; firearms, concealed weapons or dangerous ordnances; or the possession, distribution, consumption, or use of drugs or alcoholic beverages
- 5.5** Illegal activities

6.0 Permit Process

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- 6.1 Access to and use of Delaware County facilities, buildings, and grounds shall require a permit issued in accordance with this policy.
- 6.2 The County Administrator shall, in consultation with the Staff Attorney and the Communications Director, develop a Delaware County Facility Use Permit Form ("Permit Form") in accordance with this policy.
- 6.3 The Permit Form requires the person or organization seeking a permit to indemnify and hold harmless Delaware County from any losses, claims, liens, demands and causes of actions of every kind, including but not limited to judgments, penalties, and legal fees, and to provide sufficient insurance coverage to protect Delaware County.
- 6.4 Those persons or organizations that wish to obtain a permit shall complete and submit the Permit Form to the Communications Department under the Delaware County Board of Commissioners. The Permit Form is to ensure that the requested facilities are available and ready for use by the community and that the County is adequately prepared for the activity. If the request includes use of any interior room or space, then the Permit Form shall be fully completed and submitted at least ten (10) days prior to the requested use. If the request is limited to exterior spaces, then the Permit Form shall be fully completed and submitted at least three (3) days prior to the requested use.
- 6.5 If there are competing requests for the use of a facility, priority shall be given in the following order of preference:
 - 6.5.1 Delaware County sponsored programs and activities;
 - 6.5.2 Uses by other governmental entities;
 - 6.5.3 Uses by a group consisting primarily of residents of Delaware County or an organization that is headquartered in Delaware County;
 - 6.5.4 In those instances unresolved by the preceding preference, the first to make a request will be given priority.
- 6.6 For uses expressly authorized by this policy that include fewer than thirty (30) attendees, the County Administrator may grant the permit.
- 6.7 For uses that include thirty (30) or more attendees or that are not expressly authorized by this policy, the Permit Form shall be forwarded to the Delaware County Sheriff, Delaware County security personnel, and the Director of Facilities for their respective review and recommendation. Such Permit Forms shall then be submitted to the Board for its determination to grant or deny a permit.

7.0 Fees and Rules for Usage

- 7.1 Use of Delaware County facilities, buildings, and grounds outside normal business hours (Monday through Friday; 8:00 AM to 4:30 PM), on Delaware County holidays, or when the use of a Delaware County facility requires the need of security personnel or cleaning services, shall require that a fee be charged to the permit holder to cover the County's actual expenses. The entire fee shall be paid in advance in the form of a check, payable to "Delaware County." It shall be submitted with the Permit Form and is a condition of approval. For uses that include fewer than thirty (30) attendees, the fee shall consist of the following: (a) a flat fee of \$25.00; (b) \$50.00/hour for security personnel; and (c) a cleaning fee of \$100.00. For uses that include thirty (30) or more attendees, the minimum fee shall be a flat fee of \$125.00 plus \$50.00/hour, and the applicant shall submit an estimate of the number of attendees for review, pursuant to Section 6.7. If it is determined that the event will result in additional security or cleaning expenses, then the applicant shall be informed of the additional expenses and that an additional fee shall be required as a condition of permit approval.
- 7.2 Delaware County is not responsible for the parties attending any permitted use, and the permit holder shall assume responsibility for those in attendance.
- 7.3 Delaware County will not provide utilities for outdoor events.
- 7.4 Delaware County reserves the right to limit the number of participants and the time of the activities to protect the health, safety and welfare of the community.
- 7.5 Permit holders shall be responsible for cleaning the facility used, unless a cleaning fee is assessed pursuant to Section 7.1. All facilities shall be returned to their pre-use condition.
- 7.6 Unless otherwise arranged with Delaware County, the permit holder shall be responsible for providing all equipment necessary for the permitted use, including, but not limited to, audio/visual equipment.
- 7.7 Outdoor tents, canopies, or other structures shall be strictly temporary and shall only be secured in a non-invasive manner that complies with all applicable laws, regulations, rules, resolutions, and ordinances.
- 7.8 Signage and banners may be erected and shall be removed immediately upon termination of the use.
- 7.9 Any advertisement or distributed materials shall contain a statement as follows: "The views and beliefs expressed at this event do not necessarily reflect those of Delaware County or its elected officials."
- 7.10 Permit holders shall be responsible for any damage suffered by Delaware County facilities during the permitted use.
- 7.11 The permit holder shall be responsible for ensuring that the use complies with all applicable laws, regulations, rules, resolutions, and ordinances.

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8.0 Policy Violations

The Board reserves the right to deny or revoke a permit to any individual or organization that the Board determines, in its sole discretion, has violated any provision of this policy.

9.0 Non-Discrimination

The Board affirms that this policy complies with and shall be administered in accordance with all applicable Federal and State laws, regulations, and rules with respect to non-discrimination. Permits shall not be denied on the basis of the applicant’s status as a member of any protected class. The use restrictions stated herein are content-neutral, and a permit shall not be denied as a result of the event’s content.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

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RESOLUTION NO. 19-811

IN THE MATTER OF APPROVING THE OHIO DEPARTMENT OF HEALTH CONTRACT UNIT
TUBERCULOSIS FUNDING AGREEMENT BETWEEN THE OHIO DEPARTMENT OF HEALTH
("ODH") AND THE DELAWARE COUNTY BOARD OF COMMISSIONERS:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

OHIO DEPARTMENT OF HEALTH
TUBERCULOSIS FUNDING AGREEMENT

This Tuberculosis Funding Agreement is between
Ohio Department of Health ("ODH")
Bureau of Infectious Disease, Tuberculosis/Healthcare- Associated Infections Program
Sarah Mitchell, Program Manager ("ODH Agreement Manager")
246 N. High Street
Columbus, Ohio 43215
614-387-0652
sarah.mitchell@odh.ohio.gov

AND

Delaware County Board of Commissioners
Barb Lewis, President, County Commissioner
101 N Sandusky St
Delaware, Ohio 43015
740-833-2101
blewis@co.delaware.oh.us

#0000056163-Address code 36

For the purpose of this Agreement, the term "Party" or "Parties" may be used to refer to either ODH and/or Recipient/County Commissioner individually or collectively. Two (2) hardcopies of this Agreement should be signed by Recipient and returned along with required attachments (see §5) to Ohio Department of Health, Tuberculosis-Healthcare Associated Infections Program, ATTN: Carolyn Willis, 246 North High Street, Columbus, Ohio 43215, within fourteen (14) days of receipt at the above address. A copy of the fully executed Agreement will be returned to Recipient.

1. PURPOSE & OBJECTIVE. All Ohio counties will be eligible to receive funds to offset the cost of public health activities associated with Tuberculosis ("TB") cases that complete an approved course of treatment. The provision of such funds and services will benefit the citizens of Ohio in a manner consistent with the overall mission of the Ohio Department of Health to protect and improve the health of all Ohioans. Eligibility criteria are based upon standards of care set forth in the American Thoracic Society ("ATS"), Centers for Disease Control and Prevention ("CDC") and Infectious Disease Society of America ("IDSA") guidance documents, and are referenced in Ohio Revised Code ("O.R.C.") 339.71 through 339.89 and Ohio Administrative Code ("O.A.C.") 3701-15-01 through 3701-15-03. CDC considers this project to be (1) increasing Human Resource Development ("HRD") for the prevention and control of TB through education and training activities, and; (2) increasing the capacity for appropriate medical evaluation and management of persons with TB disease and infection through medical consultation, for which disclosure of protected health information by covered entities is authorized by section 164.512(b) of Health Insurance Portability and Accountability Act ("HIPAA").

2. REQUIRED QUALIFICATIONS. Provider must be an office of an Ohio County Commissioner.

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3. CONTRACT TERM. Subject to §6 and other terms and conditions specified in this Agreement:

3.1. “Agreement Beginning Date” shall be defined as the date indicated here, or the date of Agreement execution by both Parties, whichever is later:	7/1/2019
3.2. “Agreement Ending Date” shall be defined as the date indicated here, the date of Agreement termination or the date to which the Agreement has been extended:	12/31/2019

3.3. “Agreement Period” shall be defined as the time between the “Agreement Beginning Date” and “Agreement Ending Date” unless prior to the expiration date, the Agreement is renewed, terminated, or cancelled in accordance with the Agreement Terms and Conditions. Any reference to the Agreement Period shall include any renewal terms.

4. AGREEMENT FUNDING.

4.1. “Agreement Funding Source” shall be defined as:

Center for Disease Control and Prevention (CDC) National center for HIV, Viral Hepatitis, STDs and TB Prevention (PS) Cooperative Agreement

4.2. Federal Award Identification Number:

NU52PS004703

4.3. CFDA Number:

93.116

4.4. Ohio Statute Authorizing Administration of the Program:

Ohio Revised Code O.R.C. 3701.04(A)(4) & 3701.146; HIPAA 45 CFR Parts 160 & 164 (covered entities may disclose PHI to public health authorities) 42 U.S.C. 247b(1)(2) and 247b-6 as amended

5. ATTACHMENTS & ACKNOWLEDGEMENTS. Attachments specified in this Agreement are made a part hereof, and are incorporated as terms and conditions of this Agreement. PLEASE READ CAREFULLY AND INITIAL EACH PARAGRAPH BELOW:

_____ Recipient affirms that they have read and understand and agree to be bound by the Scope of Activities, Deliverables & Subsidy terms in §7 below, and by the Agreement Terms and Conditions in §8 below;

_____ If Recipient is not currently a registered vendor with the State of Ohio, Recipient must register online using the OAKS Supplier Self-Registration module at www.supplier.obm.ohio.gov;

_____ Recipient must complete and submit with this Agreement an Affirmation and Disclosure Form attached and marked Attachment A;

_____ Recipient certifies its non-profit status and authority to do business in Ohio;

_____ Recipient must submit with this Agreement verification of any required licenses, registrations or other qualifications required by this Agreement;

_____ Recipient certifies it is not debarred from consideration for any state or federal government contracts and it is not subject to any unresolved finding for recovery; and

_____ Effective March 28, 2019, if the Agreement Funding Source identified in §4.1. of this Agreement is one of the following listed funding sources, Recipient must certify that it does not perform nontherapeutic abortions; promote nontherapeutic abortions; contract with any entity that performs or promotes nontherapeutic abortions; nor will Recipient become nor is Recipient currently affiliated with any entity that performs or promotes nontherapeutic abortions as defined in O.R.C. §9.04:

- Violence Against Women Act;
- Breast and Cervical Cancer Mortality Prevention Act;
- Infertility prevention project;
- Minority HIV/AIDS initiative; or
- State of Ohio funds, including infant mortality reduction or infant vitality initiatives.

6. FEDERAL NOTICE OF AWARD RESTRICTIONS, DISCLAIMERS, EXCEPTIONS and/or

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MATERIAL BREACH. In the event of a conflict of terms, the terms and conditions of this Agreement shall take precedence over any conflicting terms in attachments.

6.1. Federal Notice of Award restrictions:

6.1.1. Audit Requirements: If 45 CFR 75 Subpart F applies, subrecipients receiving CDC funds under this Agreement must meet applicable audit requirements set forth in 45 CFR 75.

6.1.2. Required Disclosures for Federal Awardee Performance and Integrity Information System (FAPIIS): Consistent with 45 CFR 75.113, applicants and recipients must disclose in a timely manner, in writing to the CDC, with a copy to the HHS Office of Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Subrecipients must disclose, in a timely manner in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the CDC and to the HHS OIG at the following addresses:

CDC, Office of Grants Services
Louvern Asante, Specialist (GMS)
Centers for Disease Control and Prevention
Infectious Disease Services Branch
2920 Brandywine Road, M/S E-15
Atlanta, GA 30341
Telephone: 770-488-2835
Email: LHA5@cdc.gov

AND

U.S. Department of Health and Human Services
Office of the Inspector General
ATTN: Mandatory Grant Disclosures, Intake Coordinator
330 Independence Avenue, SW
Cohen Building, Room 5527
Washington, DC 20201
Fax: (202)-205-0604 (Include "Mandatory Grant Disclosures" in subject line) or
Email: MandatoryGranteeDisclosures@oig.hhs.gov

This mandatory disclosure requirement must be included in all subawards and contracts under this award. Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371. Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 and 376, and 31U.S.C. 3321).

CDC is required to report any termination of a federal award prior to the end of the period of performance due to material failure to comply with the terms and conditions of this award in the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS). (45 CFR 75.372(b)) CDC must also notify the recipient if the federal award is terminated for failure to comply with the federal statutes, regulations, or terms and conditions of the federal award. (45 CFR 75.373(b))

6.1.3. Publications: Publications, journal articles, etc. produced under a CDC grant support project must bear an acknowledgement and disclaimer, as appropriate, for example:

This publication (journal article, etc.) was supported by the Grant or Cooperative Agreement Number, 6 NU52PS004703-05, funded by the Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention or the Department of Health and Human Services.

6.1.4. Disclaimer for Conference/Meeting/Seminar Materials: If a conference/meeting/seminar is funded by a grant, cooperative agreement, sub-grant and/or a contract, the following statement must be included on the conference materials, including promotional materials, agenda, and internet sites:

Funding for this conference/meeting/seminar/training was made possible (in part) by the Centers for Disease Control and Prevention. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of the Department of Health and Human Services, nor does the mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government.

7. SCOPE OF ACTIVITIES, DELIVERABLES & SUBSIDY.

	Scope of Activities and/or Deliverables (Due Date and Subsidy only noted if Applicable or Required)	Due Date	Subsidy

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	During the Agreement Period, County Commissioner and ODH agree that County Commissioner shall complete the following activities and ODH will disburse amounts as indicated:		
7.1	<p>County Commissioner will support public health activities associated with reporting, investigation and case management of tuberculosis patients that completed treatment between 1/1/2018-12/31/2018.</p> <p>TB cases that completed treatment in 2018 should be entered in the Ohio Disease Reporting System (ODRS) by January 31, 2019 for consideration. Records for TB patients eligible for payment should be reviewed in ODRS for completeness and accuracy, and any supporting documentation should be attached to the ODRS record. Counties should create a list with the total number of eligible patients and corresponding ODRS numbers.</p> <p>The following criteria must be met and documented in ODRS to receive payment:</p> <ol style="list-style-type: none"> 1. Anti - TB drug regimen must meet American Thoracic Society (ATS) / Centers for Disease Control and Prevention (CDC) / Infectious Disease Society of America (IDSA) treatment guidelines and be appropriate for susceptibility pattern, severity of disease and underlying comorbidities; 2. Directly observed therapy ("DOT") must be performed and documented according to dosing and intervals that are consistent with ATS/CDC/IDSA guidelines; 3. Treatment completion dates and doses for the anti-TB drug regimen must be documented; 4. HIV status should be documented as negative, positive or refused; 5. For pulmonary TB cases, sputum specimens must be collected to document whether culture conversation occurred within 60 days of treatment initiation; and 6. Cases that are transferred from another jurisdiction must receive 80% of their care in the county for that county to claim eligibility. 	12/31/2019	
7.2	<p>County Commissioner shall submit an invoice related to the costs of the work related with this Agreement. Mandatory requirements on invoice:</p> <ol style="list-style-type: none"> 1. Time Period within work was performed (1/1/2018-12/31/2018); 2. List of ODRS numbers for all eligible cases treated that met criteria; 3. Total number of eligible cases treated; and 4. Description of services provided (e.g. TB control staff salaries, travel, medical consultation, education). <p>Invoice example is attached to the Agreement as Attachment B.</p>	12/31/2019	\$7,206 per TB case meeting treatment standards
	TOTAL AGREEMENT AMOUNT	Not to Exceed \$21,618	

8. AGREEMENT TERMS AND CONDITIONS.

8.1. Mutual Promises & Covenants. In consideration of the mutual promises expressed in this Agreement and intending to be legally bound, Recipient agrees to perform, and ODH agrees to pay Recipient, in

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accordance with §7 and the terms of this Agreement.

8.2. Scope of Activities, Deliverables, and Subsidy. Recipient shall provide work, services, products and deliverables in the time and manner and for the Subsidy specified in §7 and any attachment specified or incorporated into this Agreement. In consideration, ODH agrees to pay the Subsidy as set forth in §7. If at any time during the term of this Agreement, ODH determines that Recipient is not using the funds allocated in accordance with the terms of this Agreement or if data, including reports, are not entered in a timely manner, ODH may withhold future payments.

8.2.1. Total Agreement Amount. The Total Agreement Amount, as indicated in §7, includes the cost for all services, travel, or any other expenses that Recipient may incur as a result of Recipient's performance of this Agreement. Recipient shall not submit claims for expenses.

8.2.2. The Office of County Commissioner shall monitor the work under this Agreement.

8.2.3. The Office of County Commissioner waives the interest provisions of O.R.C. 126.30.

8.2.4. Subject to the provisions of O.R.C. 126.07 and O.R.C. 131.33, which shall at all times govern this Agreement, ODH represents that it intends to maintain this Agreement for the full Agreement Period set forth in this Agreement and has no reason to believe that it will not have sufficient funds to enable it to make all payments due. ODH further represents that it will use best efforts to obtain the appropriation of any necessary funds during the Agreement Period.

8.2.5. Funds Availability. Recipient understands and agrees that this Agreement is contingent upon the availability of lawful appropriations by the Ohio General Assembly and/or if applicable another Agreement Funding Source. The Funding Source will subsidize multiple Recipients under this program. Invoices will be paid out on a first-come-first-served basis. If the Funding Source is depleted or the Ohio General Assembly discontinues funding ODH for the activity specified in this Agreement, this Agreement is terminated as of the date funding expires without further obligation of ODH, State of Ohio, or any other Agreement Funding Source. If ODH has knowledge of insufficient funds to make future payments under this Agreement, ODH will notify Recipient.

8.2.6. ODH will not pay the Subsidy to Recipient for any work performed prior to receipt of written notification from the ODH Agreement Manager that the requirements of O.R.C. 126.07 and, if applicable, O.R.C. 127.16 have been met. ODH will not pay the Subsidy to Recipient for any work performed after the Agreement Ending Date, as applicable.

8.2.7. Invoices. Recipient shall invoice ODH in accordance with §7 for work or services Recipient provides. An itemized statement listing the services provided, the dates services were provided, and the amount of payment due shall accompany the invoice. Invoices shall be sent to ODH, ATTN: Accounts Payable, P.O. Box 118, Columbus, Ohio 43216-0118. ODH will make payment to Recipient within thirty (30) days of receipt of a valid invoice for the amount of payment due pursuant to Ohio Administrative Code 126-3-01. ODH shall return any invalid or incomplete invoice to Recipient within fifteen (15) days after ODH receives the invoice. An explanation will accompany the invoice that states the reason for return and any information needed to correct the invoice. Final invoices for services provided under this Agreement shall be submitted by Recipient no later than thirty (30) days after the end of the Agreement Period.

8.2.7.1. Electronic Commerce Program. The State of Ohio is an active participant in the E-Commerce to include Electronic Data Interchange (EDI). This program will benefit both the State and the Recipient by reducing time delays in receiving invoices and making payments that are associated with the existing manual processes. The Recipient is encouraged to move toward compliance with electronic commerce technologies, as this will be the preferred method of doing business with the State of Ohio. Information regarding E-Commerce is available on the Office of Budget and Management's website at www.supplier.obm.ohio.gov.

8.2.8. Recipient shall furnish its own support staff and services as necessary for the satisfactory performance of this Agreement. Unless otherwise specified in this Agreement, ODH will not provide any staff, services, or material to Recipient for the purpose of assisting Recipient's performance.

8.2.9. ODH may, from time to time as it deems appropriate, communicate specific instructions and requests to Recipient concerning the performance of the work described in this Agreement. Upon such notice and within ten (10) days after receipt of instructions, Recipient shall comply with such instructions and fulfill such requests to the satisfaction of ODH. It is expressly understood by the Parties that these instructions and requests are for the sole purpose of ensuring satisfactory completion of the work described in this Agreement and are not intended to amend or alter this Agreement or any part thereof. The Agreement Manager will communicate all such instructions and requests to Recipient.

8.2.10. If the Agreement Funding Source identified in §4.1. of this Agreement is one of the following listed funding sources, Recipient certifies that Recipient does not perform nontherapeutic

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abortions; promote nontherapeutic abortions; contract with any entity that performs or promotes nontherapeutic abortions; is or will become affiliated with any entity that performs or promotes nontherapeutic abortions as defined in

O.R.C. §9.04:

8.2.10.1. Violence Against Women Act;

8.2.10.2. Breast and Cervical Cancer Mortality Prevention Act;

8.2.10.3. Infertility prevention project;

8.2.10.4. Minority HIV/AIDS initiative; and/or

8.2.10.5. State of Ohio funds, including infant mortality reduction or infant vitality initiatives.

Any failure by Recipient to comply with this section shall be treated as a material breach of this Agreement.

8.3. Agreement Period; Extension. This Agreement shall be effective on the Agreement Beginning Date and shall remain in effect until the Agreement Ending Date. Upon written mutual consent of both parties, this Agreement may be renewed or extended past the Agreement Ending Date, subject to the same terms and conditions of this Agreement and subject to any federal and state directives, regulations, laws, Request for Quote or Request for Proposals relating to the subject matter of this Agreement.

8.4. Suspension and Termination. ODH may suspend or terminate this Agreement for any reason thirty (30) days after delivery of written notice to Recipient. ODH may suspend or terminate this Agreement immediately after delivery of written notice to Recipient if ODH (i) discovers any illegal conduct on the part of Recipient; (ii) discovers any violation of this Agreement regarding Conflict of Interest and Ethics Laws; (iii) discovers any violation regarding a Drug Free Workplace; (iv) discovers any violation of the funding restriction specified in §8.2.10; (v) is subject to a loss of funding as specified in §8.2.5; (vi) discovers that Recipient or any of its subcontractors has performed any services under this Agreement in violation of §8.12 regarding Prohibition of the Expenditure of Public Funds for Offshore Services; or (vii) discovers or is notified that a petition in bankruptcy or similar proceeding has been filed by or against Recipient. If at any time during the Agreement Period a bankruptcy or similar proceeding has been filed by or against Recipient, Recipient shall immediately notify ODH of the filing.

8.4.1. Recipient to Cease Work and Other Agreement Activities. Recipient, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this Agreement, suspend or terminate any subcontracts relating to such suspended or terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report, as of the date of receipt of notice of suspension or termination describing the status of all work under this Agreement, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODH may require. Any unused subsidies must be returned to ODH upon termination.

8.4.2. Determining Subsidy after Agreement Suspension or Termination. In the event of suspension or termination under this Agreement, with the exception of termination for violation of §8.2.10 and §8.12, Recipient shall be entitled to the Subsidy, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination or suspension, which shall be calculated by ODH based on the Subsidy set forth in §7 and §8.2, less any funds previously paid by or on behalf of ODH. ODH shall not be liable for any further claims, and the claims submitted by Recipient shall not exceed the total amount of Subsidy allowed by this Agreement.

8.5. Breach or Default.

8.5.1. Material Breach. Upon a Material Breach of the Agreement, as designated in §8.2.10 and §8.12, ODH may unilaterally terminate this Agreement without payment of the Subsidy to Recipient as a material breach is understood by the Parties to be so significant that it has destroyed the value of the Agreement and, due to the nature of the services that Recipient offers the State of Ohio, a Material Breach would undermine the sole purpose of the Agreement.

8.5.2. Upon breach or default by Recipient of any of the provisions, obligations or duties provided for in this Agreement, ODH may exercise all administrative, contractual, equitable or legal remedies available, without limitation. The waiver of any occurrence of breach or default is not a waiver of subsequent occurrences, and ODH retains the right to exercise all remedies provided for in this Agreement.

8.5.3. If ODH or Recipient fail to perform an obligation or obligations under this Agreement and thereafter such failure is waived by the other party; such waiver shall be limited to the particular failure so waived and shall not be deemed to waive other failures hereunder. Waiver by ODH shall not be effective unless it is in writing and signed by the Director of Health or his or her designee, except that Agreement Manager may agree in writing to non-substantial changes to §7, such as changes in form, format, deadlines, or other minimal changes that do not diminish the value of the specified work or deliverable.

8.6. Independent Contractor. It is fully understood and agreed that Recipient is an independent contractor and is not an agent, servant, or employee of the State of Ohio or the Ohio Department of Health (for purposes of O.R.C. Chapter 145) solely on the basis of this Agreement. No agency, employment, joint venture or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this

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Agreement. Inasmuch as ODH is interested in Recipient's services, ODH does not control the manner in which Recipient performs this Agreement. ODH is not liable for the workers' compensation or unemployment compensation payments required by O.R.C. Chapters 4123 and 4141, respectively. In addition, Recipient assumes responsibility for tax liabilities that result from the subsidy paid to Recipient by ODH. ODH will report any payment made under this Agreement to the Internal Revenue Service on Form 1099. Additionally, no provision contained in this Agreement shall be construed as entitling Recipient to participate in hospital plans, medical plans, sick leave benefits, vacation, and other benefits available to employees of ODH or to become a member of the Public Employees Retirement System (O.R.C. Chapter 145).

8.7. Conflict of Interest and Ethics Laws.

8.7.1. Neither Recipient nor any officer, member or employee of Recipient shall, prior to the completion of such work and payment for such work, acquire any interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of such work.

8.7.2. Recipient hereby covenants that neither Recipient, nor any officer, member, or employee of Recipient, have any interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities under this Agreement.

8.7.3. Recipient shall not promise or give to any ODH employee anything of value that is of such a character as to manifest a substantial and improper influence upon the employee with respect to his or her duties. Recipient shall not solicit an ODH employee to violate any ODH rule or policy relating to the conduct of contracting Parties or to violate O.R.C. 102.03 to 102.04 or O.R.C. 2921.42.

8.7.4. Recipient hereby covenants that Recipient and any officer, member or employee of Recipient are in compliance with O.R.C. 102.04 and that if Recipient is required to file a statement pursuant to O.R.C. 102.04(D)(2), such statement has been filed with the ODH General Counsel in addition to any other required filings.

8.7.5. Recipient hereby certifies compliance with the executive agency lobbying requirements of O.R.C. 121.60 to 121.69.

8.7.6. Recipient hereby certifies and affirms that, as applicable to Recipient, no party listed in Division (I) or (J) of O.R.C. 3517.13 or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions in excess of \$1,000.00 (One Thousand Dollars) to the Governor or to his campaign committees. If it is determined that Recipient's certification of this requirement is false or misleading, notwithstanding any criminal or civil liabilities imposed by law, Recipient shall return to ODH all monies paid to Recipient under this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

8.8. Nondiscrimination and Equal Employment Opportunity.

8.8.1. In carrying out this Agreement, Recipient will not discriminate against any employee or applicant for employment because of race, color, religion, gender, age, disability or military status as defined in section 4112.01 of the Revised Code, national origin or ancestry. Recipient shall comply with all applicable State of Ohio and Federal laws relating to nondiscrimination and equal employment opportunity as those laws may be amended from time to time, including but not limited to the following:

8.8.1.1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin;

8.8.1.2. Title VII of the Civil Rights Act of 1991 (P.L. 102-166) which prohibits discrimination on the basis of race, color or religion, national origin and sexual orientation in employment;

8.8.1.3. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency ("LEP"), which requires reasonable steps to ensure that LEP persons have meaningful access to programs (see www.lep.gov), and Health and Human Services ("HHS") implementing regulations at 45 CFR part 80;

8.8.1.4. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex, and HHS implementing regulations at 45 CFR part 86;

8.8.1.5. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps in the provision of benefits or services as well as employment, and the HHS implementing regulations are codified at 45 CFR parts 84 and 85;

8.8.1.6. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age and the HHS implementing regulations codified at 45

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CFR part 91;

8.8.1.7. Intentionally omitted; and

8.8.1.8. Prohibitions against retaliation against individuals for taking action or participating in an action to secure rights provided in State and Federal laws relating to nondiscrimination.

8.9. "Sweatshop Free" Certification . Recipient hereby certifies that all facilities used for the production of supplies or performance of services offered in this Agreement is in compliance with applicable domestic labor, employment, health and safety, environmental and building laws. This certification applies to any and all suppliers and/or subcontractors used by Recipient in furnishing the supplies or services pursuant to this Agreement. If it is determined that Recipient's certification of this requirement is false or misleading, then Recipient understands that it shall be grounds for the termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

8.10. Records, Documents and Information. All records, documents, writings or other information produced or used by Recipient in the performance of this Agreement shall be treated according to the following terms:

8.10.1. All ODH information which, under the laws of the State of Ohio, is classified as public or private will be treated as such by Recipient. Where there is a question as to whether information is public or private, ODH shall make the final determination. Recipient shall not use any information, systems, or records made available to it for any purpose other than to fulfill the contractual duties specified herein. Recipient agrees to be bound by the same standards of confidentiality that apply to the employees of ODH and the State of Ohio. If at any time during the Agreement period a proceeding has been filed by or against Recipient which would compel disclosure of private information under this Agreement, Recipient shall immediately notify ODH of the filing. The terms of this section shall be included in any subcontracts executed by Recipient for work under this Agreement.

8.10.2. All proprietary information of Recipient shall be held to be strictly confidential by ODH in accordance with Section 149.43 of the Ohio Revised Code. Proprietary information is information which, if made public, would put Recipient at a disadvantage in the market place and trade of which Recipient is a part. Recipient is responsible for notifying ODH of the nature of the information prior to its release to ODH. ODH reserves the right to require reasonable evidence of Recipient's assertion of the proprietary nature of any information to be provided.

8.10.3. All records relating to costs, work performed and supporting documentation for invoices submitted to ODH by Recipient shall be retained and made available by Recipient for audit by the State of Ohio (including, but not limited to, ODH, the Auditor of the State of Ohio, the Ohio Inspector General or duly authorized law enforcement officials) and agencies of the United States government for a minimum of three years after payment for work performed under this Agreement. If an audit, litigation, or other action is initiated during this time period, Recipient shall retain such records until the action is concluded and all issues resolved or the three years end, whichever is later.

8.11. Disclosure of Personal Health Information. Recipient hereby agrees that the information provided or made available by ODH shall not be used or disclosed other than as permitted or required by this Agreement or as required by law. Recipient will establish and maintain appropriate safeguards to prevent any use or disclosure of the information, other than as provided for by this Agreement. Recipient shall comply with 45 C.F.R.164.504(e)(2)(ii) and the Federal Information Security Management Act (P.L. 107-347) ("FISMA" as applicable to CDC grants). Recipient shall immediately report to ODH any discovery of use or disclosure of information not provided for or allowed by the Agreement. Recipient hereby agrees that anytime information is provided or made available to any subcontractor or agent, Recipient must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions, and restrictions on the use and disclosure of information as contained in this Agreement. Recipient must obtain ODH approval prior to entering into such agreements. Further, Recipient agrees to make available and provide right of access to an individual of their protected health information when that protected health information is obtained in the performance of Recipient's obligations under this Agreement.

8.12. Prohibition of the Expenditure of Public Funds for Offshore Services. No State of Ohio Cabinet, Agency, Board or Commission will enter into any contract to acquire for services provided outside the United States or that allows State of Ohio data to be sent, taken, accessed, tested, maintained, backed-up, stored, or made available remotely outside (located) of the United States. Notwithstanding any other terms of this Agreement, ODH reserves the right to recover any funds paid for services the Recipient performs outside of the United States for which it did not receive a waiver. The Recipient must complete the Contractor/Subcontractor Affirmation and Disclosure Form affirming the Recipient understands and will meet the requirements of the above prohibition. The Affirmation and Disclosure Form is attached hereto as Attachment A. During the performance of this Agreement, the Recipient must not change the location(s) disclosed on the Affirmation and Disclosure Form, unless a duly signed waiver has been attained to perform the services outside the United States. Recipient agrees to immediately notify ODH of any change or shift in the location(s) of services performed by Recipient or its subcontractors under this Agreement, and no services

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shall be changed or shifted to a location(s) that is outside of the United States.

8.12.1. Termination, Sanction, Damages. If Recipient or any of its subcontractors perform services under this Agreement outside of the United States or State of Ohio data is sent, taken, accessed, tested, maintained, backed-up, stored, or made available remotely outside the United States, the performance of such services shall be treated as a material breach of the Agreement. ODH is not obligated to pay and shall not pay for such services. If Recipient or any of its subcontractors perform any such services, Recipient shall immediately return to ODH all funds paid for those services. ODH may also recover from Recipient all costs associated with any corrective action ODH may undertake, including but not limited to an audit or a risk analysis, as a result of Recipient performing services outside the United States.

8.12.2. ODH may, at any time after the breach, terminate the Agreement, upon written notice to Recipient. ODH may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Agreement and costs associated with the acquisition of substitute services from a third party.

8.12.3. If ODH determines that actual and direct damages are uncertain or difficult to ascertain, ODH in its sole discretion may recover a payment of liquidated damages in the amount of 1% of the value of the Agreement.

8.12.4. ODH, in its sole discretion, may provide written notice to Recipient of a breach and permit Recipient to cure the breach. Such cure period shall be no longer than fourteen (14) calendar days. During the cure period, ODH may buy substitute services from a third party and recover from Recipient any costs associated with acquiring those substitute services.

8.12.5. Notwithstanding ODH permitting a period of time to cure the breach or Recipient's cure of the breach, ODH does not waive any of its rights and remedies provided ODH in this Agreement, including but not limited to recovery of funds paid for services Recipient performed outside of the United States, costs associated with corrective action, or liquidated damages.

8.13. Assignment. Recipient will not assign any of its rights nor delegate any of its duties and responsibilities under this Agreement without prior written consent of ODH. Any assignment or delegation not consented to may be deemed void by the ODH.

8.14. Drug Free Workplace. Recipient shall comply with all applicable state and federal rules, regulations and statutes pertaining to a drug free workplace. Recipient shall make a good faith effort to ensure that all employees of Recipient do not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way while working on state, county, or municipal property.

8.15. Security & Safety Rules. When using or possessing ODH data or accessing State of Ohio networks and systems, the Contractor, its employees, subcontractors and agents must comply with all applicable state rules, policies, and regulations regarding state-provided IT resources, data security and integrity. When on any property owned or controlled by the State of Ohio, the Contractor must comply with all security and safety rules, regulations, and policies applicable to people on those premises.

8.16. Trafficking Victims Act. In carrying out this Agreement, Recipient, its employees, subcontractors and their employees shall comply with Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 USC 7104); and is now located at 2 CFR Part 175 during the term of this Agreement. Recipient must include this provision in its contracts and subcontracts under this Agreement. Recipient must inform ODH immediately of any information regarding violation of the foregoing. Recipient understands that its failure to comply with this provision may subject ODH to loss of federal funds. Recipient agrees to compensate ODH for any such funds lost due to its failure to comply with this condition, or the failure of its subcontractors to comply with this condition.

8.17. Compliance.

8.17.1. Recipient affirmatively represents and warrants to ODH that it is not subject to a finding for recovery under O.R.C. 9.24 or that it has taken the appropriate remedial steps required under O.R.C. 9.24 or otherwise qualifies under that section. Recipient further affirmatively represents and warrants to ODH that it is not debarred or suspended from entering into state of Ohio contracts pursuant to O.R.C. 125.25 and is not subject to exclusion, disqualification or ineligibility as defined in 2 C.F.R.180.110. Recipient agrees that if this representation and warranty is deemed false, the Agreement will be void ab initio as between the Parties to this Agreement, and any funds paid by ODH hereunder shall be immediately repaid to ODH, or an action for recovery may be immediately commenced by ODH for the recovery of said funds.

8.17.2. Recipient certifies that Recipient is not federally debarred from participating in government contracts funded by federal money as described in 2 C.F.R. 180.220. If at any time during the contractual period Recipient is federally debarred from participating in government contracts funded

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by federal money, for whatever reason, Recipient shall immediately notify ODH of the debarment.

8.17.3. Recipient certifies that all approvals, licenses, registrations or other qualifications necessary to conduct business where the services are performed have been obtained and are operative. If at any time during the contractual period Recipient becomes disqualified from conducting business in Ohio, for whatever reason, Recipient shall immediately notify ODH of the disqualification.

8.17.4. Recipient certifies that it is in compliance and will remain in compliance throughout the duration of this Agreement with all other applicable federal and state laws, regulations, rules and Executive Orders and will require the same certification from its subgrantees or subcontractors.

8.18. Limitation of Liability. Both Parties agree to accept and be responsible for the actions or omissions of its agents, officers, and employees arising out of this Agreement, and nothing in this Agreement shall be interpreted or construed to place any responsibility for professional acts or omissions onto ODH. ODH's liability for damages, whether in contract or in tort, shall not exceed the amount of direct damages incurred by Recipient, and is the Recipient's sole and exclusive remedy for ODH's failure to perform its obligations under this Agreement. In no event shall ODH be liable for any indirect or consequential damages, including loss of profit, even if ODH knew or should have known of the possibility of such damages. Neither Party is responsible to the other Party for nonperformance or delay in performance of the terms of this Agreement due to acts of God, wars, riots, strikes, or other causes beyond the control of the Parties.

8.19. Insurance. Recipient will provide, at its own expense, Workers' Compensation insurance, as required by Ohio law or the laws of any other state where work under this Agreement will be performed. Recipient may be required to show proof of insurance upon request by ODH. Recipient also will provide for its employees performing work under this Agreement employer's liability insurance, and personal injury, bodily injury, and property damage liability insurance, including automobile coverage with personal injury and bodily injury coverage in the amount of at least \$100,000.00 per person, \$300,000.00 per occurrence. In lieu of providing the policies of insurance in the amounts specified in this section, Recipient instead may elect to self-insure such risk in accordance with the laws of this state, based upon a good-faith analysis of the potential liability as it relates to the work to be performed under this Agreement, provided that Recipient is one of the following:

8.19.1. A "state institution of higher education" as defined in O.R.C. 3345.12(A)(1), a community college established under O.R.C. Chapter 3354, a state community college established under O.R.C. Chapter 3358, a university branch established under O.R.C. Chapter 3355, or technical college established under O.R.C. Chapter 3357;

8.19.2. A "state agency", which means a department, bureau, board, commission, office, agency, institution or other organized body or instrumentality established by the constitution and laws of the state of Ohio for the exercise of any function of state government; or

8.19.3. A "political subdivision" of this state, which means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state.

8.20. Rights in Deliverables, Data and Copyrights. Any intellectual property or copyrightable materials produced specifically for and as a deliverable under the terms of this Agreement, including any documents, data, photographs and negatives, electronic reports, records, software, source code, or other media, shall become the property of ODH, which shall have an unrestricted right to reproduce, distribute, modify, maintain, and use the Deliverables. This section does not apply to any preexisting materials owned by Recipient. Recipient shall not obtain copyright, patent, or other proprietary protection for the Work or Deliverables under this Agreement. ODH grants Recipient an unlimited license to use work and materials produced by Recipient under this Agreement, including the right to publish the results of any work performed under this Agreement. In the event that the Agreement Funding Source is federal funding, in whole or in part, such license is subject to the royalty-free, non-exclusive and irrevocable license to such material retained by the United States government. Further, the work must state: "This publication was made possible by Grant or Cooperative Agreement Number funded by Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of Centers for Disease Control and Prevention or the Ohio Department of Health." Recipient shall not include in any Deliverable or Work any copyrighted matter, unless the copyright owner gives prior written approval to use such copyrighted matter.

8.21. Attachments. Attachments and documents referenced in this Agreement are made a part hereof, and are incorporated as terms and conditions of this Agreement. In the event of a conflict of terms, the terms and conditions of this Agreement shall take precedence over any conflicting terms.

8.22. Construction. This Agreement is governed, construed and enforced in accordance with the laws of the State of Ohio. Further, the Ohio courts shall have jurisdiction over the subject matter and

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the Parties hereto in connection with disputes concerning validity and enforcement of this Agreement. In the event that any terms of this Agreement or applicable statutes conflict, then statutes and regulations take precedence.

8.23. Severability. If any portion of this Agreement is found to be unenforceable by operation of statute or by administrative or judicial decision, the enforceability of the balance of this Agreement shall not be affected thereby, provided that the absence of the unenforceable provision does not render impossible the performance of the remainder of this Agreement.

8.24. Amendments. This writing constitutes the entire agreement between the Parties with respect to all matters herein. This Agreement may be amended only by a writing signed by both Parties. However, it is agreed by the Parties that any amendments to laws or regulations cited herein will result in the correlative modification of this Agreement, without the necessity for executing written amendments. Any written amendments to this Agreement shall be prospective in nature. When a new or different term or condition is added, additional consideration is not necessary to bind the Parties.

8.25. Headings. The headings in this Contract are for convenience only and will not affect the interpretation of any of the Agreement terms and conditions.

8.26. Survival. All sections herein relating to payment, confidentiality, liability, record retention, audit, conflicts of interest and ethics, publicity, warranties and limitations on damages shall survive the termination of this Agreement.

8.27. Notices.

8.27.1. Form of Notice. All notices, requests, claims, demands and other communications between the Parties shall be in writing.

8.27.2. Method of Notice. All notices shall be given (i) by delivery in person (ii) by a nationally recognized next day courier service, (iii) by first class, registered or certified mail, postage prepaid, or (iv) by electronic mail to the address of the Party specified in this Agreement as “ODH Agreement Manager” or “Recipient’s Authorized Representative” or such other address as either Party may specify in writing. The Parties acknowledge that change in authorized representatives and their addresses are not substantive and a change shall be recognized with proper Notice.

8.27.3. Receipt of Notice. All notices shall be effective upon (i) receipt by the party to which notice is given, or (ii) on the fifth (5th) day following mailing, whichever occurs first.

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

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ADMINISTRATOR REPORTS

Mike Frommer, County Administrator

-Cindi Blair did a great job at organizing the softball tournament for county employees. Four departments participated (Regional Sewer District, Job and Family Services, Sheriff’s office and Emergency Medical Services department). The Sheriff’s office were the victors. Thank you to Commissioner Merrell for umpiring.

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COMMISSIONERS’ COMMITTEES REPORTS

Commissioner Merrell

- Had a lot of fun umpiring the games on Saturday. Will be sending a note to everyone later today.
- Asked Rob Riley for an update on the Lewis Center roundabout (utility poles; realignment).
- Attended the CCAO meeting last week. The Jobs Ohio president spoke.
- Attended the Career Center ribbon cutting.
- Niche announced that Delaware County was the #9 most livable county in the U.S.

Commissioner Benton

-The Career Center is a great facility. Consolidates their programs and will allow us to consolidate our offices in the future.

Commissioner Lewis

- The Career Center is a gorgeous building. The Lieutenant Governor spoke at the ribbon cutting.
- Met with Dr. Harrison (Columbus State’s president) last week.
- Will be holding a work session tomorrow to discuss Indigent Defense with our local judges.

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RESOLUTION NO. 19-812

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSES; FOR PENDING OR IMMINENT LITIGATION:

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It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, pursuant to section 121.22(G) of the Revised Code, a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the matters specified in section 121.22(G)(1)–(7) of the Revised Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio:

Section 1. The Board hereby adjourns into executive session for consideration of the purchase of property for public purposes; for pending or imminent litigation.

Vote on Motion Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

RESOLUTION NO. 19-813

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Merrell, seconded by Mr. Benton to adjourn out of Executive Session.

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Aye

Recess 11:15 A.M./Reconvene 1:30 P.M.

1:30P.M. Viewing For Consideration Of The Dustin Road Drainage Improvement Petition (Vicinity of 7860 Dustin Road, Galena)

On **Monday August 19, 2019 at 1:30PM** near the following 7860 Dustin Road, Galena, Ohio 43021, the Delaware County Commissioners viewed the watershed area with staff members from the Delaware County Engineer’s Office and the Delaware County Soil and Water Conservation District.

Commissioners Present: Jeff Benton, Gary Merrell, and Barb Lewis

On **June 4, 2019**, a drainage petition for the Dustin Road watershed was filed with the Board of County Commissioners to:

- Commencing in Delaware County, Berkshire Township, within the Dustin Road watershed and generally following, but not limited to the course and termini of the existing improvements
- To generally improve the drainage, both surface and subsurface, to a good and sufficient outlet by replacing or repairing, or altering the existing improvement as required and/or creating new surface and subsurface drainage mains or laterals as requested by this petition.

NOTE: the first hearing on the petition is scheduled for **Thursday November 7, 2019, at 10:00A.M.**

The Commissioners:

- Stood in the ditch located at 7860 Dustin Road.
- The board was directed to look at the driveway where the swale runs through the driveway of 7860 Dustin Road. The course of the water runs across the driveways north of the property, runs to the existing ditch then under Dustin Road to join an existing drainage path. There seems to be clay tile under the roadway to carry the water northwards.
- Projects Since 1998 Are Automatically Placed On County Drainage Maintenance Program
- This Is A Landowner Initiated Process And Detailed Surveys Follow If The Project Moves Past The First Hearing
- If Approved The Storm Water Infrastructure Will Be Placed On The County Drainage Maintenance Program
- If Approved Money Pooled Only For This Project; Assessments Placed On Build-Able Lots Current And Future
- 4 Factors Determine Possible Assessment: Acres Benefited, Land Use, Percent Of Improvement Used; Remote Factor

The following is a PDF copy of the Commissioners’ Office sign-in sheet of the people present at the viewing who chose to sign the sign-in sheet.

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Delaware County Commissioners

Jeff Benton
 Barb Lewis
 Gary Merrell

SIGN-IN SHEET FOR August 19, 2019

1:30 P.M. Viewing Of The Dustin Road Drainage Improvement Petition

	NAME	ADDRESS
1	Sarah Dixon	101 N Sandusky, Delaware 43
2	Jim Walraven	BR Clark
3	Kurt D. Vogel	7860 Dustin Rd.
4	Mike Ross	7840 DUSTIN RD
5	Jim Litz	7780 Dustin Rd
6	Curtis Lockell	7925 DuGiver Rd
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There being no further business, the meeting adjourned.

 Gary Merrell

 Barb Lewis

 Jeff Benton

 Jennifer Walraven, Clerk to the Commissioners