

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD SEPTEMBER 23, 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
RESOLUTION NO. 19-925

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD SEPTEMBER 16, 2019:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on September 16, 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 Absent

2
PUBLIC COMMENT

3
RESOLUTION NO. 19-926

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0920:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0920 and Purchase Orders as listed below:

| <u>Vendor</u> | <u>Description</u> | <u>Account</u> | <u>Amount</u> |
|---------------------|---------------------------|----------------|---------------|
| PO' Increase | | | |
| Toole & Associates | Code Compliance eservices | 10011301-5301 | \$15,000.01 |
| Wrist Engineering | Code Compliance services | 10011301-5301 | \$25,000.00 |
| Health Department | Medical Related Services | 10011102-5342 | \$6,500.00 |

| <u>PR Number</u> | <u>Vendor Name</u> | <u>Line Description</u> | <u>Line Account</u> | <u>Amount</u> |
|------------------|--------------------|-------------------------|---------------------|---------------|
| R1904565 | LIMBACH COMPANY | HVAC REPAIRS OECC AND | 66211900 - | \$11,254.00 |
| | LLC | NORTHSTAR | 5328 | |
| R1904580 | FRONTIER | HISTORIC COURTHOUSE | 42011438 - | \$9,901.00 |
| | | RENOVATIONS | 5410 | |
| R1904617 | DELAWARE COUNTY | DELAWARE COUNTY | 21011113 - | \$8159.78 |
| | CONVENTION AND | PORTION OF CVB | 5601 | |
| | VISITORS BUREAU | STRATEGIC PLAN | | |
| R1904622 | FISHEL DOWNEY | LEGAL SERVICES - UNION | 66211900 - | \$10,000.00 |
| | ALBRECHT & | NEGOTIATIONS | 5361 | |

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

4
RESOLUTION NO. 19-927

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Emergency Medical Services Department is requesting that Jen Ransom attend The Cardiac Arrest Survival Summit in Seattle, Washington from December 10-12, 2019 at the cost of \$2,126.10 (fund number 10011303).

The Emergency Medical Services Department is requesting that Rachael Adkins attend The Warrior Within training in Lewis Center, Ohio on October 5, 2019 at no cost.

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The Emergency Medical Services Department is requesting that Scott A. Gano attend The Air Medical Transport Conference in Atlanta, Georgia from November 4-7, 2019 at the cost of \$1,244.40 (fund number 10011303).

The Code Compliance department is request that Duane Matlack attend a Safe Building Coalition Seminar in Grove City, Ohio on September 26, 2019 at no cost.

The Communications Department is requesting that Jane Hawes and Marisa Stith attend a 2019 PIO Symposium in Columbus, Ohio October 18, 2019 at no cost.

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

5
RESOLUTION NO. 19-928

IN THE MATTER OF ACCEPTING AND APPROVING THE DELAWARE COUNTY SHERIFF’S OFFICE TRANSPORT REPORT FOR THE MONTH OF AUGUST 2019:

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

WHEREAS, section 325.07 of the Revised Code requires the County Sheriff to submit monthly expense reports to the Board of County Commissioners; and

WHEREAS, the Delaware County Sheriff has submitted a monthly report for August 2019;

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

Section 1. The Board hereby accepts and approves the Delaware County Sheriff’s Office Transport Report for the month of August 2019.

Section 2. The Board hereby allows the expenses contained in the monthly report.

(Copy available for review at the Commissioners’ Office until no longer of administrative value.)

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

6
RESOLUTION NO. 19-929

IN THE MATTER OF APPROVING AN AMENDMENT TO THE MAINTENANCE AND SUPPORT AGREEMENT BETWEEN THE DELAWARE COUNTY SHERIFF’S OFFICE AND IDEMIA IDENTITY & SECURITY USA, LLC:

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

WHEREAS, the Delaware County Sheriff and staff recommend approval of the amendment to the maintenance and support agreement between the Delaware County Sheriff’s Office and Idemia Identity & Security USA, LLC;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the amendment to the maintenance and support agreement between the Delaware County Sheriff’s Office and Idemia Identity & Security USA, LLC:

| Description of Covered Products | |
|---------------------------------------|----------------------------------|
| MAINTENANCE AND SUPPORT AGREEMENT NO. | SA # 005075-002 |
| CUSTOMER: | Delaware County Sheriff’s Office |

The following table lists the Products under maintenance coverage:

| Product | Description | Node | Qty |
|----------|---------------------------------------------------------------------------------|-----------|-----------------------------|
| Livescan | LiveScan Workstation, Fixed Cabinet, includes Tenprint/Palmprint 500ppi Scanner | OHDELELSA | 1 |
| Printer | Duplex Printer with two trays | OHDELLEX | 1 |
| | | | Subtotal: \$5,074.00 |

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Support Plan Options and Pricing Worksheet

Maintenance and Support Agreement # 005075-002 Date July 11, 2019
 New Term Effective Start September 1, 2019 End August 31, 2020

| STANDARD SUPPORT | |
|-----------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Advantage – Software Support | |
| ◆ Telephone Response: 2 Hour | ◆ Standard Releases & Updates |
| ◆ Remote Dial-In Analysis | ◆ Software Customer Alert Bulletins |
| ◆ Unlimited Telephone Support | ◆ Automatic Call Escalation |
| ◆ Supplemental Releases & Updates | ◆ 8 a.m. – 5 p.m. Monday to Friday PPM |
| <input checked="" type="checkbox"/> On-Site Hardware Support | |
| ◆ 8 a.m. – 5 p.m. Monday to Friday PPM | ◆ Defective Parts Replacement |
| ◆ Next Day PPM On-site Response | ◆ Escalation Support |
| ◆ Hardware Vendor Liaison | ◆ Hardware Customer Alert Bulletins |
| ◆ Hardware Service Reporting | ◆ Product Repair |
| ◆ Equipment Inventory Detail Management | |
| <input checked="" type="checkbox"/> Parts Support | |
| ◆ Parts Ordered & Shipped Next Business Day | ◆ Parts Customer Alert Bulletins |
| * If customer is providing their own on-site hardware support, the following applies: | |
| > Customer Orders & Replaces Parts | > Telephone Technical Support for Parts Replacement Available |
| ADDITIONAL OPTIONS | |
| <input checked="" type="checkbox"/> Users Conference Attendance (\$3,586 per Attendee) | |
| • Registration fee | • Roundtrip travel for event |
| • Daily meals | • Ground transportation to/from the conference airport to the conference hotel |
| • Hotel accommodations | |
| Year: 2020 | Number Attendees Requested: 1 |
| \$ 3,586.00 | |
| GRAND TOTAL | |
| \$ 8,660.00 | |
| *Exclusive of taxes if applicable | |

PLEASE PROVIDE A COPY OF YOUR CURRENT TAX EXEMPTION CERTIFICATE (if applicable)

This Support Plan is a Statement of Work that provides a description of the support to be performed.

1. Services Provided. The Services provided are based on the Severity Levels as defined herein. Each Severity Level defines the actions that will be taken by Seller for Response Time, Target Resolution Time, and Resolution Procedure for reported errors. Because of the urgency involved, Response Times for Severity Levels 1 and 2 are based upon voice contact by Customer, as opposed to written contact by facsimile or letter. Resolution Procedures are based upon Seller's procedures for Service as described below.

| Severity Level | Definition | Response Time | Target Resolution Time |
|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| 1 | Total System Failure - occurs when the System is not functioning and there is no workaround; such as a Central Server is down or when the workflow of an entire agency is not functioning. | Telephone conference within 1 hour of initial voice notification | Resolve within 24 hours of initial notification |
| 2 | Critical Failure - Critical process failure occurs when a crucial element in the System that does not prohibit continuance of basic operations is not functioning and there is usually no suitable work-around. Note that this may not be applicable to intermittent problems. | Telephone conference within 3 Standard Business Hours of initial voice notification | Resolve within 7 Standard Business Days of initial notification |
| 3 | Non-Critical Failure - Non-Critical part or component failure occurs when a System component is not functioning, but the System is still useable for its intended purpose, or there is a reasonable workaround. | Telephone conference within 6 Standard Business Hours of initial notification | Resolve within 180 days in a Seller-determined Patch or Release. |
| 4 | Inconvenience - An inconvenience occurs when System causes a minor disruption in the way tasks are performed but does not stop workflow. | Telephone conference within 2 Standard Business Days of initial notification | At Seller's discretion, may be in a future Release. |
| 5 | Customer request for an enhancement to System functionality is the responsibility of Seller's Product Management. | Determined by Seller's Product Management. | If accepted by Seller's Product Management, a release date will be provided with a fee schedule, when appropriate. |

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- 1.1 Reporting a Problem. Customer shall assign an initial Severity Level for each error reported, either verbally or in writing, based upon the definitions listed above. Because of the urgency involved, Severity Level 1 or 2 problems must be reported verbally to the Seller's call intake center. Seller will notify the Customer if Seller makes any changes in Severity Level (up or down) of any Customer-reported problem.
- 1.2 Seller Response. Seller will use best efforts to provide Customer with a resolution within the appropriate Target Resolution Time and in accordance with the assigned Severity Level when Customer allows timely access to the System and Seller diagnostics indicate that a Residual Error is present in the Software. Target Resolution Times may not apply if an error cannot be reproduced on a regular basis on either Seller's or Customer's Systems. Should Customer report an error that Seller cannot reproduce, Seller may enable a detail error capture/logging process to monitor the System. If Seller is unable to correct the reported Residual Error within the specified Target Resolution Time, Seller will escalate its procedure and assign such personnel or designee to correct such Residual Error promptly. Should Seller, in its sole discretion, determine that such Residual Error is not present in its Release, Seller will verify: (a) the Software operates in conformity to the System Specifications, (b) the Software is being used in a manner for which it was intended or designed, and (c) the Software is used only with approved hardware or software. The Target Resolution Time shall not commence until such time as the verification procedures are completed.
- 1.3 Error Correction Status Report. Seller will provide verbal status reports on Severity Level 1 and 2 Residual Errors. Written status reports on outstanding Residual Errors will be provided to System Administrator on a monthly basis.
2. Customer Responsibility.
- 2.1 Customer is responsible for running any installed anti-virus software.
- 2.2 Operating System ("OS") Upgrades. Unless otherwise stated herein, Customer is responsible for any OS upgrades to its System. Before installing any OS upgrade, Customer should contact Seller to verify that a given OS upgrade is appropriate.
3. Seller Responsibility.
- 3.1 Anti-virus software. At Customer's request, Seller will make every reasonable effort to test and verify specific anti-virus, anti-worm, or anti-hacker patches against a replication of Customer's application. Seller will respond to any reported problem as an escalated support call.
- 3.2 Customer Notifications. Seller shall provide access to (a) Field Changes; (b) Customer Alert Bulletins; and (c) hardware and firmware updates, as released and if applicable.
- 3.3 Account Reviews. Seller shall provide annual account reviews to include (a) service history of site; (b) downtime analysis; and (c) service trend analysis.
- 3.4 Remote Installation. At Customer's request, Seller will provide remote installation advice or assistance for Updates.
- 3.5 Software Release Compatibility. At Customer's request, Seller will provide: (a) current list of compatible hardware operating system releases, if applicable; and (b) a list of Seller's Software Supplemental or Standard Releases.
- 3.6 On-Site Correction. Unless otherwise stated herein, all suspected Residual Errors will be investigated and corrected from Seller's facilities. Seller shall decide whether on-site correction of any Residual Error is required and will take appropriate action.
4. Compliance to Local, County, State and/or Federal Mandated Changes. *(Applies to Software and interfaces to those Products)* Unless otherwise stated herein, compliance to local, county, state and/or federally mandated changes, including but not limited to IBR, UCR, ECARS, NCIC and state interfaces are not part of the covered Services.
(The below listed terms are applicable only when the Maintenance and Support Agreement includes (a) Equipment which is shown on the Description of Covered Products, Exhibit A to the Maintenance.)
5. On-site Product Technical Support Services. Seller shall furnish labor and parts required due to normal wear to restore the Equipment to good operating condition.
- 5.1 Seller Response. Seller will provide telephone and on-site response to Central Site, defined as the Customer's primary data processing facility, and Remote Site, defined as any site outside the Central Site, as shown in Support Plan Options and Pricing Worksheet.
- 5.2 At Customer's request, Seller shall provide continuous effort to repair a reported problem beyond the PPM. Provided Customer gives Seller access to the Equipment before the end of the PPM, Seller shall extend a two (2) hour grace period beyond PPM at no charge. Following this grace period, any additional on-site labor support shall be invoiced on a time and material basis at Seller's then current rates for professional services.

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Maintenance and Support Agreement - Number SA # 005075-002

Terms & Conditions

Idemia Identity & Security USA LLC, ("IDEMIA" or "Seller") having a principal place of business at 5515 East La Palma Avenue, Suite 100, Anaheim, CA 92807, and Delaware County Sheriff's Office ("Customer"), having a place of business at 149 N. Sandusky Street, Delaware, OH 43015, enter into this Maintenance and Support Agreement ("Agreement"), pursuant to which Customer will purchase and Seller will sell the maintenance and support services as described below and in the attached exhibits. Seller and Customer may be referred to individually as "party" and collectively as "parties."

For good and valuable consideration, the parties agree as follows.

Section 1. EXHIBITS

The Exhibits listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement will take precedence over the Exhibits and any inconsistency between the Exhibits will be resolved in the order in which they are listed below.

Exhibit-A "Description of Covered Products"

Exhibit-B "Support Plan"

Exhibit-C "Support Plan Options and Pricing Worksheet"

Section 2. DEFINITIONS

"Equipment" means the physical hardware purchased by Customer from Seller pursuant to a separate System Agreement, Products Agreement, or other form of agreement.

"IDEMIA" means Idemia Identity & Security USA LLC.

"IDEMIA Software" means Software that IDEMIA or Seller owns. The term includes Product Releases, Standard Releases, and Supplemental Releases.

"Non-IDEMIA Software" means Software that a party other than IDEMIA or Seller owns.

"Optional Technical Support Services" means fee-based technical support services that are not covered as part of the standard Technical Support Services.

"Patch" means a specific change to the Software that does not require a Release.

"Principal Period of Maintenance" or "PPM" means the specified days, and times during the days, that maintenance and support services will be provided under this Agreement. The PPM selected by Customer is indicated in the Support Plan Options and Pricing Worksheet.

"Products" means the Equipment (if applicable as indicated in the Description of Covered Products) and Software provided by Seller.

"Releases" means an Update or Upgrade to the IDEMIA Software and are characterized as "Supplemental Releases," "Standard Releases," or "Product Releases." A "Supplemental Release" is defined as a minor release of IDEMIA Software that contains primarily error corrections to an existing Standard Release and may contain limited improvements that do not affect the overall structure of the IDEMIA Software. Depending on Customer's specific configuration, a Supplemental Release might not be applicable. Supplemental Releases are identified by the third digit of the three-digit release number, shown here as underlined: "1.2.3". A "Standard Release" is defined as a major release of IDEMIA Software that contains product enhancements and improvements, such as new databases, modifications to databases, or new servers. A Standard Release may involve file and database conversions, System configuration changes, hardware changes, additional training, on-site installation, and System downtime. Standard Releases are identified by the second digit of the three-digit release number, shown here as

underlined: "1.2,3". A "Product Release" is defined as a major release of IDEMIA Software considered to be the next generation of an existing product or a new product offering. Product Releases are identified by the first digit of the three-digit release number, shown here as underlined: "1.2.3". If a question arises as to whether a Product offering is a Standard Release or a Product Release, IDEMIA's opinion will prevail, provided that IDEMIA treats the Product offering as a new Product or feature for its end user customers generally.

"Residual Error" means a software malfunction or a programming, coding, or syntax error that causes the Software to fail to conform to the Specifications.

"Services" means those maintenance and support services described in the Support Plan and provided under this Agreement.

"Software" means the IDEMIA Software and Non-IDEMIA Software that is furnished with the System or Equipment.

"Specifications" means the design, form, functionality, or performance requirements described in published descriptions of the Software, and if also applicable, in any modifications to the published specifications as expressly agreed to in writing by the parties.

"Standard Business Day" means Monday through Friday, 8:00 a.m. to 5:00 p.m. local time, excluding established IDEMIA holidays.

"Standard Business Hour" means a sixty (60) minute period of time within a Standard Business Day(s).

"Start Date" means the date upon which this Agreement begins. The Start Date is specified in the Support Plan Options and Pricing Worksheet.

"System" means the Products and services provided by Seller as a system as more fully described in the Technical and Implementation Documents attached as exhibits to a System Agreement between Customer and Seller (or IDEMIA).

"Technical Support Services" means the remote telephonic support provided by Seller on a standard and centralized basis concerning the Products, including diagnostic services and troubleshooting to assist Customer in ascertaining the nature of a problem being experienced by the Customer, minor assistance concerning the use of the Software (including advising or assisting the Customer in attempting data/database recovery, database set up, client-server advice), and assistance or advice on installation of Releases provided under this Agreement.

"Update" means a Supplemental Release or a Standard Release.

"Upgrade" means a Product Release.

Section 3. SCOPE AND TERM OF SERVICES

3.1. In accordance with the provisions of this Agreement and in consideration of the payment by Customer of the price for the Services, Seller will provide to Customer the Services in accordance with Customer's selections as indicated in the Support Plan Options and Pricing Worksheet, and such Services will apply only to the Products described in the Description of Covered Products.

3.2. Unless the Support Plan Options and Pricing Worksheet expressly provides to the contrary, the term of this Agreement is one (1) year, beginning on the Start Date. This annual maintenance and support period will automatically renew upon the anniversary date for successive one (1) year periods unless either party notifies the other of its intention to not renew the Agreement (in whole or part) not less than thirty (30) days before the anniversary date or this Agreement is terminated for default by a party.

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3.3. This Agreement covers all copies of the specified Software listed in the Description of Covered Products that are licensed by Seller to Customer. If the price for Services is based upon a per unit fee, such price will be calculated on the total number of units of the Software that are licensed to Customer as of the beginning of the annual maintenance and support period. If, during an annual maintenance and support period, Customer acquires additional units of the Software that is covered by this Agreement, the price for maintenance and support services for those additional units will be calculated and added to the total price either (1) if and when the annual maintenance and support period is renewed or (2) immediately when Customer acquires the additional units, as IDEMIA determines. Seller may adjust the price of the maintenance and support services effective as of a renewal if it provides to Customer notice of the price adjustment at least forty-five (45) days before the expiration of the annual maintenance and support period. If Customer notifies Seller of its intention not to renew this Agreement as permitted by Section 3.2 and later wishes to reinstate this Agreement, it may do so with Seller's consent provided (a) Customer pays to Seller the amount that it would have paid if Customer had kept this Agreement current, (b) Customer ensures that all applicable Equipment is in good operating conditions at the time of reinstatement, and (c) all copies of the specified Software listed in the Description of Covered Products are covered.

3.4. When Seller performs Services at the location of installed Products, Customer agrees to provide to Seller, at no charge, a non-hazardous environment for work with shelter, heat, light, and power, and with full and free access to the covered Products. Customer will provide all information pertaining to the hardware and software with which the Products are interfacing to enable Seller to perform its obligations under this Agreement.

3.5. All Customer requests for covered Services will be made initially with the call intake center identified in the Support Plan Options and Pricing Worksheet.

3.6. Seller will provide to Customer Technical Support Services and Releases as follows:

3.6.1. Seller will provide unlimited Technical Support Services and correction of Residual Errors during the PPM in accordance with the exhibits. The level of Technical Support depends upon the Customer's selection as indicated in the Support Plan Options and Pricing Worksheet. Any Technical Support Services that are performed by Seller outside the contracted PPM and any Residual Error corrections that are outside the scope shall be billed at the then current hourly rates. Technical Support Services will be to investigate specifics about the functioning of covered Products to determine whether there is a defect in the Product and will not be used in lieu of training on the covered Products.

3.6.2. Unless otherwise stated in paragraph 3.6.3 or if the Support Plan Options and Pricing Worksheet expressly provides to the contrary, Seller will provide to Customer without additional license fees an available Supplemental or Standard Release after receipt of a request from Customer, but Customer must pay for any installation or other services and any necessary Equipment or third party software provided by Seller in connection with such Supplemental or Standard Release. Any services will be performed in accordance with a mutually agreed schedule.

3.6.3. Seller will provide to Customer an available Product Release after receipt of a request from Customer, but Customer must pay for all additional license fees, any installation or other services, and any necessary Equipment provided by Seller in connection with such Product Release. Any services will be performed in accordance with a mutually agreed schedule.

3.6.4. Seller does not warrant that a Release will meet Customer's particular requirement, operate in the combinations that Customer will select for use, be uninterrupted or error-free, be backward compatible, or that all errors will be corrected. Full compatibility of a Release with the capabilities and functions of earlier versions of the Software may not be technically feasible. If it is technically feasible, services to integrate these capabilities and functions to the updated or upgraded version of the Software

may be purchased at Customer's request on a time and materials basis at Seller's then current rates for professional services.

3.6.5. Seller's responsibilities under this Agreement to provide Technical Support Services shall be limited to the current Standard Release plus the two (2) prior Standard Releases (collectively referred to in this section as "Covered Standard Releases."). Notwithstanding the preceding sentence, Seller will provide Technical Support Services for a Severity Level 1 or 2 error concerning a Standard Release that precedes the Covered Standard Releases unless such error has been corrected by a Covered Standard Release (in which case Customer shall install the Standard Release that fixes the reported error or terminate this Agreement as to the applicable Software).

3.7. The maintenance and support Services described in this Agreement are the only covered services. Unless Optional Technical Support Services are purchased, these Services specifically exclude and Seller shall not be responsible for:

3.7.1. Any service work required due to incorrect or faulty operational conditions, including but not limited to Equipment not connected directly to an electric surge protector, or not properly maintained in accordance with the manufacturer's guidelines.

3.7.2. The repair or replacement of Products or parts resulting from failure of the Customer's facilities, Customer's personal property and/or devices connected to the System (or interconnected to devices) whether or not installed by Seller's representatives.

3.7.3. The repair or replacement of Equipment that has become defective or damaged due to physical or chemical misuse or abuse, Customer's negligence, or from causes such as lightning, power surges, or liquids.

3.7.4. Any transmission medium, such as telephone lines, computer networks, or the worldwide web, or for Equipment malfunction caused by such transmission medium.

3.7.5. Accessories, custom or Special Products; modified units; or modified Software.

3.7.6. The repair or replacement of parts resulting from the tampering by persons unauthorized by Seller or the failure of the System due to extraordinary uses.

3.7.7. Operation and/or functionality of Customer's personal property, equipment, and/or peripherals and any application software not provided by Seller.

3.7.8. Services for any replacement of Products or parts directly related to the removal, relocation, or reinstallation of the System or any System component.

3.7.9. Services to diagnose technical issues caused by the installation of unauthorized components or misuse of the System.

3.7.10. Services to diagnose malfunctions or inoperability of the Software caused by changes, additions, enhancements, or modifications in the Customer's platform or in the Software.

3.7.11. Services to correct errors found to be caused by Customer-supplied data, machines, or operator failure.

3.7.12. Operational supplies, including but not limited to, printer paper, printer ribbons, toner, photographic paper, magnetic tapes and any supplies in addition to that delivered with the System; battery replacement for uninterruptible power supply (UPS); office furniture including chairs or workstations.

3.7.13. Third-party software unless specifically listed on the Description of Covered Products.

3.7.14. Support of any interface(s) beyond Seller-provided port or cable, or any services that are necessary because third party hardware, software or supplies fail to conform to the specifications concerning the Products.

3.7.15. Services related to customer's failure to back up its data or failure to use an UPS system to protect against power interruptions.

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3.7.16. Any design consultation such as, but not limited to, configuration analysis, consultation with Customer's third-party provider(s), and System analysis for modifications or Upgrades or Updates which are not directly related to a Residual Error report.

3.8. The Customer hereby agrees to:

3.8.1. Maintain any and all electrical and physical environments in accordance with the System manufacturer's specifications.

3.8.2. Provide standard industry precautions (e.g. back-up files) ensuring database security, per Seller's recommended backup procedures.

3.8.3. Ensure System accessibility, which includes physical access to buildings as well as remote electronic access. Remote access can be stipulated and scheduled with customer; however, remote access is required and will not be substituted with on-site visits if access is not allowed or available.

3.8.4. Appoint one or more qualified employees to perform System Administration duties, including acting as a primary point of contact to Seller's Customer Support organization for reporting and verifying problems, and performing System backup. At least one member of the System Administrators group should have completed Seller's End-User training and System Administrator training (if available). The combined skills of this System Administrators group should include proficiency with: the Products, the system platform upon which the Products operate, the operating system, database administration, network capabilities such as backing up, updating, adding, and deleting System and user information, and the client, server and stand alone personal computer hardware. The System Administrator shall follow the Residual Error reporting process described herein and make all reasonable efforts to duplicate and verify problems and assign a Severity Level according to definitions provided herein. Customer agrees to use reasonable efforts to ensure that all problems are reported and verified by the System Administrator before reporting them to Seller. Customer shall assist Seller in determining that errors are not the product of the operation of an external system, data links between system, or network administration issues. If a Severity Level 1 or 2 Residual Error occurs, any Customer representative may contact Seller's Customer Support Center by telephone, but the System Administrator must follow up with Seller's Customer Support as soon as practical thereafter.

3.9. In performing repairs under this Agreement, Seller may use parts that are not newly manufactured but which are warranted to be equivalent to new in performance. Parts replaced by Seller shall become Seller's property.

3.10 Customer shall permit and cooperate with Seller so that Seller may periodically conduct audits of Customer's records and operations pertinent to the Services, Products, and usage of application and data base management software. If the results of any such audit indicate that price has been understated, Seller may correct the price and immediately invoice Customer for the difference (as well as any unpaid but owing license fees). Seller will limit the number of audits to no more than one (1) per year except Seller may conduct quarterly audits if a prior audit indicated the price had been understated.

3.11. If Customer replaces, upgrades, or modifies equipment, or replaces, upgrades, or modifies hardware or software that interfaces with the covered Products, Seller will have the right to adjust the price for the Services to the appropriate current price for the new configuration.

3.12 Customer shall agree not to attempt or apply any update(s), alteration(s), or change(s) to the database software without the prior approval of the Seller.

Section 4. RIGHT TO SUBCONTRACT AND ASSIGN

Seller may assign its rights and obligations under this Agreement and may subcontract any portion of Seller's performance called for by this Agreement.

Section 5. PRICING, PAYMENT AND TERMS

5.1 Prices in United States dollars are shown in the Support Plan Options and Pricing Worksheet and are subject to a 5% escalation fee for each subsequent support year. Unless this exhibit expressly provides to the contrary, the price is payable annually in advance. Seller will provide to Customer an invoice, and Customer will make payments to Seller within twenty (20) days after the date of each invoice. During the term of this Agreement, Customer will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a United States financial institution.

5.2. Overdue invoices will bear simple interest at the rate of ten percent (10%) per annum, unless such rate exceeds the maximum allowed by law, in which case it will be reduced to the maximum allowable rate.

5.3 If Customer requests, Seller may provide services outside the scope of this Agreement or after the termination or expiration of this Agreement and Customer agrees to pay for those services. These terms and conditions and the prices in effect at the time such services are rendered will apply to those services.

5.4 Price(s) are exclusive of any taxes, duties, export or customs fees, including Value Added Tax or any other similar assessments imposed upon Seller. If such charges are imposed upon Seller, Customer shall reimburse Seller upon receipt of proper documentation of such assessments.

Section 6. LIMITATION OF LIABILITY

This limitation of liability provision shall apply notwithstanding any contrary provision in this Agreement. Except for personal injury or death, Seller's (including any of its affiliated companies) total liability arising from this Agreement will be limited to the direct damages recoverable under law, but not to exceed the price of the maintenance and support services being provided for one (1) year under this Agreement. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT SELLER (INCLUDING ANY OF ITS AFFILIATED COMPANIES) WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE SYSTEM, EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY SELLER PURSUANT TO THIS AGREEMENT. This limitation of liability will survive the expiration or termination of this Agreement. No action for breach of this Agreement or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of such cause of action, except for money due upon an open account.

Section 7. DEFAULT/TERMINATION

7.1. If IDEMIA breaches a material obligation under this Agreement (unless Customer or a Force Majeure causes such failure of performance), Customer may consider IDEMIA to be in default. If Customer asserts a default, it will give IDEMIA written and detailed notice of the default. IDEMIA will have thirty (30) days thereafter either to dispute the assertion or provide a written plan to cure the default that is acceptable to Customer. If IDEMIA provides a cure plan, it will begin implementing the cure plan immediately after receipt of Customer's approval of the plan.

7.2. If Customer breaches a material obligation under this Agreement (unless IDEMIA or a Force Majeure causes such failure of performance); if Customer breaches a material obligation under the Software License Agreement that governs the Software covered by this Agreement; or if Customer fails to pay any amount when due under this Agreement, indicates that it is unable to pay any amount when due, indicates it is unable to pay its debts generally as they become due, files a voluntary petition under bankruptcy law, or fails to have dismissed within ninety (90) days any involuntary petition under bankruptcy law,

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IDEMIA may consider Customer to be in default. If IDEMIA asserts a default, it will give Customer written and detailed notice of the default and Customer will have thirty (30) days thereafter to (i) dispute the assertion, (ii) cure any monetary default (including interest), or (iii) provide a written plan to cure the default that is acceptable to IDEMIA. If Customer provides a cure plan, it will begin implementing the cure plan immediately after receipt of IDEMIA's approval of the plan.

7.3. If a defaulting party fails to cure the default as provided above in Sections 7.1 or 7.2, unless otherwise agreed in writing, the non-defaulting party may terminate any unfulfilled portion of this Agreement and may pursue any legal or equitable remedies available to it subject to the provisions of Section 6 above.

7.4. Upon the expiration or earlier termination of this Agreement, Customer and Seller shall immediately deliver to the other Party, as the disclosing Party, all Confidential Information of the other, including all copies thereof, which the other Party previously provided to it in furtherance of this Agreement. Confidential Information shall include: (a) proprietary materials and information regarding technical plans; (b) any and all other information, of whatever type and in whatever medium including data, developments, trade secrets and improvements, that is disclosed by Seller to Customer in connection with this Agreement; (c) all geographic information system, address, telephone, or like records and data provided by Customer to Seller in connection with this Agreement that is required by law to be held confidential.

Section 8. GENERAL TERMS AND CONDITIONS

8.1. Notices required under this Agreement to be given by one party to the other must be in writing and either delivered in person or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service), or by facsimile with correct answerback received, and shall be effective upon receipt

Customer: Delaware County Sheriff's Office
 Attn: Captain Kevin Savage
149 N. Sandusky Street
Delaware, OH 43015
 Phone: (740) 833-2861

Seller: Idemia Identity & Security USA LLC
 Attn: Maintenance Agreements
5515 East La Palma Avenue, Suite 100
Anaheim, CA 92807
 Phone: (714)238-2000 Fax: (714)632-2158

8.2. Neither party will be liable for its non-performance or delayed performance if caused by an event, circumstance, or act of a third party that is beyond such party's reasonable control.

8.3. Failure or delay by either party to exercise any right or power under this Agreement will not operate as a waiver of such right or power. For a waiver to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

8.4. Customer may not assign any of its rights under this Agreement without IDEMIA's prior written consent.

8.5. This Agreement, including the exhibits, constitutes the entire agreement of the parties regarding the covered maintenance and support services and supersedes all prior and concurrent agreements and understandings, whether written or

oral, related to the services performed. Neither this Agreement nor the Exhibits may not be altered, amended, or modified except by a written agreement signed by authorized representatives of both parties. Customer agrees to reference this Agreement on all purchase orders issued in furtherance of this Agreement. Neither party will be bound by any terms contained in Customer's purchase orders, acknowledgements, or other writings (even if attached to this Agreement).

8.6. This Agreement will be governed by the laws of the United States to the extent that they apply and otherwise by the laws of the State to which the Products are shipped if Licensee is a sovereign government entity or the laws of the State of Delaware if Licensee is not a sovereign government entity.

8.7. Independent Contractor. IDEMIA shall act in performance of this Agreement as an independent contractor. As an independent contractor IDEMIA and/or its boards, officers, officials, employees, representatives, agents, volunteers and/or servants shall at no time be considered employees of the Delaware County Sheriff, the Board of Delaware County Commissioners, or Delaware County and are not entitled to any of the benefits of employment enjoyed by employees of the Delaware County Sheriff, the Board of Delaware County Commissioners, or Delaware County.

8.8. Indemnification. IDEMIA shall provide indemnification as follows: (a) To the fullest extent of the law and without limitation, the IDEMIA agrees to indemnify and hold free and harmless the Delaware County Sheriff, the Board of Delaware County Commissioners, Delaware County, Ohio and all of their respective boards, officers, officials, employees, volunteers, agents, servants and representatives (collectively "Indemnified Parties") from any and all actions, claims, suits, demands, judgments, damages, losses, costs, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part to IDEMIA's, any subcontractor's, or any sub-subcontractor's performance of this Contract, including, but not limited to the performance or actions of IDEMIA's, any subcontractor's, or any sub-subcontractor's officers, officials, boards, employees, agents, servants, volunteers, or representatives (collectively "Contracted Parties".) IDEMIA agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that IDEMIA shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, and expenses. IDEMIA further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that IDEMIA shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, and expenses, including, but not limited to attorney's fees. (b) IDEMIA shall assume full responsibility for, pay for, and shall indemnify and hold free and harmless the Indemnified Parties from any harm, damage, destruction, injury, or loss, regardless of type or nature, known or unknown, realized or unrealized, to any property, real or personal, belonging to the Indemnified Parties or others, including but not limited to real estate, buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts arising out of or resulting in whole or in part from any acts or omissions negligent or accidental, actual or threatened, intentional or unintentional of the Contracted Parties.

8.9. Insurance. IDEMIA shall carry and maintain throughout the life of the Contract such bodily injury and property damage liability insurance as will protect it and the Indemnified Parties against any and all claims for personal injury, including death, or property damage, which may arise out of or result from the performance of or operations under this Contract or from the use of any vehicle(s) in connection therewith, and shall include coverage for indemnification as described above.

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Prior to commencement of this Contract, Seller shall present to the Board of Commissioners and/or Sheriff current certificates of insurance, and shall maintain current such insurance during and throughout the entire term of this Contract and until the Services are complete. Said insurance shall, at a minimum, include the insurance specified below and the amount of coverage on said policies of insurance shall be at least that which is specified below:

a. Commercial General Liability Insurance with coverage in an amount equal to and covering all sums which the Seller may or shall become legally obligated to pay as damages, but in an amount providing for a minimum of or at least one million dollars (\$1,000,000.00) coverage per occurrence with an annual aggregate of at least two million dollars (\$2,000,000.00), including coverage for subcontractors, if any are used, covering any and all work performed under this Contract. This insurance shall include, but not be limited to, the following coverage:

1. Premises-Operations
2. Product and Completed Operation
3. Broad Form Property Damage
4. Contractual
5. Personal Injury

b. Umbrella or Excess Liability Insurance (over and above Commercial General Liability) with coverage in an amount equal to and covering all sums which Seller may or shall become legally obligated to pay as damages, but in an amount providing for a minimum of at least two million dollars (\$2,000,000.00) of coverage.

c. Auto/Vehicle Liability Insurance covering all owned, leased non-owned, and/or hired vehicles used in providing the Services, used in connection with the Services, and/or otherwise for the Board and/or the Sheriff with coverage in an amount equal to that required by law and covering all sums which the Seller may or shall become legally obligated to pay as damages, but in an amount providing for minimum coverage of at least three hundred thousand dollars (\$300,000.00) (Combined Single Limit) or, one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per accident for bodily injury and one hundred thousand dollars (\$100,000.00) per accident for property damage or more as may be required for particular vehicles or particular uses of vehicles as required by applicable law.

The Board and the Sheriff shall be named as "Additional Insured" on the policies listed in paragraphs a, b, and c above. The Seller shall be responsible for any and all premiums for all required policy (ies) of the insurance. The insurance Seller needs to be identified for each insurance policy and coverage. The certificates of insurance are to be signed by a person authorized by the insurance Seller to bind coverage on its behalf. All insurance shall be written by insurance companies licensed to do business in the State of Ohio and in good standing with the Ohio Department of Insurance. The above required insurance coverage shall be primary insurance as respect to the Indemnified Parties and any insurance maintained by the Indemnified Parties shall be excess to the above required insurance and shall not contribute to it.

The insurer shall provide thirty (30) days written notice to the Board and/or Sheriff before any cancellation or non-renewal of insurance coverage. Failure to provide such written notice will obligate the insurer to provide coverage as if cancellation or non-renewal did not take place. If there is any change in insurance

carrier or liability amounts, a new certificate of insurance must be provided to the Board within seven (7) calendar days of change.

During the life of the Contract, the Board and/or Sheriff may require the Seller to provide respective and/or additional certificate(s) of insurance in order to verify coverage. Failure to provide a requested certificate of insurance within seven (7) calendar days of the request may be considered as default.

In addition to the rights and protections provided by the insurance policies as required above, the Board and the Sheriff shall retain any and all such other and further rights and remedies as are available at law or in equity.

8.10. Equal Opportunity Employment/Non-discrimination. In fulfilling the obligations and duties of this Agreement, IDEMIA shall not discriminate against any employee or applicant for employment on the basis of race, religion, national origin, color, creed, gender, sexual orientation, age, Vietnam-era Veteran status, or disability, as defined in the Americans with Disabilities Act.

IDEMIA shall ensure that applicants are hired and that employees are treated during employment without regard to any of the listed factors. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

IDEMIA agrees to post in conspicuous places, available to employees and applicants for employment, notices stating that IDEMIA complies with all applicable federal and state non-discrimination laws. IDEMIA shall incorporate the foregoing requirements of this section in all of its Agreements for any of the work prescribed herein, and shall require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

8.11. Drug Free Workplace. IDEMIA agrees to comply with all applicable state and federal laws regarding drug-free workplace and shall have established and have in place a drug free workplace policy. IDEMIA shall make a good faith effort to ensure that all of its employees will not purchase, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way.

8.12. Campaign Finance – Compliance With ORC § 3517.13. Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in said sections of the Revised Code are in compliance with the applicable provisions of section 3517.13 of the Revised Code. IDEMIA, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13." Failure to complete and submit the required aforementioned certificate/affidavit with the Agreement will prohibit the County from entering, proceeding with, and/or performing the Agreement. Such certification is attached to this Agreement and by this reference made a part thereof.

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8.13. Findings for Recovery. IDEMIA certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

8.14. Notices. All notices which may be required by this Agreement or by operation of any rule of law shall be hand delivered, sent via certified United States Mail, return receipt requested, sent via a nationally recognized and reputable overnight courier, return receipt requested, or via facsimile, to the following individuals at the following addresses and shall be effective on the date received:

Customer:

Sheriff Russell L. Martin
Delaware County Sheriff's Office
149 North Sandusky Street
Delaware, Ohio 43015
Fax: (740) 833-2809

IDEMIA:

Idemia Identity & Security USA LLC
Attn: Legal Department
5515 East La Palma Avenue, Suite 100
Anaheim, CA 92807
Fax: (714)632-2158

8.15. Severability. If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.

8.16. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes any and all prior agreements, between IDEMIA and Customer with regard to IDEMIA providing maintenance services for Equipment and Software. No amendment, modification, or waiver of this Agreement shall be valid unless set forth in a written instrument signed by the party to be bound and consented to and accepted by IDEMIA.

8.17. Access to Records. At any time, during regular business hours, with reasonable notice, and as often as the Court or other agency or individual authorized by the Court may deem necessary, the Contractor shall make available to the Court and/or all individuals(s) authorized by law all books, records, documents, papers, subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. The Court and/or individual(s) authorized by law shall be permitted by the Contractor to inspect, audit, make excerpts, photo static copies, and/or transcripts of an and all such documents relating to all matters covered by this Contract.

8.18. Retention of Records. The Seller shall retain and maintain and assure that all of its subcontractors retain and maintain for a minimum of three (3) years after reimbursement/compensation for services rendered under this Contract all books, records, documents, papers, subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. If an audit, litigation, or other

action is initiated during the time period of this Contract or the retention period, the Contractor shall retain and maintain, and assure that all of its subcontractors retain and maintain, such records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever is later.

8.19. Counterparts. This Contract may be executed in counterparts.

8.20. Drafting. This Contract shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.

8.21. Headings. The subject headings of the paragraphs in this Contract are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This contract shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

8.22. Authority to Sign. Any person executing this Contract in a representative capacity hereby warrants that he/she has authority to sign this Contract or has been duly authorized by his/her principal to execute this Contract on such principal's behalf and is authorized to bind such principal.

Section 9. CERTIFICATION DISCLAIMER

Seller specifically disclaims all certifications regarding the manner in which Seller conducts its business or performs its obligations under this Agreement, unless such certifications have been expressly accepted and signed by an authorized signatory of Seller.

Section 10. COMPLIANCE WITH APPLICABLE LAWS

The Parties shall at all times comply with all applicable regulations, licenses and orders of their respective countries relating to or in any way affecting this Agreement and the performance by the Parties of this Agreement. Each Party, at its own expense, shall obtain any approval or permit required in the performance of its obligations. Neither Seller nor any of its employees is an agent or representative of Customer.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the day and year first written above.

IDEMIA IDENTITY & SECURITY USA LLC

By: _____

Name: Michael Kato

Title: Vice President

Date: July 11, 2019

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

**7
RESOLUTION NO. 19-930**

IN THE MATTER OF ESTABLISHING A NEW ORGANIZATION KEY AND SUPPLEMENTAL APPROPRIATIONS FOR ADULT COURT SERVICES:

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

New Organization Key

25322312 ODRC Subsidy Grant

Supplemental Appropriation

| | | |
|---------------|----------------------------------------------|----------|
| 25322312-5001 | ODRC Subsidy Grant/Compensation | 7,584.00 |
| 25322312-5101 | ODRC Subsidy Grant/Health Insurance | 4,909.25 |
| 25322312-5102 | ODRC Subsidy Grant/Workers Comp | 75.84 |
| 25322312-5120 | ODRC Subsidy Grant/OPERS | 1,061.76 |
| 25322312-5131 | ODRC Subsidy Grant/Medicare | 109.97 |
| 25322312-5201 | ODRC Subsidy Grant/General Supplies | 1,500.00 |
| 25322312-5225 | ODRC Subsidy Grant/Personal Protective Equip | 2,200.00 |
| 25322312-5305 | ODRC Subsidy Grant/Training | 1,000.00 |
| 25322312-5320 | ODRC Subsidy Grant/Software Licenses | 500.00 |
| 25322312-5332 | ODRC Subsidy Grant/Cell Phone | 100.00 |

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

**8
RESOLUTION NO. 19-931**

IN THE MATTER OF ACCEPTING AN EASEMENT FOR SANITARY SEWER PURPOSES FROM THE VILLAGE AT NORTH FALLS CONDOMINIUM ASSOCIATION:

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

WHEREAS, Sanitary Easements are required for the construction of The Courtyards at Clear Creek Section 1 sanitary sewer; and

WHEREAS, The Village at North Falls Condominium Association has provided the easement for sanitary sewer as shown on the attached Exhibit; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby accepts the sanitary easement granted by The Village at North Falls Condominium Association.

(Copy available for review at the Commissioners’ Office until no longer of administrative value.)

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

**9
RESOLUTION NO. 19-932**

IN THE MATTER OF ACCEPTING SANITARY SEWER IMPROVEMENTS FOR THE PINES SECTION 1, PHASE B:

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

WHEREAS, the construction of new sanitary sewers at The Pines Section 1, Phase B have been completed to meet Delaware County Sewer District requirements; and

WHEREAS, the Sewer District has received the necessary items required by the Subdivider’s Agreement; and

WHEREAS, the Sanitary Engineer recommends accepting sanitary sewers for ownership, operation, and maintenance by Delaware County as follows:

| | |
|------------------------------------------------------------------|--------------------|
| The Pines Section 1, Phase B | |
| 1,485 linear feet of 8-inch diameter PVC sanitary sewer mainline | \$64,940.02 |
| 893 linear feet of 15-inch diameter PVC sanitary sewer mainline | \$59,348.02 |
| 1,372 linear feet of 6-inch diameter PVC risers and laterals | \$42,227.79 |
| 33 PVC wye fittings | \$ 7,792.63 |
| 12 sanitary manholes | \$42,004.52 |
| Ancillary items | <u>\$24,767.18</u> |
| Total | \$241,080.16 |

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

Section 1. The Board hereby approves and accepts the above sanitary sewer improvements for ownership, operation, and maintenance by the Delaware County Sewer District.

Section 2. The Board hereby releases any Bond, certified check, irrevocable letter of credit, or other approved financial warranties executed to insure faithful performance for construction of the above sanitary sewer improvements, if applicable.

Section 3. The Board hereby accepts any Bond, certified check, irrevocable letter of credit, or other approved financial warranties executed per the requirements of the subdivider’s agreement for the five-year maintenance period for the above sanitary sewer improvements.

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

**10
RESOLUTION NO. 19-933**

IN THE MATTER OF APPROVING THE SANITARY SEWER SUBDIVIDER’S AGREEMENT FOR HEATHER RIDGE SECTION 2:

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

WHEREAS, the Sanitary Engineer recommends approval of the Sanitary Subdivider’s Agreement for Heather Ridge Section 2;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners approves the following Sanitary Sewer Subdivider’s Agreement for Heather Ridge Section 2:

SUBDIVIDER'S AGREEMENT
DELAWARE COUNTY SANITARY ENGINEER

SECTION I: INTRODUCTION

This Agreement is entered into on this 23rd day of September 2019, by and between **Homewood Corporation**, hereinafter called “Subdivider”, and the Delaware County Board of Commissioners (hereinafter called “County Commissioners” or “County”) as evidenced by the **Sanitary Sewer Improvements for Heather Ridge Sections 1 & 2** and the corresponding subdivision plat or condominium amendment on said development parcel filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, and is governed by the following considerations and conditions, to wit:

The Subdivider is to construct, install or otherwise make all public improvements (the “Improvements”) shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for Section 2 of the **Sanitary Sewer Improvements for Heather Ridge Sections 1 & 2**, dated **September 22, 2017**, and approved by the County on **October 26, 2017**, all of which are a part of this Agreement. The Subdivider shall pay the entire cost and expense of the Improvements.

SECTION II: CAPACITY

There are **43** single family residential equivalent connections approved with this Agreement. Capacity shall be reserved for one year from the date of this Agreement, unless the County Commissioners grant an extension in writing. If the final Subdivision Plat is not recorded prior to expiration of the reservation deadline as set forth herein, the Subdivider agrees and acknowledges that capacity shall not be guaranteed.

SECTION III: FINANCIAL WARRANTY

For on-site improvements the following options for financial warranty apply:

OPTIONS:

- (1) Should the Subdivider elect to record the plat prior to beginning construction, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$158,315.00**) which is acceptable to the County Commissioners to insure faithful performance of this Agreement and the completion of all Improvements in accordance with the Subdivision Regulations of Delaware County, Ohio.
- (2) Should the Subdivider elect to proceed with construction prior to recording the plat, no approved financial warranties are necessary until such time as Subdivider elects to record the plat. At that time, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction remaining to be completed as determined by the Delaware County Sanitary Engineer.

The Subdivider hereby elects to use Option 2 for this project.

Initials _____

Date _____

The Subdivider shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the Delaware County Sanitary Engineer a five (5) year maintenance bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The Subdivider further agrees that any violations of or noncompliance with any of the provisions and stipulations of this Agreement shall constitute a breach of contract, and the County shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the Improvements for **Heather Ridge Section 2**.

SECTION IV: FEES

It is further agreed that upon execution of this Agreement, the Subdivider shall pay the Delaware County Sanitary Engineer three and one-half percent (3½%) of the estimated construction cost of the Improvements for plan review of **Sanitary Sewer Improvements for Heather Ridge Section 2 (\$5,541.00)**. The Subdivider shall also pay the Delaware County Sanitary Engineer eight and one-half percent (8½ %) of the estimated construction cost of the Improvements for inspection during construction and cleaning and televising of the sewers and appurtenances of **Sanitary Sewer Improvements for Heather Ridge Section 2 (\$13,457.00)**. The Delaware County Sanitary Engineer shall in his or her sole discretion inspect, as necessary,

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the Improvements being installed or constructed by the Subdivider and shall keep records of the time spent by his or her employees and agents in such inspections and in the event the hours worked for inspection at a rate of \$75.00 per hour and for the camera truck at \$150.00 per hour exceeds the eight and one-half percent (8½%), the County may require, and the Subdivider shall pay, additional funds based on the estimated effort for completion as determined by the Sanitary Engineer in his or her sole discretion.

In addition to the charges above, the Subdivider shall pay the cost of any third party inspection services for **Sanitary Sewer Improvements for Heather Ridge** as required by the County.

SECTION V: CONSTRUCTION

All public improvement construction shall be performed within one (1) year from the date of the approval of this Agreement by the County Commissioners, but extension of time may be granted if approved by the County Commissioners.

The Subdivider shall indemnify and save harmless the County, Townships, Cities, and/or Villages and all of their officials, employees, and agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any action, or omissions of the Subdivider, and any of its contractors or sub-contractors, or from any material, method, or explosive used in the Work, or by or on account of any accident caused by negligence, or any other act or omission of the Subdivider, and any of its contractors or the contractors' agents or employees in connection with the Work.

The Subdivider shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the County. The representative shall be replaced by the Subdivider when, in the opinion of the County, the representative's performance is deemed inadequate.

If, due to unforeseen circumstances during construction activities, the Subdivider must install any of the Improvements to a different location than shown on the approved and signed construction plans, the Subdivider shall request a revision to the construction plans and the Delaware County Sanitary Engineer shall evaluate this request. If the request for a revision is approved in writing by the Delaware County Sanitary Engineer, then the Subdivider shall provide and record a revised, permanent, exclusive sanitary easement prior to the County's acceptance of the sewer. The language and dimensions of the revised, permanent, exclusive sanitary easements shall be subject to the approval of the Delaware County Sanitary Engineer.

The Subdivider shall, during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the County regarding submission of shop drawings, construction schedules, operation of facilities, and other matters incident to the construction and operation of the Improvements.

The Subdivider shall obtain all other necessary utility services incident to the construction of the Improvements and for their continued operation. The Subdivider shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the Subdivider and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the County.

SECTION VI: EASEMENTS

The Subdivider shall provide to the County all necessary easements or rights-of-way required to complete the Improvements, all of which shall be obtained at the expense of the Subdivider. All Improvements, including, but not limited to, public sanitary sewers, force mains, manholes, and private laterals to offsite properties shall be located within a recorded, permanent, exclusive sanitary easement on file at the Delaware County Recorder's Office, the language of which shall be subject to approval by the Delaware County Sanitary Engineer. The dimensions of all easements shall be as shown on the approved engineering drawings. If any onsite easement or necessary right of way is not to be recorded as part of a subdivision plat, such easements and rights-of-way shall be recorded and provided to the Delaware County Sanitary Engineer before a preconstruction meeting will be permitted and before construction may begin on the Improvements. All offsite easements must be recorded prior to signing the plans unless otherwise permitted, in writing, by the Delaware County Sanitary Engineer.

SECTION VII: COMPLETION OF CONSTRUCTION

The County shall, upon certification in writing from the Delaware County Sanitary Engineer that all construction is complete according to the plans and specifications, by Resolution, accept the Improvements described herein and accept and assume operations and maintenance of the Improvements.

The Subdivider shall within thirty (30) days following completion of construction of the Improvements, and prior to final acceptance, furnish to the County as required:

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- (1) "As built" drawings of the Improvements which plans shall become the property of the County and shall remain in the office of the Delaware County Sanitary Engineer and Delaware County Engineer and/or the City of Powell. The drawings shall be on reproducible Mylar (full size), two paper copies (one full size & one 11"x17"), and a Compact Diskette with the plans in .DWG format & .PDF format.
- (2) An Excel spreadsheet, from a template as provided by the Delaware County Sanitary Engineer, shall accompany the plan submittal showing the locations of the manholes in Ohio State Plane North Coordinates NAD 1983 (NAVD 1988 datum) and other miscellaneous project data.
- (3) An itemized statement showing the cost of the Improvements.
- (4) An Affidavit or waiver of lien from all contractors associated with the project that all material and labor costs have been paid. The Subdivider shall indemnify and hold harmless the County from expenses or claims for labor or materials incident to the construction of the Improvements.
- (5) Documentation showing the required sanitary easements.

Should the Subdivider become unable to carry out the provisions of this Agreement, the Subdivider's heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this Agreement. Notwithstanding any other provision of this Agreement, the County shall have no obligation to construct any improvements contemplated herein, and any construction thereof on the part of the County shall be strictly permissive and within the County's sole discretion.

The Subdivider, for a period of five (5) years after acceptance of the Improvements by the County, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the Improvements shall be the same as new equipment warranties and shall be assigned to the County upon acceptance of the Improvements. A list of corrective items shall be provided to the Subdivider prior to expiration of the five (5) year period.

After the acceptance of the Improvements, the capacity charge **and any surcharges** shall be paid by the applicant upon request to the Delaware County Sanitary Engineer for a tap permit to connect to the sanitary sewer. User fee charges will commence the day the sanitary tap is made, regardless of completeness of construction.

SECTION VIII: SIGNATURES

IN CONSIDERATION WHEREOF, the County Commissioners hereby grant the Subdivider or its agent the right and privilege to make the Improvements stipulated herein and as shown on the approved plans.

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

16

RESOLUTION NO. 19-935

IN THE MATTER OF APPROVING A PERMIT FOR USE OF DELAWARE COUNTY FACILITIES:

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

WHEREAS, the Delaware County Commissioners passed Resolution No. 19-810 on August 19, 2019, adopting a Delaware County Facilities Permit Policy (the "Policy"); and

WHEREAS, it is the intent of the Policy to allow persons and organizations access to appropriate Delaware County facilities, grounds and meeting places; and

WHEREAS, each request will only be considered after the receipt of a completed Delaware County Facilities Permit Form; and

WHEREAS, the Policy mandates approval from the Commissioners for use of county facilities by groups of 30 participants or more that have agreed in writing to full compliance with the Policy;

NOW, THEREFORE, PURSUANT TO THE FOREGOING, BE IT HEREBY RESOLVED that the Delaware County Board of Commissioners hereby authorizes the use of the Meeting Room at the Commissioners Building 101 North Sandusky Street Delaware, Ohio 43015 on the following dates: March 4, 2020, July 1, 2020, and October 7, 2020; and the Meeting Room at the Frank B. Willis Building, 2079 U.S. 23 North, Delaware, Ohio 43015 on the following dates for the Divorce Education program: January 8, 2020, February 5, 2020, March 21, 2020, April 1, 2020, May 6, 2020, June 3, 2020, August 5, 2020, September 2, 2020, November 4, 2020 and December 2, 2020 for a fee of \$25.00 per session.

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

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11

RESOLUTION NO. 19-935

IN THE MATTER OF RESCINDING RESOLUTION NO. 19-894 APPROVING THE PIPELINE RELOCATION AGREEMENT BETWEEN COLUMBIA GAS OF OHIO, INC. AND DELAWARE COUNTY FOR FREEMAN ROAD:

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

WHEREAS, Resolution No. 19-894 of the Board of County Commissioners approved the Pipeline Relocation Agreement (the “Agreement”) between Columbia Gas and Delaware County for Freeman Road; and

WHEREAS, the scope and cost of the work to be performed under the Agreement has been amended; and

WHEREAS, the County Engineer recommends that Resolution No. 19-894 be rescinded;

NOW, THEREFORE, BE IT RESOLVED that Resolution No. 19-894 is hereby rescinded.

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

12

RESOLUTION NO. 19-936

IN THE MATTER OF APPROVING THE PIPELINE RELOCATION AGREEMENTS BY AND BETWEEN COLUMBIA GAS OF OHO, INC. AND DELAWARE COUNTY FOR FREEMAN ROAD AND FOR CHARLES ROAD:

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

WHEREAS, the County Engineer recommends approving the Pipeline Relocation Agreements by and between Columbia Gas of Ohio, Inc. and Delaware County for Freeman Road and Charles Road;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Pipeline Relocation Agreements by and between Columbia Gas of Ohio, Inc. and Delaware County for Freeman Road and Charles Road as follows:

Freeman Road

Pipeline Relocation Agreement

This Pipe Relocation Agreement (“Agreement”) is made as of the 23rd of September, 2019, by and between Columbia Gas of Ohio, Inc., an Ohio corporation with offices at 3550 Johnny Appleseed Ct. Columbus, Ohio 43231, hereinafter referred to as “Columbia,” and Delaware County, whose address is 50 Channing St. Delaware, Ohio 43015, hereinafter referred to as “Requestor.” Columbia and Requestor are each a “Party” and collectively referred to as “the Parties.”

Witnesseth

WHEREAS, Columbia owns and operates a 3 inch pipeline, located along the north side of Freeman Rd., in Delaware County, Ohio; and

WHEREAS, Requestor wishes to have a portion of the pipeline and any related pipeline facilities relocated in order to permit certain construction or other activity in the vicinity of said pipeline, and Columbia is willing to relocate a portion of the pipeline subject to the conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and intending to be legally bound, the Parties hereby agree as follows:

1. Requestor requests relocation of Columbia’s pipeline and any related pipeline facilities as follows: Installing 352’-4” PMMP on the north side of Freeman Rd. Requestor shall pay one hundred percent (100%) of any and all direct and indirect costs associated with the pipeline relocation.

2. Requestor shall deposit the sum of **\$63,771.00** (the “Deposit”) with Columbia, which sum is an estimated cost of relocating Columbia’s pipeline. Said cost of relocation shall include any and all costs including, but not limited to, cost of right-of-way acquisition, permit fees, materials, contractor mobilization, and labor. Requestor acknowledges and agrees that the Deposit is based upon both the information available and circumstances known to Columbia as of the date of the execution of this Agreement. Requestor further agrees and acknowledges that the Deposit may be increased, pursuant to this Paragraph 2 and Paragraph 3 below. If Requestor cancels or postpones its contemplated construction project or other activity, Requestor shall reimburse Columbia for all costs (direct and indirect) expended or obligated at the time of cancellation or postponement, including costs which may have to be expended to restore the Requestor’s, Columbia’s or any third party’s premises to their

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original condition, all such amounts to be deducted from the Deposit. Any such costs which exceed the Deposit shall be payable by Requestor immediately upon notice from Columbia. Notwithstanding any other provision of this Agreement, if the pipeline relocation is not completed within six months of the execution of this Agreement, Columbia reserves the right to increase the Deposit. Upon notice from Columbia, Requestor shall promptly pay such additional sum to Columbia. Columbia may retain the Deposit until the completion of the work contemplated under this Agreement. Unless otherwise required by law or order of any governmental body having jurisdiction over Columbia, Columbia shall not be required to pay interest, carrying charges, or any other amounts related to the Deposit.

3. Upon execution of this Agreement by both Parties and the receipt of the Deposit from Requestor, Columbia agrees to begin plans for said pipeline relocation. Columbia will physically relocate said pipeline and any related pipeline facilities as mutually agreed only when all necessary rights-of-way have been secured and all material is available. Columbia will not commence the relocation project until such time as such pipeline relocation work will not impair the operation of Columbia's gas distribution system or its service to its customers. Columbia is not responsible for any Requestor losses of any kind resulting from work delays or cancellation, or delay or refusal by a governmental entity to issue any necessary permit. This Agreement may be suspended, the Deposit amount may be increased by Columbia, or the terms of this Agreement renegotiated by Columbia, due to adverse digging or soil (e.g. ledge, hazardous materials, etc.) conditions, or delay or denial of necessary permits.

4. Upon Columbia's request, Requestor agrees to enter into a Right of Way Agreement with Columbia in which Requestor shall grant to Columbia all necessary easements or rights of way on property owned by Requestor at no cost to Columbia. Requestor shall also cooperate with and compensate Columbia for acquiring any necessary easements or rights of way on property owned by third parties that are not in a public street or way. Columbia shall not be obligated to undertake the pipeline relocation and this Agreement shall be terminated at the sole discretion of Columbia if: (i) Requestor fails to timely enter into the Right of Way Agreement with Columbia, referenced above; or (ii) Columbia is not able to obtain necessary third party easements or rights of way upon terms and conditions (including cost) agreeable to Columbia. In the event of such termination, Requestor shall be responsible for all costs expended by Columbia and/or which Columbia is obligated to expend in connection with the relocation project and the termination of such project. Any such costs which exceed the Deposit shall be payable by Requestor immediately upon notice from Columbia.

5. To the extent any portion of the pipeline relocation occurs on Requestor's property or property it or an affiliate controls, the Requestor at its own expense, shall (i) respond to reasonable requests of Columbia, its representatives and any governmental authorities or administrative agencies to provide all necessary information describing the physical characteristics of the property, including surveys, site elevations, legal and other required investigations and the like which it may have now or in the future; (ii) mark and identify for Columbia, the correct locations of all underground facilities (e.g., septic systems, sprinkler systems, water lines electric lines, propane tanks and lines, etc.) owned by the Requestor and/or others at or about the property; (iii) notify Columbia of any condition on or about the property which could affect the work contemplated hereunder; and (iv) cooperate with Columbia to obtain all necessary approvals, site plan reviews, permits, required for Columbia to carry out its work and obligations hereunder. Columbia shall not be obligated to undertake the pipeline relocation and this Agreement shall be terminated at the discretion of Columbia if Requestor fails to satisfy its obligations as set forth in this Section 5. In the event of such termination, Requestor shall be responsible for all costs expended by Columbia and/or which Columbia is obligated to expend in connection with the relocation project and the termination of such project. Any such costs which exceed the Deposit shall be payable by Requestor immediately upon notice from Columbia.

6. Upon completion of said pipeline relocation, Columbia shall, within a reasonable time, submit to Requestor a statement showing the actual cost thereof. If the actual (direct and indirect) cost of said pipeline relocation is more than the amount of the Deposit, Requestor shall promptly pay the difference between the actual costs and the Deposit, to Columbia. Requestor will make such reimbursement payment to Columbia within thirty (30) days of receipt of the invoice. Late payments will bear interest at a rate of 1.0% a month, which equals an annual percentage rate of 12%. If the actual cost is less than the amount of the Deposit, Columbia shall promptly return to Requestor the difference between the Deposit and the actual costs.

7. All questions with respect to the interpretation and construction of this Agreement and the rights and liabilities of the Parties hereunder shall be determined in accordance with the applicable laws of Ohio without regard to the law of conflicts or any choice of law provisions that would direct the application of the laws of another jurisdiction. Any legal action or in any way related to or arising from this Agreement shall be brought and heard only in a court of competent jurisdiction located in Delaware County, Ohio. This Agreement contains the entire agreement between the Parties concerning the relocation work, and no modification of this Agreement will be binding unless approved in writing by both Parties. Requestor may not assign this Agreement without express written consent from Columbia. Such consent may be withheld by Columbia in its sole discretion. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid such provision shall be deemed modified so as to be no longer invalid and, all of the remaining provisions of this Agreement shall remain in full force and effect. The recitals set forth in this Agreement are an integral part hereof and shall have the same contractual significance as any other language contained in this Agreement. No provision of this Agreement shall be interpreted more or less favorably towards either Party because its counsel drafted all or a portion hereof.

Requestor represents and warrants that it has requisite authority to enter into this Agreement and that its representative signing this Agreement is authorized to bind and obligate the Requestor to the terms of this

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Agreement. This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, but all of which together shall constitute one instrument. Facsimile and pdf signatures to this Agreement shall be legally binding and considered in all manner and respects as original signatures.

Charles Road

Pipeline Relocation Agreement

This Pipe Relocation Agreement (“Agreement”) is made as of the 23rd of September, 2019, by and between Columbia Gas of Ohio, Inc., an Ohio corporation with offices at 3550 Johnny Appleseed Ct. Columbus, Ohio 43231, hereinafter referred to as “Columbia,” and Delaware County, whose address is 50 Channing St. Delaware, Ohio 43015, hereinafter referred to as “Requestor.” Columbia and Requestor are each a “Party” and collectively referred to as “the Parties.”

Witnesseth

WHEREAS, Columbia owns and operates a 8-inch pipeline, located at the intersection of Charles Rd and Old 3C Highway, in Westerville City, in Delaware County, Ohio; and

WHEREAS, Requestor wishes to have a portion of the pipeline and any related pipeline facilities relocated in order to permit certain construction or other activity in the vicinity of said pipeline, and Columbia is willing to relocate a portion of the pipeline subject to the conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and intending to be legally bound, the Parties hereby agree as follows:

1. Requestor requests relocation of Columbia’s pipeline and any related pipeline facilities as follows: **Relocate 125-feet of 8-inch plastic gas main. In conflict with grading that was granted by Delaware County.** Requestor shall pay one hundred percent (100%) of any and all direct and indirect costs associated with the pipeline relocation.

2. Requestor shall deposit the sum of **\$11,504** (the “Deposit”) with Columbia, which sum is an estimated cost of relocating Columbia’s pipeline. Said cost of relocation shall include any and all costs including, but not limited to, cost of right-of-way acquisition, permit fees, materials, contractor mobilization, and labor. Requestor acknowledges and agrees that the Deposit is based upon both the information available and circumstances known to Columbia as of the date of the execution of this Agreement. Requestor further agrees and acknowledges that the Deposit may be increased, pursuant to this Paragraph 2 and Paragraph 3 below. If Requestor cancels or postpones its contemplated construction project or other activity, Requestor shall reimburse Columbia for all costs (direct and indirect) expended or obligated at the time of cancellation or postponement, including costs which may have to be expended to restore the Requestor’s, Columbia’s or any third party’s premises to their original condition, all such amounts to be deducted from the Deposit. Any such costs which exceed the Deposit shall be payable by Requestor immediately upon notice from Columbia. Notwithstanding any other provision of this Agreement, if the pipeline relocation is not completed within six months of the execution of this Agreement, Columbia reserves the right to increase the Deposit. Upon notice from Columbia, Requestor shall promptly pay such additional sum to Columbia. Columbia may retain the Deposit until the completion of the work contemplated under this Agreement. Unless otherwise required by law or order of any governmental body having jurisdiction over Columbia, Columbia shall not be required to pay interest, carrying charges, or any other amounts related to the Deposit.

3. Upon execution of this Agreement by both Parties and the receipt of the Deposit from Requestor, Columbia agrees to begin plans for said pipeline relocation. Columbia will physically relocate said pipeline and any related pipeline facilities as mutually agreed only when all necessary rights-of-way have been secured and all material is available. Columbia will not commence the relocation project until such time as such pipeline relocation work will not impair the operation of Columbia’s gas distribution system or its service to its customers. Columbia is not responsible for any Requestor losses of any kind resulting from work delays or cancellation, or delay or refusal by a governmental entity to issue any necessary permit. This Agreement may be suspended, the Deposit amount may be increased by Columbia, or the terms of this Agreement renegotiated by Columbia, due to adverse digging or soil (e.g. ledge, hazardous materials, etc.) conditions, or delay or denial of necessary permits.

4. Upon Columbia’s request, Requestor agrees to enter into a Right of Way Agreement with Columbia in which Requestor shall grant to Columbia all necessary easements or rights of way on property owned by Requestor at no cost to Columbia. Requestor shall also cooperate with and compensate Columbia for acquiring any necessary easements or rights of way on property owned by third parties that are not in a public street or way. Columbia shall not be obligated to undertake the pipeline relocation and this Agreement shall be terminated at the sole discretion of Columbia if: (i) Requestor fails to timely enter into the Right of Way Agreement with Columbia, referenced above; or (ii) Columbia is not able to obtain necessary third party easements or rights of way upon terms and conditions (including cost) agreeable to Columbia. In the event of such termination, Requestor shall be responsible for all costs expended by Columbia and/or which Columbia is obligated to expend in connection with the relocation project and the termination of such project. Any such costs which exceed the Deposit shall be payable by Requestor immediately upon notice from Columbia.

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5. To the extent any portion of the pipeline relocation occurs on Requestor’s property or property it or an affiliate controls, the Requestor at its own expense, shall (i) respond to reasonable requests of Columbia, its representatives and any governmental authorities or administrative agencies to provide all necessary information describing the physical characteristics of the property, including surveys, site elevations, legal and other required investigations and the like which it may have now or in the future; (ii) mark and identify for Columbia, the correct locations of all underground facilities (e.g., septic systems, sprinkler systems, water lines electric lines, propane tanks and lines, etc.) owned by the Requestor and/or others at or about the property; (iii) notify Columbia of any condition on or about the property which could affect the work contemplated hereunder; and (iv) cooperate with Columbia to obtain all necessary approvals, site plan reviews, permits, required for Columbia to carry out its work and obligations hereunder. Columbia shall not be obligated to undertake the pipeline relocation and this Agreement shall be terminated at the discretion of Columbia if Requestor fails to satisfy its obligations as set forth in this Section 5. In the event of such termination, Requestor shall be responsible for all costs expended by Columbia and/or which Columbia is obligated to expend in connection with the relocation project and the termination of such project. Any such costs which exceed the Deposit shall be payable by Requestor immediately upon notice from Columbia.

6. Upon completion of said pipeline relocation, Columbia shall, within a reasonable time, submit to Requestor a statement showing the actual cost thereof. If the actual (direct and indirect) cost of said pipeline relocation is more than the amount of the Deposit, Requestor shall promptly pay the difference between the actual costs and the Deposit, to Columbia. Requestor will make such reimbursement payment to Columbia within thirty (30) days of receipt of the invoice. Late payments will bear interest at a rate of 1.0% a month, which equals an annual percentage rate of 12%. If the actual cost is less than the amount of the Deposit, Columbia shall promptly return to Requestor the difference between the Deposit and the actual costs.

7. All questions with respect to the interpretation and construction of this Agreement and the rights and liabilities of the Parties hereunder shall be determined in accordance with the applicable laws of Ohio without regard to the law of conflicts or any choice of law provisions that would direct the application of the laws of another jurisdiction. Any legal action or in any way related to or arising from this Agreement shall be brought and heard only in a court of competent jurisdiction located in Delaware County, Ohio. This Agreement contains the entire agreement between the Parties concerning the relocation work, and no modification of this Agreement will be binding unless approved in writing by both Parties. Requestor may not assign this Agreement without express written consent from Columbia. Such consent may be withheld by Columbia in its sole discretion. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid such provision shall be deemed modified so as to be no longer invalid and, all of the remaining provisions of this Agreement shall remain in full force and effect. The recitals set forth in this Agreement are an integral part hereof and shall have the same contractual significance as any other language contained in this Agreement. No provision of this Agreement shall be interpreted more or less favorably towards either Party because its counsel drafted all or a portion hereof.

Requestor represents and warrants that it has requisite authority to enter into this Agreement and that its representative signing this Agreement is authorized to bind and obligate the Requestor to the terms of this Agreement. This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, but all of which together shall constitute one instrument. Facsimile and pdf signatures to this Agreement shall be legally binding and considered in all manner and respects as original signatures.

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

13

RESOLUTION NO. 19-937

IN THE MATTER OF APPROVING THE MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE DELAWARE COUNTY TRANSPORTATION IMPROVEMENT DISTRICT, THE DELAWARE COUNTY BOARD OF COMMISSIONERS, THE ORANGE TOWNSHIP BOARD OF TRUSTEES AND THE BOARD OF TRUSTEES OF LIFEPOINT CHURCH:

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

**MEMORANDUM OF UNDERSTANDING
Graphics Way**

By and Between
the Delaware County Transportation Improvement District,
the Delaware County Board of Commissioners,
the Orange Township Board of Trustees and
the Board of Trustees of the Lifepoint Church

WHEREAS, Lifepoint Church (the “Church”) plans to construct a new church on its 14.666 acre parcel and its (original) 17.768 acre parcel (now 3.102 acre remainder), both situated on US 23 (Columbus Pike) known as Delaware County Auditor’s Parcel 318-230-01-008-003 and Parcel 318-230-01-008-001, respectively, (the “Church Property”); and

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WHEREAS, the Delaware County Transportation Improvement District (“TID”) and the Church desire to construct a 1070± foot segment of Graphics Way between Orangepoint Drive and Menards Creekside, including two access drives to the Church Property and all related drainage and other infrastructure required for operation and maintenance of the roadway in general conformance with Exhibit A (collectively, the “Project”) at the earliest possible date; and

WHEREAS, the Delaware County Board of Commissioners (“County”) and the Orange Township Board of Trustees (“Township”) desire to see the Project completed;

IN CONSIDERATION WHEREOF, the Board of Trustees of the TID, the Delaware County Board of County Commissioners, the Orange Township Board of Trustees and Lifepoint Church (collectively the “Parties” herein) hereby agree with the following terms:

1. The Church will file a petition with the Board of Commissioners of Delaware County, Ohio requesting the establishment and construction of the Project in general conformance with the terms of this MOU.
2. The County will hold necessary public hearings for consideration of the project and upon granting of the petition will enter into a project agreement(s) with the TID to construct the Project.
3. The Township will formally acknowledge by resolution its desire to see the Project constructed and consent to ongoing maintenance of the road as a township road.
4. The TID will use its best efforts to substantially complete the Project within 18 months of the execution of this MOU and open the road to traffic.
5. The Church agrees to provide any necessary drainage easements, temporary construction easements and/or approval of necessary work agreements with the TID for work located on the Church Property in the vicinity of the new road, at no cost to the TID.
6. The Church consents to the TID hiring its site contractor(s) to construct the Project, if the TID reasonably determines that the Contractor(s) is/are qualified.
7. The Church will pay, on a reimbursement basis, for 50 percent (50%) of the actual total cost of the Project. Reimbursement shall be made through payment of a special assessment levied by the County upon the Church Property, payable with real estate taxes in equal semi-annual installments over a period of 15 years, commencing the January following completion of the Project if completion occurs before September 1, or the second January following completion if completion occurs between September 1 and December 31. Special assessment payments collected shall be directed by the County to the TID.
8. The total Project Cost will be as certified by the TID and/or the County Engineer to the County Auditor.
9. The estimated Project Costs are as follows:
 - a. Design: \$55,000
 - b. Land Acquisition: \$0
 - c. Construction: \$475,000
 - d. Inspection: \$20,000
 - e. TID Administrative Fee: \$16,000
 - f. **Total Estimated Cost of the Project: \$566,000**
10. The estimated costs to be paid by the Delaware County Engineer are:
 - a. Design: \$55,000
 - b. Inspection: \$20,000
 - c. Total: \$75,000
11. The estimated cost to be paid up-front by the TID and 50% assessed upon the Church Property is as follows:
 - a. Construction: \$475,000
 - b. TID Administrative Fee: \$16,000
 - c. Total: \$491,000
12. The special assessments will run with the land and shall be imposed on all taxable acreage now or as may be divided in the future within the current bounds of the Church Property, exclusive of all dedicated rights of way, highway easements and public lands.
13. The estimated special assessment upon the Church Property is \$245,500 or \$16,366.67 per year for 15 years. Actual assessment will be paid based on certified costs with a maximum assessment of \$250,000 or \$16,666.67 per year.

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- 14. In the event a special assessment is terminated at any time for any reason, the County is not required to refund any special assessments paid prior to termination.
- 15. If the County does not levy the aforementioned special assessment by December 31, 2019 and commit proceeds to the TID for reimbursement of Project costs, the Project will be terminated.

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

14
RESOLUTION NO. 19-938

IN THE MATTER OF APPROVING OWNER’S AGREEMENT FOR SCIOTO RIDGE CROSSING SECTION 5:

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

WHEREAS, The Engineer recommends approving the Owner’s Agreement for Scioto Ridge Crossing Section 5;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Owner’s Agreement for Scioto Ridge Crossing Section 5 as follows:

OWNER’S AGREEMENT

PROJECT NUMBER: 9029

THIS AGREEMENT, executed on this 23rd day of September, 2019 between **M/I HOMES OF CENTRAL OHIO, LLC**, hereinafter called ‘**OWNER**’ and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **SCIOTO RIDGE CROSSING SECTION 5**, further identified as Project Number 9029, is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

OPTIONS:

- 1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit “A”** attached hereto.
- 2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

OWNER hereby elects to use Option 1 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** further agrees that any violations of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **COUNTY** shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **TWENTY THOUSAND DOLLARS (\$20,000)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

Upon completion of construction, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER’S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to

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10% of the originally approved construction estimate as shown in **Exhibit “A”** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer’s** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto.**

Acceptance of the project into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER’S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS.**

Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance shall be the responsibility of the **OWNER.** All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS,** as required, “as-built” drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer.**

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within Delaware County and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County.**

Should the OWNER 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.**

In consideration whereof, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants the **OWNER** or his agent, the right and privilege to make the improvements stipulated herein.

EXHIBIT “A”

| | |
|----------------------------|-----------|
| CONSTRUCTION COST ESTIMATE | \$510,700 |
| CONSTRUCTION BOND AMOUNT | \$510,700 |
| MAINTENANCE BOND AMOUNT | \$ 51,100 |
| INSPECTION FEE DEPOSIT | \$ 20,000 |

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

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RESOLUTION NO. 19-939

IN THE MATTER OF APPROVING THE PLATS OF SUBDIVISION FOR; HOWARD FARMS SECTION 1, PHASE A; AND ROOSTER RANCH ESTATES:

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

Howard Farms Section 1, Phase A

WHEREAS, Homewood Corporation has submitted the Plat of Subdivision (“Plat”) for Howard Farms Section 1 Phase A, including related development plans (“Plans”) and requests approval thereof by the Board of Commissioners of Delaware County; and

WHEREAS, the Berlin Township Zoning Officer has reviewed said Plat and Plans for conformance with Township Zoning Regulations and approved said Plat on June 17, 2019; and

WHEREAS, Del-Co Water Company has reviewed said Plat and Plans for conformance with its rules and regulations and approved said Plat on June 26, 2019; and

WHEREAS, the Delaware County Sanitary Engineer has reviewed said Plat and Plans for conformance with the Rules, Regulations, Standards and General Procedures Governing Sewerage in Delaware County and approved said Plat on July 8, 2019; and

WHEREAS, the Delaware County Engineer has reviewed said Plat and Plans for conformance with Delaware County Engineering and Surveying Standards and approved said Plat on July 30, 2019; and

WHEREAS, the Delaware County Regional Planning Commission has reviewed said Plat and Plans for conformance with Delaware County Subdivision Regulations and approved said Plat on September 3, 2019;

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NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the Plat of Subdivision for Howard Farms Section 1, Phase A

Howard Farms Section 1, Phase A

Situated in the State of Ohio, County of Delaware, Township of Berlin, in Farm Lot 6 (3.469 Acres), Farm Lot 11 (18.651 Acres) and Farm Lot 12 (4.181 Acres), Quarter Township 3, Township 4, Range 18, United States Military Lands, remaining 26.301 acres of land, more or less, said 26.301 acres being part of hat tract of land conveyed to Homewood Corporation by deed of record in Official Record 219, Page 1262, Recorder’s Office, Delaware County, Ohio. Cost: \$69.

Rooster Ranch Estates

WHEREAS, Jonathan M. Cochran and Allison J. Cochran have submitted the Plat of Subdivision (“Plat”) for Rooster Ranch Estates, including related development plans (“Plans”) and requests approval thereof by the Board of Commissioners of Delaware County; and

WHEREAS, the Trenton Township Zoning Officer has reviewed said Plat and Plans for conformance with Township Zoning Regulations and approved said Plat on May 23, 2019; and

WHEREAS, the Delaware General Health District has reviewed said Plat and Plans for conformation with its rules and regulations and approved said Plat on May 28, 2019; and

WHEREAS, Del-Co Water Company has reviewed said Plat and Plans for conformation with its rules and regulations and approved said Plat on May 7, 2019; and

WHEREAS, the Delaware County Sanitary Engineer has reviewed said Plat and Plans for conformance with the Rules, Regulations, Standards and General Procedures Governing Sewerage in Delaware County and approved said Plat on May 28, 2019; and

WHEREAS, the Delaware County Engineer has reviewed said Plat and Plans for conformance with Delaware County Engineering and Surveying Standards and approved said Plat on June 4, 2019; and

WHEREAS, the Delaware County Regional Planning Commission has reviewed said Plat and Plans for conformance with Delaware County Subdivision Regulations and approved said Plat on September 3, 2019;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the Plat of Subdivision for Rooster Ranch Estates.

Rooster Ranch Estates

Situated in the Township of Trenton, County of Delaware, State of Ohio, and being part of Farm Lot 9 in Quarter Township 1, Township 4, Range 16 of the United States Military Lands. Being a subdivision of 19.097 acres, being part of an original 22.15 acre tract conveyed to Jonathan M. and Allison J. Cochran in Official Records Volume 1333, Page 8148 in the Delaware County Recorder’s Office. Cost: \$6.

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

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ADMINISTRATOR REPORTS

Mike Frommer, County Administrator
-Tomorrow the County will host an Employee Appreciation Luncheon. New this year is a dunk tank. Proceeds for dunking directors will go to the United Way and People In Need.

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COMMISSIONERS’ COMMITTEES REPORTS

Commissioner Merrell
-The County Fair went very well.
-Attended the live stock sale. Admire those who participate (in both raising, selling and buying) the animals.
-New Beginnings Church held a ground breaking ceremony yesterday for their new site.

Commissioner Lewis
-Will be attending a strategy meeting at Bridges Community Action on Wednesday.

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RESOLUTION NO. 19-940

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF EMPLOYMENT; DISCIPLINE OF A PUBLIC EMPLOYEE OF PUBLIC OFFICIAL; FOR PENDING OR IMMINENT LITIGATION:

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It was moved by Mr. Merrell, seconded by Mrs. Lewis 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 employment; discipline of a public employee of public official; for pending or imminent litigation.

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

RESOLUTION NO. 19-941

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

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

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

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners