

**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL JUNE 8, 2020**

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

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

**1**  
**RESOLUTION NO. 20-483**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JUNE 4, 2020:**

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on June 4, 2020; and

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

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

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

**2**  
**RESOLUTION NO. 20-484**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0605:**

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0605 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO' Increase</b>			
Treasurer, State of Ohio (P2000859)	Public Defender	10011202-5319	\$20,000.00
Integrated Protection	Fire Alarms and Sprinklers	10011105-5328	\$5,500.00

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

**3**  
**RESOLUTION NO. 20-485**

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

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

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

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

<b>Permit #</b>	<b>Applicant</b>	<b>Location</b>	<b>Type of Work</b>
UT20-0087	Consolidate Electric	Attucks Drive	Place cable in ROW
UT20-0088	AEP	Home Road	Replace 4 existing poles
UT20-0089	Spectrum	Chapman Road	Place cable in ROW
UT20-0090	AT&T	Africa Road	Place cable in ROW
UT20-0091	Centurylink	Highfield Drive	Place cable in ROW

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

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**4****RESOLUTION NO. 20-486**

**IN THE MATTER OF ACCEPTING THE PROPOSAL AND APPROVING A MERCHANT AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, THE DELAWARE COUNTY TREASURER, AND ALLPAID, INC. DBA GOVPAYNET FOR PROCESSING OF FINANCIAL TRANSACTION DEVICES FOR DELAWARE COUNTY:**

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

WHEREAS, pursuant to section 301.28 of the Revised Code, the Delaware County Treasurer requested proposals from processors of financial transaction devices and reviewed the proposals submitted; and

WHEREAS, the Delaware County Treasurer recommends accepting the proposal and approving the merchant agreement with AllPaid, Inc. dba GovPayNet for processing of Financial Transaction Devices for Delaware County; and

WHEREAS, the Delaware County Board of Commissioners (the "Board") has considered the recommendation and reviewed the proposals submitted;

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

Section 1. The Board hereby accepts the recommended proposal and rejects the other proposals submitted for the reasons set forth in the Delaware County Treasurer's recommendation, specifically the savings to county residents under the accepted proposal. The Clerk of the Board is hereby directed to provide a copy of this Resolution, the Delaware County Treasurer's recommendation, and the proposal of and contract with AllPaid, Inc., to the institutions whose proposals were rejected, in accordance with section 301.28 of the Revised Code.

Section 2. The Board hereby approves the following merchant agreement with AllPaid, Inc. dba GovPayNet for processing of Financial Transaction Devices for Delaware County:

**MERCHANT AGREEMENT**

This Merchant Agreement ("Agreement") is by, between and among:

DELAWARE COUNTY BOARD OF COMMISSIONERS  
145 N. UNION STREET  
DELAWARE, OH 43015

referred to herein as "Merchant"; Worldpay, LLC, for itself and its affiliates, a Delaware Limited Liability Company with a business address at 8500 Governors Hill Drive, Symmes Township, Ohio 45249 (hereinafter "Worldpay"); and AllPaid, Inc. dba GovPayNet, a Delaware corporation having a principal place of business at 7820 Innovation Boulevard, Suite 250, Indianapolis, Indiana 46278 ("GovPayNet").

WHEREAS, GovPayNet provides the "GovPayNet Payment Network," consisting of governmental entities that have each contracted with GovPayNet to accept payments on their behalf made using credit cards and debit cards by their authorized users (individually, a "Cardholder" and collectively, "Cardholders") for transmission to such entities, and Merchant, in order to improve Merchant's services and enhance administration, desires to accept payments through GovPayNet with such related support services as GovPayNet provides; and

WHEREAS, the entities that establish and govern the rules, regulations and guidelines for the credit card and debit card systems such as Visa U.S.A., Inc. and MasterCard International Incorporated (collectively, the "Payment Type Organizations" or "PTOs") require that Merchant enter into a contractual relationship with an entity that is a member of the PTOs and agrees to comply with PTO rules and regulations ("PTO Rules") as they apply to credit and debit card transactions that are submitted to Worldpay by GovPayNet on Merchant's behalf; and

WHEREAS, by Merchant executing this Agreement, Worldpay is made a party to this Agreement and Merchant understands that (i) Merchant has contracted with GovPayNet to obtain certain processing services; (ii) GovPayNet has agreed to be responsible for all or part of Merchant's obligations contained herein; and (iii) Merchant is fulfilling the PTO Rules.

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Merchant, Worldpay, and GovPayNet agree as follows:

**1. Recitals.**

The above recitals are by this reference incorporated into and made a part of this Agreement.

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**2. Security and Compliance.**

- 2.1 Merchant acknowledges and agrees that certain PTO Rules apply to Merchant's acceptance of Cardholders' payments. Merchant further acknowledges and agrees that security standards and guidelines published by the Payment Card Industry ("PCI") Security Standards Council including PCI Data Security Standards ("DSS") are also applicable to Merchant's acceptance of payments from Cardholders. In lieu of directly complying with all PTO Rules and PCI DSS requirements, Merchant may and hereby does appoint GovPayNet as its agent to accept debit and credit cards and comply in full with all applicable PTO Rules and PCI DSS requirements, as they may be modified from time to time, on its behalf and GovPayNet accepts such appointment subject to any limitations in this Agreement and any attachments hereto. If any PTO requires an audit and/or forensic investigation due to an actual or suspected data security compromise event in connection with transactions processed hereunder, an audit and/or forensic investigation of GovPayNet and its operations shall be sufficient for such purposes provided, however, that Merchant agrees to cooperate with such audit and/or forensic investigation as GovPayNet may reasonably request.
- 2.2 Merchant acknowledges that any Cardholder personal information it obtains will be obtained lawfully, shall be retained only as necessary for the performance of Merchant's official duties, and will not be used by Merchant in violation of any PTO Rules or regulations or applicable law.
- 2.3 If at any time Merchant or GovPayNet believes that Cardholder information has been compromised as a result of a breach of the GovPayNet system, Merchant or GovPayNet, as the case may be, must notify the other and GovPayNet shall notify Worldpay, PTOs, Cardholders, and any other parties GovPayNet is required to notify.
- 2.4 Merchant and GovPayNet each additionally agrees to comply, at each party's expense, with all federal, state, and local laws and the requirements of regulatory agencies as they pertain to the respective parties' businesses and operations.

**3. GovPayNet Obligations**

GovPayNet will enable Cardholders to pay amounts owed to Merchant by doing the following:

- 3.1 GovPayNet shall obtain on Merchant's behalf authorization to process a charge to the Cardholder's credit card account or debit such Cardholder's debit card account for purposes of funding payment(s) by such Cardholder to Merchant. Such charges or debits shall be subject to acceptance by the card issuer, PTO rules, and any other applicable laws or regulations.
- 3.2 GovPayNet shall act on Merchant's behalf in accepting payments from Cardholders made by credit cards and debit cards at the service fees listed on Attachment "A" to this Agreement. Cardholder shall pay all service fees unless Merchant advises GovPayNet Merchant intends to pay all or any part of the service fees in the manner provided in this Agreement. For any service fees Merchant elects to pay, Merchant shall follow the payment procedures described in Attachment "B" to this Agreement. Merchant hereby authorizes GovPayNet to net and retain as GovPayNet's sole compensation service fees paid by Cardholders in addition to the payment amounts. GovPayNet may modify Cardholder fees at its sole option, providing Merchant with 30 days' notice of such modification and a revised attachment reflecting modified fees prior to activating the new fee structure. Service fees are non-refundable.
- 3.3 GovPayNet shall transmit payment transactions on Merchant's behalf to Worldpay for further processing and shall further direct Worldpay to transfer Merchant's portion of all settling funds received from PTOs to Merchant in accordance with then-standard GovPayNet practices. GovPayNet shall establish unique payment codes on its system for the routing of Cardholder funds to Merchant. Such codes shall be available to Cardholders through Merchant or by accessing GovPayNet's services.
- 3.4 GovPayNet shall be responsible for the safety and security of all Cardholder information it obtains (such as the customer's PTO account number, expiration date, and CVV2) in connection with the processing services provided under this Agreement. GovPayNet will maintain proper security and responsibility for Cardholder data while it is in GovPayNet's possession, all at GovPayNet's sole cost in accordance with applicable PCI DSS requirements.
- 3.5 GovPayNet shall be responsible for all chargebacks initiated not more than 180 days after the transaction. When a cardholder initiates a chargeback within 180 days of a transaction, it automatically results in a provisional credit to the cardholder from a GovPayNet account. If GovPayNet determines that a chargeback may be inappropriate, GovPayNet expects Merchant to provide reasonable assistance in any challenge GovPayNet makes to the chargeback. GovPayNet reserves the right to adjust service and security levels as GovPayNet reasonably deems necessary to maintain payment security and integrity.

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- 3.6 GovPayNet reserves the right to charge Merchant for services or equipment beyond the scope of this Agreement, such as custom software development, non-GovPayNet standard peripheral devices, and other services and support as the parties may agree upon from time to time.
- 3.7 GovPayNet shall provide administrative support to Cardholders and to Merchant through a toll-free telephone help line and the Internet.
- 3.8 GovPayNet shall provide Merchant with participation procedures, toll-free telephone numbers, web addresses, and promotional and instructional materials to market and explain the GovPayNet service to Cardholders, and shall train Merchant staff on how to access and use, and how to assist Cardholders to access and use the GovPayNet Payment Network.
- 3.9 GovPayNet shall be responsible for all federal, state, and local taxes that may be imposed upon its services only.

**4. Merchant Obligations**

Merchant's continued participation in the GovPayNet Payment Network is conditioned upon the following:

- 4.1 Merchant understands and agrees that its cooperation in promoting use of the GovPayNet Payment Network is a significant consideration for Merchant and GovPayNet entering into this Agreement. Merchant shall therefore (i) ensure that the appropriate employees participate in any GovPayNet training or refresher training on the use and promotion of the GovPayNet Payment Network and its associated services; (ii) keep available for reference any user manuals and instructional materials GovPayNet provides to Merchant; (iii) display logos, signage, literature, and other promotional and instructional materials that GovPayNet provides and otherwise inform, encourage and assist Cardholders to use GovPayNet for their payments to Merchant; and (iv) cooperate with all reasonable GovPayNet requests to encourage greater use of the GovPayNet Payment Network. All marketing and promotion of GovPayNet services by Merchant shall conform to guidelines provided by GovPayNet from time to time.
- 4.2 Merchant shall provide telecommunication capabilities, such as telephone, facsimile, and Internet connections to enable Cardholders to access GovPayNet from Merchant locations and enable GovPayNet to communicate with Merchant. Further, Merchant shall be responsible for establishing and maintaining secure access at its locations to the GovPayNet administrative system, including user identification, passwords and precautions for accessing all confidential information. GovPayNet shall be entitled to rely on any communications or instructions initiated with Merchant's user identification, passwords or other security and identity tokens or devices. Merchant shall designate a primary contact and a secondary contact with which GovPayNet may communicate on operational, technical, and administrative issues.
- 4.3 Merchant shall raise any claimed transaction or settlement errors with GovPayNet within 12 months of the date of Merchant's receipt of the GovPayNet report on which the claimed error appeared and shall otherwise follow the GovPayNet Payment Network participation procedures that GovPayNet provides to Merchant, as such procedures may be updated from time to time. Merchant shall cooperate with GovPayNet in the event of an overpayment to refund to GovPayNet funds that GovPayNet can demonstrate exceed Cardholder liabilities to Merchant.
- 4.4 Merchant shall provide GovPayNet with prompt written notice of any change in the information Merchant provides to GovPayNet necessary for Merchant's participation in the GovPayNet Payment Network, including but not limited to any change in its bank routing and account numbers.
- 4.5 In the event Merchant receives a payment from GovPayNet that appears to have been obtained through the commission of civil or criminal fraud, Merchant shall cooperate in any resulting investigation.

**5. Term and Termination**

- 5.1 This Agreement shall become effective upon the date it has been executed by Merchant and GovPayNet and shall continue for one year, automatically renewing for additional one year periods. Notwithstanding the foregoing, this Agreement shall terminate if and when Worldpay ceases to provide processing services to GovPayNet or if terminated earlier as provided herein.
- 5.2 Merchant may terminate this Agreement upon 30 days' written notice to GovPayNet and GovPayNet shall promptly inform Worldpay of such termination. If at any time Merchant wishes to terminate the services of GovPayNet but continue to process transactions under this Agreement through Worldpay, Merchant shall immediately upon GovPayNet's cessation of services become directly responsible for complying with all duties hereunder Merchant had formerly assigned to GovPayNet.
- 5.3 GovPayNet may terminate this Agreement (a) upon 30 days written notice prior to its annual expiration date; (b) upon 30 days written notice if Merchant fails to comply with GovPayNet

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procedures for participating in the GovPayNet Payment Network (subject to Merchant's reasonable opportunity to cure); or (c) immediately if Merchant fails to comply with any other term of this Agreement.

**6. GovPayNet and Worldpay Representations and Warranties**

Each of Worldpay and GovPayNet represents and warrants as follows:

- 6.1 This Agreement is valid, binding, and enforceable against the warranting party in accordance with its terms. Each party has full power and authority to execute and deliver this Agreement and perform its obligations hereunder.
- 6.2 The employees, agents and subcontractors of Worldpay and GovPayNet shall possess the education, knowledge and experience necessary to qualify them individually for the particular duties they perform.
- 6.3 During the performance of this Agreement, each of Worldpay and GovPayNet shall provide services in a non-discriminatory manner and shall not deny services or employment on the basis of race, creed, color, national origin, sex, age, disability, sexual orientation, military status, marital status or any other legally protected class.

**7. Merchant Representations and Warranties**

Merchant has taken all administrative, legal and regulatory measures necessary for it to enter into this Agreement and this Agreement is valid, binding, and enforceable against Merchant in accordance with its terms. Merchant warrants that Merchant's decisions and instructions to GovPayNet with respect to Cardholder responsibility for payment of all or any part of the Service Fee shall conform with applicable law.

**8. Notices**

All notices permitted or required by this Agreement shall be in writing and shall be given to the respective parties in person at or by first class U.S. Mail or by recognized courier directed to the address first stated in this Agreement, or if by facsimile, to GovPayNet at (888) 665-4755 or if to Merchant to the facsimile number Merchant provides to GovPayNet (in each case, with a hard copy following). Notices under this section shall be deemed to be received, if sent by mail or courier, five days following their deposit in the U.S. Mail or with such courier and, if sent by facsimile, when such facsimile is transmitted to the number provided by the recipient and sender receives a confirmation of such facsimile.

**9. Disclaimers and Limitation of Liability**

- 9.1 The sole purpose of this Agreement is to enable Merchant to participate in the GovPayNet Payment Network. Merchant understands and agrees that GovPayNet takes no responsibility that amounts GovPayNet transmits in payment to Merchant will fully satisfy any obligation to Merchant, and that GovPayNet does not guarantee any particular outcome or result other than the delivery of each Cardholder's payment to Merchant.
- 9.2 Other than the limited agency of GovPayNet to accept payments for Merchant nothing in this Agreement establishes or creates any association, partnership, joint venture, or relationship of master and servant or employer and employee between the parties or to provide either party with the right, power, or authority, expressed or implied, to create any such duty or obligation on behalf of the other party.
- 9.3 GovPayNet shall be liable for losses or damages to Merchant to the extent provided herein only if they are caused directly by the gross negligence or willful misconduct of GovPayNet.
- 9.4 Merchant bears all responsibility for administrative and official actions taken by Merchant. GovPayNet accepts no liability whatsoever for Merchant actions taken based on payment information provided by GovPayNet even if such information proves to be incorrect.
- 9.5 THIS IS A CONTRACT FOR SERVICES. GOVPAYNET LIABILITY TO MERCHANT IS LIMITED TO MAKING PAYMENTS TO MERCHANT IN THE AMOUNTS THAT GOVPAYNET HAS INFORMED MERCHANT HAVE BEEN AUTHORIZED. THE GOVPAYNET PAYMENT NETWORK AND ANY INCIDENTAL GOODS AND RELATED SERVICES ARE PROVIDED ON AN AS-IS, AS-AVAILABLE BASIS. GOVPAYNET MAKES NO WARRANTIES THAT GOVPAYNET SERVICES WILL BE ERROR FREE OR UNINTERRUPTED AND DISCLAIMS ALL OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. NEITHER MERCHANT NOR GOVPAYNET SHALL BE LIABLE FOR LOST REVENUES, PROFITS, INTEREST, GOOD WILL, OR ANY INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES SUFFERED OR INCURRED BY

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THE OTHER PARTY IN CONNECTION WITH OR ARISING FROM SERVICES PERFORMED UNDER THIS AGREEMENT. WORLDPAY'S FUNCTION IS TO ACCEPT AND PROCESS MERCHANT'S TRANSACTIONS FROM GOVPAYNET. WORLDPAY SHALL HAVE NO LIABILITY TO MERCHANT WHATSOEVER HEREUNDER.

**10. Publicity**

GovPayNet shall not issue any press release or make any statement to the media with respect to this Agreement or the services provided hereunder without the prior written consent of Merchant.

**11. Intellectual Property**

Merchant acknowledges and shall not challenge GovPayNet's ownership of GovPayNet trademarks, service marks, trade names, patents, copyrights, or other intellectual property ("GovPayNet Intellectual Property"). Merchant agrees that any Merchant use of GovPayNet Intellectual Property shall be in accordance with GovPayNet instructions and subject to the control, direction and approval of GovPayNet; that any rights arising out of such use shall inure solely to the benefit of GovPayNet; and that Merchant shall have no ownership or other interest in GovPayNet Intellectual Property.

**12. Miscellaneous Terms and Conditions**

- 12.1 Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.
- 12.2 Assignment. This Agreement may not be assigned, in whole or in part, by GovPayNet or by Merchant without prior written consent of the other party, which consent shall not be unreasonably withheld.
- 12.3 Force Majeure. All parties are excused from performance and shall not be liable for any delay in performance or non-performance, in whole or in part, caused by the occurrence of any contingency beyond the control of the parties including, but not limited to, work stoppages, fires, civil disobedience, riots, rebellions, terrorism, loss of power or telecommunications, flood, storm, Acts of God, or similar occurrences.
- 12.4 Governing Law. This Agreement shall be governed by the internal laws of the state in which Merchant is located. Litigation regarding this Agreement shall be filed in state or federal courts of appropriate jurisdiction in or near the county in which Merchant is located.
- 12.5 No Waiver. A waiver of any portion of this Agreement shall not be deemed a waiver or renunciation of other portions.
- 12.6 Survival. Rights and obligations under this Agreement which by their nature should survive will remain in effect after termination or expiration hereof.
- 12.7 Severability. In the event that any provision of this Agreement is adjudicated by any court of competent jurisdiction to be invalid, illegal, void, or unenforceable, all other provisions of this Agreement shall nevertheless remain in full force and effect.
- 12.8 Counterparts. This Agreement may be executed simultaneously in multiple counterparts, each of which is deemed an original, but all of which taken together constitute one and the same instrument. For purposes of execution and delivery, each party may rely upon the electronically imaged and emailed or faxed signature of the other party as an original document.
- 12.9 Complete Agreement. This Agreement, together with its attachments is the entire agreement between and expresses the complete understanding of the parties, superseding all prior or contemporaneous agreements, with regard to the subject matter herein and may not be altered, amended, or modified except in a writing incorporated hereto, and signed by the parties, provided, however, that GovPayNet may revise the terms of this Agreement if required to comply with PTO rules, law, or regulation and GovPayNet provides notice to Merchant of such change and may modify fees per Section 3.2.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized representatives or agents as of the date written below.

DELAWARE COUNTY BOARD OF COMMISSIONERS

By:

Printed Name:

Title:

Date:

ALLPAID, INC. dba GOVPAYNET

By:

Printed Name:

Title:

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Date:

**ATTACHMENT “A” – SERVICE FEES AVAILABLE**

**ALL SERVICE FEES ARE NON-REFUNDABLE**

**Service Fee Schedule for Tax and Utility Payments**

**Via Web or Gov\$wipe®**

2.00%

Minimum Fee = \$1.00

**Service Fee Schedule for Administrative & Civil Payments**

**Via Web or Gov\$wipe®**

2.00%

Minimum Fee = \$1.00

**Premium Assistance Fee for All Payments**

**Via Call Center**

Add \$2.00 to each fee amount for use of Call Center Assistance.

**ATTACHMENT “B” – ADDITIONAL SERVICE FEES AVAILABLE**

**General Service Terms**

Merchant is responsible for advising GovPayNet as to the types of payments GovPayNet is authorized to accept on Merchant’s behalf (per the service fees stated in any Attachment to this Agreement). Merchant may at any time (i) authorize GovPayNet to accept additional types of payments within the scope of the applicable service fees; (ii) cancel the processing through GovPayNet of any types of payments; and (iii) modify the account(s) to which GovPayNet shall direct payments to Merchant by specifying all such changes to GovPayNet in writing (for purposes of this attachment, “in writing” means via letter, email, or facsimile). Any such changes require reasonable lead-time to implement and are subject to GovPayNet acceptance and confirmation in writing.

**Service Fees**

Service Fees may be the responsibility of Cardholder, Merchant, or shared by Cardholder and Merchant. Unless Merchant advises GovPayNet otherwise, Merchant will be presumed to have chosen that Cardholders shall be responsible for all Service Fees. If Merchant elects to pay all or any portion of the Service Fee, Merchant must so advise GovPayNet in writing. For any Service Fees Merchant elects to pay, GovPayNet will debit Merchant’s account for Merchant’s share of the Service Fee in accordance with the terms of the debit authorization form Merchant completes. Merchant must allow GovPayNet 30 days to make any changes Merchant requests to the Service Fee responsibility.

**Service Models**

GovPayNet provides an e-commerce payment solution to entities that contract to participate in the GovPayNet Payment Network. Basic service policies include a system designed to be available 24 hours a day, 7 days a week, 365 days a year; access to online administrative, analytical, and reporting capabilities; and customer service support to Merchant’s payers and staff. GovPayNet will cause funds to be forwarded electronically to Merchant’s designated account(s) for all approved transactions which are accepted by Merchant within two banking days after transaction authorization, or will remit funds by check if Merchant so requests in writing.

*Cardholders may make payment transactions via the Internet or by toll-free telephone. All payments are processed using the Internet regardless of their method of initiation. GovPayNet makes various methods of system access available to paying parties, including integrated solutions. The following additional terms apply to Merchant’s use of Gov\$wipe® and ConnexYourGov®. By electing to utilize such services, Merchant agrees to the following:*

**Gov\$wipe:** If Merchant selects Gov\$wipe, GovPayNet will provide Merchant with card readers and peripheral equipment (cables, etc.), which are and will remain the property of GovPayNet. Merchant understands that GovPayNet card readers are embedded with proprietary technology (“Firmware”). GovPayNet grants Merchant a license to use such card readers and Firmware for the duration, and only for purposes of this Agreement. Acceptance and use of card readers does not convey to Merchant any title, patent, copyright, or other proprietary right in or to the Firmware. At all times, GovPayNet or its suppliers retain all rights to the Firmware, including but not limited to updates, enhancements, and additions. Merchant shall not attempt to access or disclose the Firmware to any party, or transfer, copy, license, sublicense, modify, translate, reverse engineer, decompile, disassemble, tamper with, or create any derivative work based on the Firmware.

Merchant will use reasonable care to protect card readers from loss, theft, damage or encumbrance. GovPayNet shall provide card readers and installation instructions at service implementation and when providing replacement or additional card readers by shipment to a location Merchant designates. Or, at GovPayNet’s option, Merchant will allow GovPayNet and its designated representatives reasonable access to Merchant’s premises for purposes of training or device installation, repair, removal, modification, upgrades, or relocation. GovPayNet is solely responsible for the maintenance of its card readers and shall supply Merchant with replacements on Merchant’s request and as GovPayNet deems appropriate. Upon termination of the Agreement, GovPayNet may require Merchant to return card readers to GovPayNet, at GovPayNet’s expense and by such method as GovPayNet specifies.

Merchant may request an increase or decrease in the number of card readers deployed in writing. Any such changes will be subject to GovPayNet acknowledgment and acceptance in writing. GovPayNet shall communicate shipping and handling procedures and any costs to Merchant in advance of taking action.

**ConnexYourGov:** If Merchant elects to utilize GovPayNet’s ConnexYourGov solution, Merchant must provide GovPayNet with photographs, graphics, digital assets, or digital images legally created, taken, or acquired by Merchant (collectively, “Images”) that Merchant desires GovPayNet to use. All Images that participating Merchants deliver to GovPayNet become subject upon delivery to a limited license granting GovPayNet a non-exclusive right to reproduce,



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publicly display, and distribute the Images only for purposes of this Agreement. Any other GovPayNet use of Images must be with Merchant's express written permission. Images may contain copyright management information at the discretion of Merchant in the form of either (i) a copyright notice (©) and/or

(ii) other copyright and ownership information embedded in the metadata or elsewhere, unless otherwise agreed to by the parties. All rights relating to the Images remain the sole and exclusive property of Merchant.

**Security**

If desired, GovPayNet may connect with Merchant's systems in a variety of methods. Any interfaces GovPayNet establishes shall be based on specifications Merchant and GovPayNet mutually develop. Merchant is responsible for advising GovPayNet of any system changes that may affect such interfaces prior to their implementation. A Merchant interfacing with GovPayNet may receive Cardholder information that is subject to PCI DSS which will be the Merchant's responsibility to secure. GOVPAYNET ACCEPTS NO RESPONSIBILITY FOR SECURITY OR PCI DSS COMPLIANCE WITH RESPECT TO INFORMATION THAT RESIDES ON SYSTEMS OTHER THAN THOSE CONTROLLED BY GOVPAYNET.

Gov\$wipe card readers are designed to communicate Cardholder data to GovPayNet through Merchant's computing equipment to which they are cable-attached via USB port. Internet access to GovPayNet is required for Gov\$wipe transaction processing and is enabled solely by Merchant's computers and networks. Merchant is responsible to use standard safeguards and practices to keep its computers and networks secure and free from malicious software or hardware. GOVPAYNET IS NOT LIABLE TO MERCHANT FOR EXPOSURE OF MERCHANT'S COMPUTERS OR NETWORKS TO MALICIOUS SOFTWARE OR HARDWARE OF ANY KIND.

**American Express® Card Acceptance**

1. **American Express Compliance.** Merchant agrees to comply with all Applicable laws, rules and regulations, including the American Express Merchant Operating Guide requirements, which are incorporated into this Agreement by reference as if they were fully set forth in the Agreement. The American Express Merchant Operating Guide may be viewed at: [www.americanexpress.com/merchantopguide](http://www.americanexpress.com/merchantopguide).
2. **Processing Restrictions.** Merchant is prohibited from processing transactions or receiving payments on behalf of, or (unless required by law) re-directing payments to any other party.
3. **Third Party Beneficiary Rights.** a. Notwithstanding anything in this Agreement to the contrary, Merchant confers on American Express the third party beneficiary rights, but not obligations, to the Merchant's Agreement and subsequent addendums (collectively the "Agreement") between Merchant and GovPayNet and, as such, American Express has the express right to enforce the terms of the Agreement against the Merchant.  
b. Merchant warrants that it does not hold third party beneficiary rights to any agreements between GovPayNet and American Express and at no time will attempt to enforce any such agreements against American Express.
4. **American Express Liability.** MERCHANT ACKNOWLEDGES AND AGREES THAT IN NO EVENT SHALL AMERICAN EXPRESS, ITS AFFILIATES, AGENTS, SUCCESSORS, OR ASSIGNS BE LIABLE TO MERCHANT FOR ANY DAMAGES, LOSSES, OR COSTS INCURRED, INCLUDING INCIDENTAL, INDIRECT, SPECULATIVE, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND (WHETHER BASED ON CONTRACT, TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, FRAUD, OR OTHERWISE, OR STATUTES, REGULATIONS, OR ANY OTHER THEORY), ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT

**ADDENDUM TO:  
Merchant Agreement**

This Addendum to the Merchant Agreement ("Agreement") entered into this \_\_\_\_ day of \_\_\_\_, 2019 by and between AllPaid, Inc. d/b/a GovPayNet (hereinafter "GovPayNet"), a Delaware corporation having a principal place of business at 7102 Lakeview Parkway West Drive, Indianapolis, Indiana 46268, and the Delaware County Board of Commissioners, Delaware, County, Ohio ( hereinafter. "County "), whose principal place of business is located at 101 N. Sandusky Street, Delaware, Ohio 43015 (GovPayNet and County individually "Party" and collectively "Parties").

WHEREAS, the Parties agree to the following additions to the Agreement as follows:

**Insurance,** The County shall be named as an additional insured on GovPayNet's Certificate of Insurance.

**Indemnification,** GovPayNet shall indemnify and hold free and harmless the County, along with its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of infringement of any right to use, possess, or otherwise operate or have any owned, protected, licensed, trademarked, patented, non-patented, and/or copyrighted software, product, service, equipment, invention, process, article, or appliance manufactured, used, or possessed in GovPayNet's performance of the Agreement and/or in providing services under the Agreement.

**Independent Contractor/No Contribution to OPERS.** GovPayNet is acting as your authorized agent for the limited purpose of receiving payments from payers on your behalf and you expressly authorize GovPayNet to receive payer funds on your behalf. Payment from the payer to GovPayNet by use of the GovPayNet system shall be considered payment to you, extinguishing the payer's payment obligation to you (in the amount paid by the payer) as if the payer had paid you directly, subject to any right you have to reject such transaction. GovPayNet, and not the individual payer, is solely liable to you for payer funds if GovPayNet fails to remit funds to you from payers who have paid through GovPayNet. GovPayNet agrees that it is an independent contractor and shall act in performance of this Contract/Agreement as an independent contractor. No agency, employment, joint venture, or partnership has been or will be created between the Parties pursuant to the terms and conditions of this Contract/Agreement. As an independent contractor, GovPayNet and/or its boards, officers, officials, employees, consultants, representatives, agents, volunteers and/or servants are not entitled to any of the benefits enjoyed by employees of the County or Delaware County, Ohio. GovPayNet assumes all



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responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums which may accrue as a result of compensation received for services or deliverables rendered hereunder.

The County is a public employer as defined in R.C. § 145.01(D). The County has classified GovPayNet as an independent contractor or another classification other than public employee. As a result, no contributions will be made to the Ohio Public Employees Retirement System ("OPERS") for or on behalf of GovPayNet and/or any of its officers, officials, employees, representatives, agents, and/or volunteers for services and/or deliverables rendered and/or received under or pursuant to this Contract. GovPayNet acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed it of such classification and that no contributions will be made to OPERS.

If GovPayNet has five (5) or more employees, GovPayNet, by its signature below, hereby certifies such fact in lieu of completing the Form:

\_\_\_\_\_  
AllPaid, Inc. d/b/a GovPayNet

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

**Civil Rights.** GovPayNet agrees that as a condition of this Contract/Agreement, there shall be no discrimination against any client or any employee because of race, color, sex, religion, national origin, handicap, sexual orientation, or any other factor as specified in Title VI of the Civil Rights Act of 1964, Rehabilitation Act of 1973, and subsequent amendments. It is further agreed that GovPayNet will comply with any and all appropriate federal and state laws regarding such discrimination and the right to and method of appeal will be made available to all persons under this Contract/Agreement. Any agency found to be out of compliance with this paragraph may be subject to investigation by the Office of Civil Rights of the Department of Health and Human Services and termination of this Contract/Agreement.

**Drug Free/ Smoke Free Environment.** GovPayNet agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. GovPayNet shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

**Campaign finance – compliance with ORC § 3517.13.** ORC § 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. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled "Contractor's affidavit in compliance with section 3517.13 of the Ohio Revised Code Certification Affidavit in compliance with O.R.C. section 3517.13." Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding with, and/or performing the Contract. Such certification is attached to this Contract as Exhibit B and by this reference made a part thereof.

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

ALLPAID, INC. DBA GOVPAYNET  
Signature Date  
Printed Name  
Title

DELAWARE COUNTY BOARD OF COMMISSIONERS  
Signature Date  
Printed Name Title

Approved as to form:  
Melissa A. Schiffel Date  
Delaware County Prosecutor

CONTRACTOR'S AFFIDAVIT IN COMPLIANCE WITH SECTION 3517.13  
OF THE OHIO REVISED CODE  
CERTIFICATION/AFFIDAVIT IN COMPLIANCE WITH  
O.R.C. SECTION 3517.13

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STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_, SS:

Personally appeared before me the undersigned, \_\_\_\_\_, an independent contractor for a contract for the purchase of goods and/or services to be let by the Delaware County Board of Commissioners, Delaware County, Ohio, who, being duly cautioned and sworn, makes the following statement with respect to prohibited activities constituting a conflict of interest or other violations under section 3517.13 of the Ohio Revised Code, and further state that the undersigned has the authority to make the following representation on behalf of himself or herself:

1. On behalf of the individual, partnership or other unincorporated business, association, estate, or trust that all of the following persons, if applicable, are in compliance with 3517.13 (I)(1)1:

1 O.R.C. § 3517.13(I)(1)(a) provides:

[N]o 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 any individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785. of the Revised Code, estate, or trust if any of [those persons listed in ¶ 1, a–h] . . . has made, as an individual, within the previous twenty-four months, one or more contributions totaling in excess of one thousand dollars to the holder of the public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee.

O.R.C. § 3517.13(I)(1)(b) prohibits award of such a contract

[I]f any combination of the following has made, within the previous twenty-four months, one or more contributions totaling in excess of two thousand dollars to the holder of the public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee: (i) The individual; (ii) Any partner or owner of the partnership or other unincorporated business; (iii) Any shareholder of the association; (iv) Any administrator of the estate; (v) Any executor of the estate; (vi) Any trustee of the trust; (vii) The spouse of any person identified in divisions (I)(1)(b)(i) to (vi) of this section; (viii) Any child seven years of age through seventeen years of age of any person identified in divisions (I)(1)(b)(i) to (vi) of this section; (ix) Any political action committee affiliated with the partnership or other unincorporated business, association, estate, or trust." (Emphasis added.)

- a. the individual;
- b. each partner or owner of the partnership or other unincorporated business;
- c. each shareholder of the association;
- d. each administrator of the estate;
- e. each executor of the estate;
- f. each trustee of the trust;
- g. each spouse of any person identified in (a) through (f) of this section;
- h. each child seven years of age to seventeen years of age of any person identified in (a) through (f) of this section;
- i. any combination of persons identified in (a) through (f) of this section.

2. On behalf of a corporation or business trust, except a professional association organized under Chapter 1785 O.R.C., that all of the following persons, where applicable, are in compliance with 3517.13 (J)(1)2:

- i. an owner of more than twenty per cent of the corporation or business trust;
- ii. each spouse of an owner of more than twenty per cent of the corporation or business trust;

2 O.R.C. § 3517.13(J)(1)(a) provides:

[N]o 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 or business trust, except a professional association organized under Chapter 1785. of the Revised Code, if any of [those persons listed in ¶ 2, a–c] . . . has made, as an individual, within the previous twenty-four months, taking into consideration only owners for all of that period, one or more contributions totaling in excess of one thousand dollars to the holder of a public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee.

O.R.C. § 3517.13(J)(1)(b) prohibits award of such a contract

[I]f any combination of the following has made, within the previous twenty-four months, taking into consideration only owners for all of that period, one or more contributions totaling in excess of two thousand dollars to the holder of the public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee: (i) Owners of more than twenty per cent of the corporation or business trust; (ii) Spouses of owners of more than twenty per cent of the corporation or business trust; (iii) Children seven years of age through seventeen years of age of owners of more than twenty per cent of the corporation or business trust; (iv) Any political action committee affiliated with the corporation or business trust. (Emphasis added.)

- iii. each child seven years of age to seventeen years of age of an owner of more than twenty per cent of the corporation or business trust;
- iv. any combination of persons identified in (a) through (c) of this section.

THE COMPANY:

SIGNATURE:

NAME:

TITLE:

DATE:

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Sworn to before me and subscribed in my presence by the above named person this \_\_\_\_day of \_\_\_\_, 20\_\_.

NOTARY PUBLIC:

My Commission Expires:

AUDITOR'S CERTIFICATION (RC 5705.41(D)):

The Delaware County Auditor hereby certifies that the funds required to meet the obligation set forth in this Contract have been lawfully appropriated for such purpose and are in the county treasury or in the process of collection, free from any other encumbrances. The Delaware County Auditor also certifies that it has confirmed with the State of Ohio Auditor that First Billing has no outstanding findings for recovery pending or issued against them by the State of Ohio.

George Kaitsa

Delaware County Auditor

PO#

**PARTICIPATION AGREEMENT**

**DELAWARE COUNTY BOARD OF COMMISSIONER  
145 N. UNION STREET  
DELAWARE, OH 43015**

**AllPaid, Inc. dba GovPayNet ("GovPayNet")  
7820 Innovation Blvd, Suite 250  
Indianapolis, Indiana 46278 Phone: (866) 564-0169  
Facsimile: (888) 665-4755  
Email: [accountservices@govpaynet.com](mailto:accountservices@govpaynet.com)**

1. **Services.** The above-named entity ("Participant") authorizes GovPayNet to act as its agent for the processing of credit, debit, and prepaid debit card transactions and GovPayNet accepts such appointment subject to any conditions and limitations in this Participation Agreement and any attachments hereto ("Agreement"). GovPayNet shall provide Participant with training, documentation, and electronic and telephonic support at GovPayNet's expense. GovPayNet shall cause funds to be forwarded electronically to such account as Participant designates within two banking days after transaction authorization or by mailed check if Participant so indicates.

2. **Term and Termination.** This Agreement shall become effective upon the date of the latter signature to this Agreement ("Effective Date") and shall continue for three years, automatically renewing for additional one-year periods commencing on the third anniversary of the Effective Date. This Agreement may be terminated (i) by Participant at any time with or without cause upon 30 days' written notice to GovPayNet; (ii) by GovPayNet upon 30 days' written notice to Participant prior to any renewal term; or (iii) by either party immediately upon notice to the other party of such other party's material breach of this Agreement, subject to a reasonable opportunity to cure such breach.

3. **Fees.** GovPayNet shall collect the Service Fees shown in Attachment "A" based on type of payment processed from the cardholder or from Participant, as Participant specifies to GovPayNet, on behalf of Participant, retaining such Service Fees as its sole compensation. Participant may select any or all of the payment types available as follows:

-For cash bail/bond payments, "Service Fee Schedule for Bail Payments" applies.

-For criminal justice-related payments, such as fees for probation management, electronic monitoring, work release, or other payments associated with reducing or avoiding a term of incarceration, "Service Fee Schedule for Criminal Justice-Related Payments" applies.

GovPayNet will apply its then-current service fee to the payment types Participant has selected for processing under this Agreement. GovPayNet may modify any or all service fees at its sole option, providing Participant with 30 days' advance written notice. ALL SERVICE FEES ARE NON- REFUNDABLE.

4. **Disputes and Chargebacks.** GovPayNet shall be responsible for handling all transaction disputes associated with cardholders' use of cards to make payments to Participant through GovPayNet. Further, GovPayNet shall be responsible for all chargebacks initiated not more than 180 days after the transaction. If GovPayNet determines that a chargeback may be inappropriate, GovPayNet expects Participant to provide reasonable assistance in any challenge GovPayNet makes to the chargeback. GovPayNet reserves the right to adjust service and security levels as GovPayNet reasonably deems necessary to maintain payment security and integrity.

5. **Warranties.** Each party warrants that this Agreement is valid, binding, and enforceable against such party in accordance with its terms and that each party has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. GovPayNet further warrants that during the performance of this Agreement, GovPayNet (i) shall provide services in a non-discriminatory manner and shall not deny services or employment on the basis of race, creed, color, national origin, sex, age, disability, sexual orientation, military status, marital status, or any other legally protected class; (ii) will comply with all applicable laws and regulations and the rules and procedures applicable to the credit and debit card brands it accepts and processes; and (iii) in accordance with then-current PCI DSS requirements, will maintain proper security and responsibility for cardholder data while it is in GovPayNet's possession, all at GovPayNet's sole cost. Participant further warrants that

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Participant's decisions and instructions to GovPayNet with respect to cardholder responsibility for payment of all or any part of the Service Fee shall conform with applicable law.

6. **Indemnification and Disclaimers.** GovPayNet shall indemnify and save harmless Participant, its agents, officers, and employees from responsibility or liability for all damages, costs, expenses, (including reasonable attorney fees and defense costs) relating to death or bodily injury or damages to physical property directly resulting from GovPayNet's performance under this Agreement. GOVPAYNET ACCEPTS NO RESPONSIBILITY FOR SECURITY OF CARDHOLDER DATA ON SYSTEMS OTHER THAN THOSE CONTROLLED BY GOVPAYNET. GOVPAYNET LIABILITY WITH RESPECT TO PAYMENTS PROCESSED HEREUNDER IS LIMITED TO MAKING PAYMENTS IN THE AMOUNTS AUTHORIZED. GOVPAYNET IS NOT A SURETY AND PROCESSING A PAYMENT THROUGH GOVPAYNET DOES NOT GUARANTEE ANY PARTICULAR OUTCOME INCLUDING, BUT NOT LIMITED TO, A DEFENDANT'S COURT APPEARANCE OR FULL SATISFACTION OF A FINANCIAL OBLIGATION. OTHER THAN WARRANTIES EXPLICITLY MADE IN THIS AGREEMENT, GOVPAYNET DISCLAIMS ALL WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED. NEITHER PARTY SHALL BE LIABLE FOR INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. PARTICIPANT BEARS RESPONSIBILITY FOR ANY ADMINISTRATIVE ACTIONS IT MAY TAKE IN CONNECTION WITH SERVICES PROVIDED UNDER THIS AGREEMENT.

7. **Independent Contractor.** GovPayNet shall provide all services to Participant as an independent contractor. Nothing contained herein shall be deemed to create any association, partnership, joint venture, or relationship of master and servant or employer and employee between the parties or to provide either party with the right, power, or authority, expressed or implied, to create any such duty or obligation on behalf of the other party.

8. **Taxes.** GovPayNet shall be responsible for the payment of all taxes legally imposed upon its services.

9. **Notices.** All legal notices permitted or required by this Agreement shall be in writing and given to the respective parties in person, by first class mail, by recognized private courier, or by facsimile (with a hard copy following) directed to the address first stated in this Agreement or to such other person or place that the parties may from time to time designate (if to GovPayNet, note "Attention: Account Services). Notices and consents under this section shall be deemed to be received, if sent by mail or courier, five days following their deposit in the U.S. Mail or with such courier or, if sent by facsimile, when such facsimile is transmitted to the number the intended recipient provides and sender receives a confirmation that such facsimile was transmitted.

10. **SERVICE CHANGES:** Participant is responsible for advising GovPayNet as to the types of payments GovPayNet is authorized to accept on Participant's behalf (per the fees and conditions in Attachment "A") and the type of service and equipment modes that will apply to each payment type. Participant may at any time (i) authorize GovPayNet to accept additional types of payments, (ii) cancel the processing through GovPayNet of any types of payments, (iii) modify the service or equipment modes (from among Internet, telephone, Internet and telephone, Gov\$wipe<sup>®</sup>, etc.), (iv) modify the account(s) to which GovPayNet shall direct payments to Participant, or (v) add other agencies, departments or sub-agencies ("Affiliated Agencies") to, or delete Affiliated Agencies from Participant's use of any GovPayNet services and equipment by specifying all such changes to GovPayNet in writing. Any such changes will be subject to GovPayNet acknowledgment and acceptance in writing. For purposes of this subsection only, "in writing" shall mean via letter, facsimile, or email (if to GovPayNet, to [accountservices@govpaynet.com](mailto:accountservices@govpaynet.com)).

11. **Gov\$wipe.** GovPayNet will provide Participants who select Gov\$wipe with card readers and peripheral equipment (cables, etc.), which are and will remain the property of GovPayNet. Participant understands that GovPayNet card readers are embedded with proprietary technology ("Firmware"). GovPayNet grants Participant a license to use such card readers and Firmware for the duration of the Agreement. Participant's use of card readers and Firmware shall be limited to the purposes of this Agreement. Acceptance and use of card readers does not convey to Participant any title, patent, copyright or other proprietary right in or to the Firmware. At all times, GovPayNet or its suppliers retain all rights to the Firmware, including but not limited to updates, enhancements, and additions. Participant shall not attempt to access or disclose the Firmware to any party, or transfer, copy, license, sub-license, modify, translate, reverse engineer, decompile, disassemble, tamper with, or create any derivative work based on Firmware.

Participant will use reasonable care to protect card readers from loss, theft, damage or any legal encumbrance. GovPayNet shall provide card readers and installation instructions at service implementation and when providing any replacement or additional card readers by shipment to a location Participant designates or, at GovPayNet's option, Participant will allow GovPayNet and its designated representatives reasonable access to Participant's premises for training purposes and device installation, repair, removal, modification, upgrades, and relocation.

Card readers for use with Gov\$wipe are designed to communicate cardholder data to GovPayNet through Participant's computing equipment to which they are cable-attached via USB port. Internet access to GovPayNet is required for transaction processing via Gov\$wipe and is enabled solely by Participant's computers and networks. Participant is responsible to use standard safeguards and practices to keep its computers

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and networks secure and free from malicious software or hardware. GovPayNet shall not be held liable to Participant for exposure of Participant's computers or networks to malicious software or hardware of any kind. GovPayNet is solely responsible for the maintenance of any card readers and shall supply Participant with replacement card readers on Participant's request and as GovPayNet deems appropriate. Upon termination of the Agreement, GovPayNet may require Participant to return card readers at GovPayNet's expense and by such method as GovPayNet specifies.

12. **Miscellaneous.** There are no third-party beneficiaries to this Agreement. This Agreement may not be assigned, in whole or in part, by either party hereto without prior written consent of the other party, which consent shall not be unreasonably withheld. Either party is excused from performance and shall not be liable for any delay in performance or non-performance, in whole or in part, caused by the occurrence of any contingency beyond the control of the non-performing party including, but not limited to, work stoppages, fires, civil disobedience, riots, rebellions, terrorism, loss of power or telecommunications, flood, storm, Acts of God, and similar occurrences. This Agreement shall be governed by the internal laws of the state in which Participant is located. Litigation regarding this Agreement shall be filed in state or federal courts of appropriate jurisdiction in or near the county in which Participant is located. A waiver of any portion of this Agreement shall not be deemed a waiver or renunciation of other portions. Rights and obligations under this Agreement which by their nature should survive will remain in effect after termination or expiration hereof. In the event that any provision of this Agreement is adjudicated by any court of competent jurisdiction to be invalid, illegal, void, or unenforceable, all other provisions of this Agreement shall remain in full force and effect.

13. **Completeness and Execution.** This Agreement including its authorized attachment(s) is the entire agreement between the parties and expresses the complete understanding of the parties, superseding all prior or contemporaneous agreements with regard to the subject matter herein. This Agreement may not be altered, amended or modified except in a writing incorporated hereto and signed by the parties, provided, however, that GovPayNet may revise the terms of this Agreement if required to comply with law, regulation, or card industry rules and GovPayNet provides prompt notice to Participant of such change(s) and may modify fees per Section 3. This Agreement may be executed simultaneously in multiple counterparts, each of which is deemed an original, but all of which taken together constitute one and the same instrument. All signed fax or electronically imaged counterparts to this Agreement shall be deemed as valid as originals.

**eCheck Services Rider**

This eCheck Services Rider ("eCheck Rider") establishes terms and conditions that govern the processing of payments made via Automated Clearinghouse ("ACH") transfer, also known as electronic check ("eCheck") to the undersigned entity ("eCheck Recipient") that has entered into one or more agreement(s) in the form of a Participation Agreement, a Merchant Agreement, or both with AllPaid, Inc. dba GovPayNet ("GovPayNet") for payment processing services described in such agreement(s) (singularly, the "GovPayNet Agreement" or collectively, the "GovPayNet Agreement(s)").

1. **Effectiveness.** The effectiveness of this eCheck Rider is conditioned upon at least one standard form GovPayNet Agreement(s) being in effect between eCheck Recipient and GovPayNet. This eCheck Rider shall terminate at such time as there is no GovPayNet Agreement in effect between eCheck Recipient and GovPayNet. The terms of this eCheck Rider are in addition to and not in substitution for any terms and conditions of the GovPayNet Agreement(s) which shall continue in full force and effect and apply to the eCheck services provided by or through GovPayNet under this eCheck Rider. In the event of any conflict between the terms of the GovPayNet Agreement(s) and the terms of this eCheck Rider, the terms of this eCheck Rider shall control. Capitalized terms used but not defined herein shall have the meaning given to them in the GovPayNet Agreement(s).

2. **Payment Processing.** GovPayNet obtains eCheck Services from the payments provider designated on Attachment "A" to this eCheck Rider ("Processor"). GovPayNet will make available eCheck payment processing services ("eCheck Services") to individuals and organizations that desire to pay obligations to eCheck Recipient via ACH transfers (singularly, the "Payer" or collectively, the "Payers") as an additional service GovPayNet provides to eCheck Recipient under the GovPayNet Agreement(s).

3. **eCheck Services.** GovPayNet shall make eCheck Services available to eCheck Recipient's Payers through the GovPayNet payment website. The eCheck Services are as more specifically described in Attachment "B" to this eCheck Rider. GovPayNet shall not be obligated to provide the eCheck Services if Processor ceases to provide such services to GovPayNet for any reason. All Payer use of the eCheck Services shall be subject to GovPayNet's terms of use displayed on the GovPayNet website.

4. **Documentation.** Use of the eCheck Service shall also be subject to any user manuals and documentation GovPayNet provides to eCheck Recipient. Availability of eCheck Services to eCheck Recipient's Payers is further conditioned on eCheck Recipient's completion of forms and authorization's GovPayNet provides to eCheck Recipient that are required by GovPayNet for establishing and operating the eCheck Services.

5. **Fees.** Service Fees for eCheck Services shall be as stated in Attachment "C" to this eCheck Services

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Rider. Service Fees may be the responsibility of cardholder, Participant, or shared by cardholder and Participant. Unless Participant advises GovPayNet otherwise, Participant will be presumed to have chosen that cardholders shall be responsible for all Service Fees. If Participant elects to pay all or any portion of the Service Fee, Participant must so advise GovPayNet in writing using the method specified in the GovPayNet Agreement(s). For any Service Fees Participant elects to pay, GovPayNet will debit Participant's account for Participant's share of the Service Fee in accordance with the terms of the debit authorization form GovPayNet provides. Participant must allow GovPayNet 30 days to make any changes Participant requests to the Service Fee responsibility. Service Fees include all costs of providing the eCheck Services. GovPayNet may modify Service Fees to the greatest extent allowed by the GovPayNet Agreement(s).

6. Limited Agency. Under the GovPayNet Agreement(s) GovPayNet acts as eCheck Recipient's agent for the processing of credit, debit, and prepaid debit card transactions. In addition, eCheck Recipient hereby appoints GovPayNet as its agent for the purpose of receiving payments on its behalf from Payers directly and through Processor, in connection with the processing of eCheck payments, and GovPayNet accepts such appointment subject to any conditions and limitations in the GovPayNet Agreement(s).

7. Effect of Payment. Receipt by GovPayNet or Processor of a Payer's funds shall constitute receipt of payment by eCheck Recipient and will satisfy the obligation Payer authorized through GovPayNet to pay to eCheck Recipient as of the day upon which GovPayNet or Processor receives Payer's funds, subject to the conditions stated in section 8. If GovPayNet fails to make a payment to eCheck Recipient corresponding to a Payer's payment, eCheck Recipient's sole recourse shall be to GovPayNet, not Payer. GovPayNet will make a statement available to Payers at the time of the transaction that will indicate the GovPayNet system has issued the payment request to Processor and providing details of such transaction, including a reference number specific to that Payer's payment.

8. Reversal or Rejection. Notwithstanding section 7, if an ACH transfer funding a Payer's eCheck payment is (i) reversed by Payer; or (ii) rejected by Payer's bank due to lack of sufficient funds ("NSF"), such obligation shall be deemed unpaid and due or owing to eCheck Recipient solely and exclusively by Payer in addition to any other costs and penalties eCheck Recipient imposes or seeks to impose upon Payer. For any reversed or rejected payment, GovPayNet will debit Recipient's account for the amount of the payment plus the Service Fee in accordance with the terms of the debit authorization form provided as Attachment "D" hereto. Recipient must complete, sign, and return Attachment "D" with this eCheck Rider.

9. DISCLAIMERS AND LIMITATIONS OF LIABILITY. ALL DISCLAIMERS AND LIMITATIONS OF LIABILITY STATED IN THE GOVPAYNET AGREEMENT(S) RELATING TO THE PERFORMANCE OF SERVICES UNDER THE GOVPAYNET AGREEMENT(S) SHALL APPLY WITH EQUAL EFFECT TO THE ECHECK SERVICES. GOVPAYNET DOES NOT GUARANTEE THAT ECHECK SERVICES SHALL BE PROVIDED ERROR-FREE OR UNINTERRUPTED AND DOES NOT GUARANTEE ECHECK PAYMENTS AGAINST PAYER STOPS, REVERSALS, OR NSF STATUS. GOVPAYNET WILL NOT REINITIATE AN ECHECK TRANSACTION THAT HAS BEEN DENIED DUE TO A "PAYMENT STOPPED" OR NSF NOTICE. GOVPAYNET HAS NO OBLIGATION TO NOTIFY PAYERS IF ECHECK RECIPIENT REJECTS PAYER'S ECHECK PAYMENT ATTEMPT. ECHECK SERVICES ARE NOT AVAILABLE FOR THE POSTING OF CASH BAIL.

10. Compliance. eCheck Recipient shall only use the eCheck Services for legal purposes and shall not use the eCheck Services in any way that violates laws, ordinances, or regulations applicable to eCheck Recipient. eCheck Recipient will reasonably cooperate with GovPayNet and Processor in good faith to minimize potential illegal use of the eCheck Services and shall cooperate with reasonable GovPayNet requests for information related to potential fraud or abuse.

11. Execution. This eCheck Rider may be executed contemporaneously with the GovPayNet Agreement(s) or as a supplement to one or more pre-existing GovPayNet Agreement(s) between eCheck Recipient and GovPayNet. This eCheck Rider may be executed in counterparts. Each counterpart is an original, but together constitute one and the same instrument. The exchange of copies of this signed eCheck Rider signature page by facsimile or electronically imaged transmission shall constitute effective execution and delivery of this eCheck Rider and may be used in lieu of the original eCheck Rider for all purposes.

IN WITNESS WHEREOF, the parties hereto have executed this eCheck Rider by their duly authorized representatives or agents as of the date written below.

**ATTACHMENT "A" – PROCESSOR**

Vantiv, LLC n/k/a "Worldpay" ("Worldpay") under a Payment Facilitator Merchant Agreement between and among GovPayNet, Worldpay, and Fifth Third Bank, an Ohio banking corporation "Member Bank" effective September 28, 2016 (the identity of the Member Bank may change from time to time but any successor Member Bank shall be a member of VISA, MasterCard and/or other card and payment networks, as the case may be, that will provide sponsorship services in connection with the Payment Facilitator Merchant Agreement).

**ATTACHMENT "B" – ECHECK SERVICES**

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The eCheck Services shall be available to Payers through the GovPayNet website and implemented at no cost to the eCheck Recipient. Specific services include the following:

- Presentment of Payer eCheck transaction request via the GovPayNet payment website to Processor for authorization and, if authorized, debiting of funds from the Payer’s indicated account
- Electronic settlement of funds debited from Payer’s account by Processor to eCheck Recipient’s indicated account via GovPayNet’s standard settlement process
- Payers may place eCheck transaction requests via toll-free call to GovPayNet for entry to the GovPayNet website by a GovPayNet customer service representative
- Real-time updates of payment status and notification to eCheck Recipient of payments processed
- Email notice to eCheck Recipient of ACH payments denied within 48 hours of bank denial
- Pre-notification (non-monetary) transactions to confirm Payer information accuracy
- Verification of information for U.S. accounts through a third-party service
- Payer account information update in response to change notifications
- eCheck Recipient to accept or reject each eCheck payment
- Processing for returned eCheck items
- Transaction reporting and analytics
- Training and support

**ATTACHMENT “C” – SERVICE FEES**

**ECHECK SERVICES ARE NOT AVAILABLE FOR THE POSTING OF CASH BAIL  
ALL SERVICE FEES ARE NON-REFUNDABLE**

**Service Fee Schedule for  
eCheck Payments  
\$1.00 per item**

**ATTACHMENT “D” – DEBIT AUTHORIZATION**

The undersigned has entered into one or more agreement(s) with AllPaid, Inc. dba GovPayNet (“GovPayNet”) and has provided written instructions or acknowledgements to GovPayNet (“Documentation”) with respect to amounts that may be due and owing to GovPayNet comprised of reversed or rejected eCheck payment(s) plus the related service fee(s) collected by GovPayNet on behalf of the undersigned (“Obligations”) to electronically debit our account and, if necessary, to electronically credit our account to correct erroneous debits, as follows:

Our \_\_\_ Checking Account, or \_\_\_ Savings Account (select one) held at the depository financial institution (“Depository”) as specified below

Depository Name  
Routing Number  
Account Number

We agree that transactions we authorize by this Authorization comply with all applicable laws. Debits will equal the value of Obligations during the period between debits to our account as per the Documentation and may not occur more frequently than once weekly. This authorization will remain in full force and effect until we cancel it by providing GovPayNet with at least 45 days’ prior written notice at the below address or facsimile number:

AllPaid, Inc. dba GovPayNet  
Attention: Finance Department  
7820 Innovation Boulevard, Suite 250  
Indianapolis, IN 46278-2729  
Fax: (888) 665-4755

This Authorization has been executed by an individual authorized to do so on our behalf. An executed facsimile, scanned, or other electronic version of this Authorization transmitted electronically and the signature(s) thereto shall be deemed the original signature(s) for purposes of this Authorization, with the same



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legal effect as an original signature, in accordance with federal law and may be relied upon by Depository. We have executed this Authorization through the below authorized individual(s):

Printed Name(s):  
Date:  
Signature(s):  
Title(s):

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

**5  
RESOLUTION NO. 20-487**

**IN THE MATTER OF APPROVING THE SANITARY SEWER IMPROVEMENT PLANS FOR RIVER BLUFF PHASES 2 & 3:**

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve the following sanitary sewer improvement plans for submittal to the Ohio EPA for their approval:

WHEREAS, the Sanitary Engineer recommends approval of the sanitary sewer improvement plans for River Bluff Phases 2 & 3;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners approves the sanitary sewer improvement plans for River Bluff Phases 2 & 3 for submittal to the Ohio EPA for their approval.

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

**6  
RESOLUTION NO. 20-488**

**IN THE MATTER OF DECLARING PERSONAL PROPERTY OBSOLETE, UNFIT, OR NOT NEEDED FOR PUBLIC USE AND THE INTENT OF SELLING SUCH PROPERTY VIA INTERNET AUCTION OR DISPOSAL OF PROPERTY OF NO VALUE:**

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

WHEREAS, Delaware County has personal property not needed for public use, obsolete, or unfit for the use for which it was acquired; and

WHEREAS, Ohio Revised Code Section 307.12 (E) allows, by resolution, the sale of such property by internet auction; and

WHEREAS, the Delaware County Board of Commissioners adopted Resolution No. 16-749 on August 1, 2016, declaring its intent to sell such property by internet auction; and

WHEREAS, certain of such property may require a signature to transfer such property from the county to a buyer; and

WHEREAS, certain of such property may receive no bids during the internet auction and can be declared to be of no value;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners, Delaware County, State of Ohio that the following property listed below be sold in the manner prescribed in Resolution 16-749 and that any unsold property be disposed or salvaged, being of no value. The President of the Board of Commissioners is hereby authorized to sign any documents needed to transfer such property on behalf of the Board.

<u>Item/Asset Type</u>	<u>Manufacturer/Model</u>
Old Generator Batteries (50)	HB230P-1
Lateral Camera (003806)	Aries
Office/Conference Chairs (30)	
Lab Drying Oven	Shel Labs/1330GM

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

**7  
RESOLUTION NO. 20-489**

**IN THE MATTER OF CERTIFYING TO THE COUNTY AUDITOR SANITARY SEWER CAPACITY CHARGES FOR 6900 BIG WALNUT RD, GALENA, OHIO 43021:**

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It was moved by Mr. Merrell, seconded by Mrs. Lewis to certify the Sanitary Sewer Capacity Charges as follows:

WHEREAS, the owner of 6900 Big Walnut Road, Galena, Ohio 43021 has requested to make a tap connection to the Delaware County sewer system; and

WHEREAS, the owner of 6900 Big Walnut Road, Galena, Ohio 43021 has requested to pro-rate the charges over a 10 year period by certifying the charges to the tax duplicate, in accordance with Delaware County policy; and

WHEREAS, the Sanitary Engineer recommends approval of the connection and the 10 year pro-rated charge;

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Delaware, Ohio approves certifying the capacity charges as follows:

**6900 Big Walnut Road, Galena, Ohio 43021**

In the amount of \$4,050.00 with an \$825.17 finance charge (pro-rated over a 10 year period), making a total of \$4,875.17 for placement on the tax duplicate. Bi-annual payment being \$243.76.

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

**8  
ADMINISTRATOR REPORTS**

- Mike Frommer, County Administrator
- The Pre-Hospital Care board will meet virtually for the first time in months.
  - The Public Defender conversations have restarted.
  - The maneuvering tests have restarted at the BMV.

**9  
COMMISSIONERS' COMMITTEES REPORTS**

- Commissioner Merrell
- The DKMM board will meet virtually tomorrow.
  - CORSA will meet this Friday in person (as the board is less than 10). Other members can attend virtually.

- Commissioner Lewis
- The Family and Children First Council will meet virtually Wednesday morning.

- Commissioner Benton
- The CEBCO board met virtually last Friday. Claims are down by 1/3 since April.
  - Senate Bill 310 (allowing for reimbursement of COVID expenses) passed in the House with an amendment for Transportation Improvement Districts to require prevailing wages for project (TID currently are exempt from prevailing wage restrictions).

**10  
RESOLUTION NO. 20-490**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION TO CONSIDER THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSES; TO CONSIDER THE SALE OF PROPERTY AT COMPETITIVE BIDDING:**

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

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

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

Section 1. The Board hereby adjourns into executive session for consideration of purchase of property for public purposes; to consider the sale of property at competitive bidding.

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

**RESOLUTION NO. 20-491**

**IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:**

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

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

**RECESS AT 10:47 A.M./RECONVENE AT 1:46 P.M.**

**RESOLUTION NO. 20-492**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL:**

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 appointment of a public employee or public official.

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

**RESOLUTION NO. 20-493**

**IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:**

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

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

There being no further business, the meeting adjourned.

\_\_\_\_\_  
Gary Merrell

\_\_\_\_\_  
Barb Lewis

\_\_\_\_\_  
Jeff Benton

\_\_\_\_\_  
Jennifer Walraven, Clerk to the Commissioners