

**COMMISSIONERS JOURNAL NO. 76 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MARCH 31, 2022**

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. 22-225

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD MARCH 28, 2022:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on March 28, 2022; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 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 Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

2
PUBLIC COMMENT

3
RESOLUTION NO. 22-226

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0330 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR0330:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0330, memo transfers in batch numbers MTAPR0330 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
P2201917 (HelpMeGrow)	Board of DD Program	70161606-5348	\$20,000.00
P2200448 (Property Worx)	Facilities Snow and Ice Control	10011105-5325	\$5,322.00

PR	Vendor Name	Line Description	Line Account	Amount
R2202230	PROSECUTORS	2022 CSEA CONTRACT	10011102 - 5360	\$23,624.05
R2202258	DOMESTIC RELATIONS COURT	2022 CSEA CONTRACT	10011102 - 5360	\$25,104.99
R2202259	SHERIFF'S OFFICE	2022 CSEA CONTRACT	10011102 - 5360	\$46,261.40
R2202620	COMMISSIONERS	INDIRECT COSTS	23711630 - 5380	\$23,400.00
R2202620	COMMISSIONERS	RENT	23711630 - 5335	\$33,700.00
R2202629	T WOOLUM EQUIPMENT REPAIR	MOBILE VEHICLE LIFTS	42011438 - 5450	\$45,806.29

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

4
RESOLUTION NO. 22-227

SETTING DATE AND TIME FOR REQUEST FOR PROPOSALS FOR YOUTH PROGRAM SERVICES FOR DELAWARE COUNTY, OHIO:

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

**PUBLIC NOTICE
REQUEST FOR PROPOSALS**

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**Comprehensive Case Management Employment Program (CCMEP)
and
Workforce Innovation and Opportunity Act (WIOA)
For
Youth Program Services
for
Delaware, Knox, Marion, and Morrow (DKMM) Counties**

Delaware, Knox, Marion, and Morrow (DKMM) counties are seeking proposals from qualified and innovative providers to partner with DKMM counties to run the CCMEP Youth Program funded through WIOA and Temporary Assistance for Needy Families (TANF). Prospective providers are invited to submit proposals to provide the services for in-school and out-of-school youth. Funds available, resources available, numbers of targeted youth to be served, and program and process responsibilities are enumerated in the Request for Proposals (RFP). Prospective providers must submit proposals to each county they desire to contract with.

The complete CCMEP/WIOA Request for Proposals packet is posted on the internet and may be viewed on each of the DKMM county web pages. For **Delaware County**, the postings can be found at <https://co.delaware.oh.us/media-room/bids/> under the heading “Public Notices and Bids.”

Any proposals submitted to Delaware County are to be prepared at the submitter’s expense. Delaware County reserves the right to reject any and all proposals in whole or in part. Acceptance of a proposal shall not constitute an agreement between the submitter and Delaware County. Delaware County shall not have any liability whatsoever to any submitter whose proposal is not accepted.

A Public Information Session regarding proposal interest or questions will be held on April 13, 2022, 10:00am local time in The Hayes Administration Building, 2nd Floor, Room 235, 145 North Union Street, Delaware, Ohio, 43015.

Questions regarding the RFP may be directed to Steve Ehrle via email at steve.ehrle@jfs.ohio.gov.

All proposals must satisfy Proposal Administration requirements defined in Appendix A of the RFP and meet the minimum requirements defined in the RFP proposal form for Delaware County.

All proposals must be submitted electronically to Steve Ehrle via email at steve.ehrle@jfs.ohio.gov not later than **May 5, 2022 – No Exceptions**.

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

**5
RESOLUTION NO. 22-228**

IN THE MATTER OF AWARDING A BID TO AND APPROVING A CONTRACT WITH BONDED CHEMICALS, INC., FOR 2022 FERRIC CHLORIDE AND SODIUM HYPOCHLORITE CONTRACT FOR THE DELAWARE COUNTY REGIONAL SEWER DISTRICT, DCRSD CONTRACT #22-03:

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

WHEREAS, sealed bids for the 2022 Ferric Chloride, Glycerin, and Sodium Hypochlorite Chemical Supply Contract were received at the Office of the Delaware County Sanitary Engineer at 11:00 a.m., Friday, March 4, 2022; and

WHEREAS, two (2) bids were received, and the lowest and best bid received for ferric chloride and sodium hypochlorite was from Bonded Chemicals, Inc.; and

WHEREAS, the Sanitary Engineer recommends awarding a contract to Bonded Chemicals, Inc.;

NOW THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners hereby awards the bid for the 2022 Ferric Chloride and Sodium Hypochlorite Chemical Supply Contract to Bonded Chemicals, Inc., and directs the Sanitary Engineer to prepare the necessary Notice of Award and submit it to the contractor;

BE IT FURTHER RESOLVED that the Delaware County Board of Commissioners hereby approves the following agreement with Bonded Chemicals, Inc.:

**2022 FERRIC CHLORIDE AND SODIUM HYPOCHLORITE
CHEMICAL SUPPLY CONTRACT
DCRSD CONTRACT #22-03**

This Agreement is made and entered into on March 31, 2022, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Bonded Chemicals, Inc., 2645 Charter Street, Columbus, Ohio 43228 (“Contractor”), hereinafter collectively referred to as the “Parties.”

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1 SERVICES PROVIDED BY CONTRACTOR

- 1.1 The Contractor will provide and deliver ferric chloride and sodium hypochlorite (the “Services”) in accordance with the Invitation to Bid and Specifications for 2022 Ferric Chloride, Glycerin, and Sodium Hypochlorite Chemical Supply Contract - DCRSD Contract #22-03 (the “Bid Documents”), which are by this reference fully incorporated herein. The Parties mutually acknowledge and agree that the Contractor’s bid did not include glycerin and that glycerin shall not be provided and delivered under this Agreement.

2 SUPERVISION OF SERVICES

- 2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Sanitary Engineer (“Sanitary Engineer”) as the agent of the County for this Agreement.
- 2.2 The Sanitary Engineer shall have authority to review and order changes, commencement, suspension or termination of the Services performed under this Agreement

3 AGREEMENT AND MODIFICATIONS

- 3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Contractor, shall supersede all prior understandings and agreements relating to the Services, and may only be modified or amended in writing with the mutual consent and agreement of the Parties.

4 COMPENSATION

- 4.1 Compensation shall be based upon the unit price in Contractor’s Bid.

5 NOTICES

- 5.1 “Notices” issued under this Agreement shall be served on the Parties to the attention of the persons listed below in writing. The parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.

County:

Name: Julie McGill

Address: 50 Channing St. Delaware, OH 43015

Telephone: (740) 833-2240

Email: jmcgill@co.delaware.oh.us

Contractor:

Name of Principal in Charge: Paul W. Cochran

Address of Firm: 2645 Charter St.

City, State, Zip: Columbus, OH 43228

Telephone: 614-777-9240

Email: blankenshipb@chemgroup.com

6 PAYMENT

- 6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Contractor and approved by the Sanitary Engineer and shall be in accordance with the Contractor’s Bid Price.
- 6.2 Invoices shall be submitted to the Sanitary Engineer by the Contractor on company letterhead clearly listing the word “Invoice” with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Contractor shall promptly submit documentation as needed to substantiate said invoices.
- 6.3 The County shall pay invoices within thirty (30) days of receipt.

7 SUSPENSION OR TERMINATION OF AGREEMENT

- 7.1 The County, upon written Notice as specified in Section 5, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Contractor shall immediately suspend or terminate Services, as ordered by the County.

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- 7.2 In the case of termination, the Contractor shall submit a final invoice within sixty (60) days of receiving Notice of termination for Services completed up to the date of termination. The County is not liable for payment for Services performed after the date of termination.
- 7.3 This Agreement shall expire two (2) years from the date of contract execution, with the option to extend the length of the Agreement for up to two (2) additional one (1) year terms if mutually agreed in a writing signed by both County and Contractor.

8 INDEMNIFICATION

- 8.1 The Contractor shall indemnify and hold free and harmless Delaware County and 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 bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.
- 8.2 The Contractor shall indemnify and hold free and harmless Delaware County and 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 breach of contract, 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 the performance of the Agreement and/or in providing the Services, to the extent caused by any act, error, or omission of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

9 INSURANCE

- 9.1 General Liability Coverage: Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 9.1 and 9.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 9.5 Proof of Insurance: Prior to the commencement of any Services under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of Services under this Agreement.

10 MISCELLANEOUS TERMS AND CONDITIONS

- 10.1 Prohibited Interests: Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 10.2 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**

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- 10.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.

- 10.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.

- 10.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.

- 10.6 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.

- 10.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.

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

- 10.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, and Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing the Services under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.

- 10.10 Drug-Free Workplace: The Contractor 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. The Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the Services being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.

- 10.11 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of Services under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the Services to which the Agreement relates.

Contractor further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of Services under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

Contractor certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.

Contractor certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.

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

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IN THE MATTER OF APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF COLUMBUS DEPARTMENT OF PUBLIC UTILITIES AND DELAWARE COUNTY REGIONAL SEWER DISTRICT:

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

WHEREAS, the Sanitary Engineer recommends approval of the following Memorandum of Understanding;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the following Memorandum of Understanding and authorizes the Sanitary Engineer to execute the Memorandum of Understanding:

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF COLUMBUS DEPARTMENT OF PUBLIC UTILITIES AND
DELAWARE COUNTY REGIONAL SEWER DISTRICT**

This Memorandum of Understanding (MOU) has been prepared in collaboration between the City of Columbus Department of Public Utilities (DPU) and Delaware County Regional Sewer District (DCRSD) to document an agreement reached between these two parties which are the signatories of this MOU. Refer to Exhibit 1 being made part of this MOU.

This MOU amends the following below provisions of the previous MOU signed by the parties on 09/18/2018 (DPU) and 10/10/2018 (DCRSD).

1. The Polaris Area Meter Exhibit (Exhibit 1) is replaced with the attached Exhibit 1, which updates the Oak Creek East Deduct Meter Area boundaries.
2. The signatories agree to incorporate the relevant provisions of the previous MOU, as amended by this MOU, and also the relevant provisions of other past MOU's which the parties have signed after the last Modification of the Agreement dated 07/12/2012, with the next Modification of the Agreement, the timing of which to be coordinated between the parties.

The signatures below signify concurrence with this MOU.

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

**7
RESOLUTION NO. 22-230**

RESOLUTION OF NECESSITY FOR PURCHASE OR LEASE OF AUTOMOBILE FOR THE USE OF THE COUNTY DRAINAGE MAINTENANCE PROGRAM:

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

WHEREAS, pursuant to section 307.41 of the Revised Code, the Board of Commissioners of Delaware County, Ohio (the "Board") may find, by resolution of necessity, that it is necessary to expend county monies for the purchase or lease of a new automobile to be used by the County Commissioners, by any county department, board, commission, office or agency, or by any elected county official or his or her employees; and

WHEREAS, the Board has before it a request from the Drainage Maintenance Program administered by the Delaware Soil and Water Conservation District Board of Supervisors to expend county monies for the purchase of a new automobile;

WHEREAS, the automobile is available for purchase through the State of Ohio's cooperative purchasing program (the "Program");

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY, OHIO:

Section 1. The Board hereby declares that it is necessary to expend county monies for the purchase of a new automobile to be used by the Delaware Soil and water Conservation District employees for the following reasons: (1) existing automobiles have reached the end of their useful service lives; (2) a new automobile is necessary to provide safe and reliable transportation for the Delaware Soil and Water Conservation District employees; and (3) a new automobile will ensure optimal service to the citizens of Delaware County.

Section 2. The Board hereby approves the purchase of one (1) 2022 Ford F-450 Chassis 4x4 Mode#W4H vehicle at a cost of \$56,120.00 per vehicle from Valley Truck Centers. and declares that the purchase of said vehicle shall be in accordance with the State of Ohio's cooperative purchasing program, pursuant to the contract and terms and conditions set forth in Contract # RS1007536 which is, by this reference, fully incorporated herein and of which the purchase orders approved herein shall be made a part.

Section 3. The Board hereby authorizes the Delaware Soil and water Conservation District to initiate the

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necessary purchase order(s) to one or more approved vendors and hereby approves the purchase order(s) from fund number 21911401-5450.

Section 4. The Clerk of the Board is hereby directed to certify a copy of this Resolution to the Delaware Soil and Water Conservation District and the County Auditor.

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

**8
RESOLUTION NO. 22-231**

**IN THE MATTER OF APPROVING PARTICIPATION IN THE ONEOHIO REGION 18
GOVERNANCE STRUCTURE UNDER THE ONEOHIO MEMORANDUM OF UNDERSTANDING:**

It was moved by Mr. Benton, seconded by Mr. Merrell that the following Resolution be adopted:

WHEREAS, the Delaware County Board of Commissioners (the “Board”) is the legislative body for Delaware County, Ohio that has, on behalf of Delaware County, adopted and approved The OneOhio Memorandum of Understanding (the “MOU”), which establishes a mechanism to disburse settlement proceeds from opioid litigation (“Opioid Funds”) into Ohio’s communities to help abate the opioid crisis, including allocation of Opioid Funds to Regions through a statewide Foundation Board; and

WHEREAS, Delaware County is in Region 18 under the MOU, along with Fairfield, Knox, Licking, Marion, Morrow and Union counties; and

WHEREAS, pursuant to the MOU, Section D.2: “Each Region shall create their own governance structure so it ensures all Local Governments have input and equitable representation regarding regional decisions including representation on the board and selection of projects to be funded from the region’s Regional Share....Regions shall have the responsibility to make submissions regarding the allocation of funds to projects that will equitably serve the needs of the entire Region”; and

WHEREAS, it is found that the Region 18 governance structure outlined below ensures that all Local Governments in the Region have input and equitable representation regarding regional decisions under the MOU; and

WHEREAS, the formation of the Region 18 governance structure is of immediate importance to the communities in Region 18, so that imminent Settlement Proceeds committed to the State of Ohio to be distributed per the MOU can be disbursed to help abate the Opioid crisis.

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

Section 1. The Board hereby approves participation in the Region 18 governance structure under The OneOhio Memorandum of Understanding (the “MOU”) as follows:

A. The **OneOhio Region 18** governance structure will be comprised of a Board of seven members, consisting of one member from each of the seven counties in Region 18:

1. Delaware
2. Fairfield
3. Knox
4. Licking
5. Marion
6. Morrow
7. Union

and such other members as are unanimously approved by the Region 18 Board members from time-to-time.

B. The Local Governments in each of these respective counties may select a person or committee to make determinations as to their county’s participation and vote as to Region 18 matters, such as:

1. appointing their county’s representative to the Region 18 Board;
2. adopting or amending Region 18 bylaws, regulations, rules and policies;
3. selecting Region 18’s member on the OneOhio Recovery Foundation, Inc. board (“Foundation Board”) under Section D.4. of the MOU;
4. evaluating and making submissions regarding the allocation of Regional funds throughout the Region;
5. engaging experts, counsel, consultants and vendors as appropriate for these purposes; and
6. taking other actions consistent with Section D.2 of the MOU.

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- C. The Board hereby approves and authorizes the following committee to make determinations in Section 1.B. of this Resolution on behalf of all Local Governments in Delaware County, consistent with Section D.2 of the MOU:

Name:	Title:
Robert Anderson	Director of Delaware County JFS
Debra Young Bowden	Member of Council, Village of Ostrander
Dan Boysel	Radnor Township Trustee
David Hejmanowski	Delaware County Juvenile/Probate Judge
Tom Homan	Delaware City Manager
Gary Merrell	Delaware County Commissioner
Meghan Raehll	Berlin Township Trustee

Section 2. It is found and determined that all formal actions of this Board relating to the adoption of this Resolution were adopted in an open meeting, and that all deliberations that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 3. This Resolution shall be effective immediately upon adoption.

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

9

RESOLUTION NO. 22-232

IN THE MATTER OF ESTABLISHING NEW FUNDS AND NEW ORGANIZATION KEYS AND APPROVING SUPPLEMENTAL APPROPRIATIONS:

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

New Fund		
455	Home High Tax Equivalent Fund	
456	OSU Medical Home Rd TIF	
New Organization Key		
45511451	Home High TIF	
45611452	OSU Medical Home Rd TIF	
Supplemental Appropriation		
40311458-5375	Radnor Twp #2015-1/Election and Settlement Services	200.00
40311467-5375	Kingston Twp 2017-2/Election and Settlement Services	200.00
44411439-5375	Olent Cross Redev Tax Equiv Fd/Election and Settlement Services	500.00
44511441-5375	Creekside Redev Tax Equiv Fd/Election and Settlement Services	10,000.00
44611442-5375	Orange Rd Tax Equiv Fd/Election and Settlement Services	500.00
45611452-5375	OSU Medical Home Rd TIF/Election and Settlement Services	3,000.00
52111140-5375	BR DI Midway Gardens/Election and Settlement Services	200.00

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

Other business:

RESOLUTION NO. 22-233

IN THE MATTER OF APPROVING AN ORDER FORM AND MASTER SUBSCRIPTION AND SERVICES AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, DELAWARE COUNTY EMERGENCY MEDICAL SERVICES AND WRIKE, INC.:

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

Master Subscription and Services Agreement

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This Master Subscription and Services Agreement (the “**Agreement**”) is entered into and effective as of the date of later signature below (the “**Effective Date**”) by and between **Wrike, Inc.** (“**Wrike**”), and the entity identified below (“**Customer**”). Wrike and Customer may be referred to as a “**Party**” and collectively as the “**Parties**”. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the following:

1. DEFINITIONS.

- a. “**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the Customer entity signing this Agreement. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.
- b. “**Customer Data**” means all data or information submitted by or on behalf of Customer to the Service but does not include Aggregated Anonymous Data (as defined below).
- c. “**Intellectual Property Rights**” means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world.
- d. “**Order Form**” means an ordering document executed by the Parties that specifies the Service purchased by Customer under this Agreement. Each Order Form shall incorporate this Agreement by reference.
- e. “**Professional Services**” means any services available to Customer to implement and use the Service as detailed in a separate Statement of Work, which may include, configuration, implementation, customization, consulting, and training.
- f. “**Published Documentation**” means the documentation describing the Service, as may be updated from time to time, available to Customer at the Wrike Help Portal found on Wrike’s website or in the Service.
- g. “**Service**” means Wrike’s hosted, on-demand, web-based offering subscribed to by Customer as identified in the Order Form(s), including any updates thereto. The Service as defined in this Agreement shall not include Professional Services (if any).
- h. “**Statement of Work**” or “**SOW**” means a document that describes certain Professional Services purchased by Customer under this Agreement. Each Statement of Work shall incorporate this Agreement by reference.
- i. “**Subscription Term**” means the then-current Initial Term or Renewal Term of the applicable Order Form(s) during which Customer’s Users are authorized to use or access the Service pursuant to the terms set forth in this Agreement, unless earlier terminated as set forth in Section 3.
- j. “**Support Services**” means the support services provided by Wrike as identified on an Order Form. In the event that the level of support is not identified on the Order Form, Customer shall receive a “standard” level of support that is included in the Service as part of the Wrike Service and defined at <https://learn.wrike.com/enterprise-wsupport/>.
- k. “**User**” means an individual (i) who is authorized by Customer to use or access the Service and who has been supplied an identification and password by Customer or at Customer’s direction. Users can be a Regular User, External User, or Collaborator, which are further defined at <https://help.wrike.com/hc/en-us>, and may include Customer’s or Customer’s Affiliates’ employees, representatives, and agents. Customer shall purchase a subscription to the Service for each Regular and External User (a “**Subscription**”). The number of Collaborators should be limited to the greater of twenty (20) Users or 15% of the number of Users for the then-current Term.
- l. “**Wrike Materials**” means any materials that Wrike provides to Customer as part of, or in the course of providing, the Service or the Professional Services. Customer agrees that Wrike Materials are Wrike’s Confidential Information, as defined in Section

7. Customer shall use the Wrike Materials only as expressly permitted in this Agreement, or the applicable Order Form or Statement of Work. For purpose of clarity and avoidance of doubt, any Customer Data presented back to the Customer as a result of using the Service is still Customer Data, and not Wrike Materials.

2. SERVICE.

2.1 Provision of Service. In exchange of Customer’s payment obligations, Wrike shall make the Service available to Customer pursuant to this Agreement and all Order Forms during the Subscription Term, solely for Customer’s own internal business purposes. Customer agrees that its purchase of the Service or the Professional Services is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by Wrike with respect to future functionality or features.

2.2 Additional Users; Add-Ons. Customer’s use of the Service shall be limited to the number of Users purchased by Customer in an Order Form for use during the Subscription Term. At any time, Customer may increase its committed volume of Users by separate Order Form. Any increase in the committed volume of Users shall be for the remainder of the Subscription Term regardless of usage

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and the committed volume of Users may not be reduced during the Subscription Term.

2.3 Professional Services. In the event Customer purchases Professional Services as outlined in a Statement of Work, the following additional terms shall apply: (a) Wrike shall perform the Professional Services described in and in accordance with the schedule and delivery requirements set forth in the applicable Statement of Work, and (b) If on-site at Customer, Wrike shall take all reasonably necessary precautions to prevent injury to any persons (including employees and other agents of Customer) or damage to property (including Customer's property).

3. TERM AND TERMINATION.

3.1 Term of Agreement. The "Term" of the Agreement shall be the duration of the then-current Initial Term or Renewal Term(s) of the applicable Order Form(s). For purposes of clarity, the Term of this Agreement will commence on the Effective Date specified in the first Order Form and will continue until either (a) the Order Form(s) are terminated in accordance with Section 3.3 herein, or (b) all Order Forms under this Agreement have expired.

3.2 Term of Subscriptions. The "Initial Term" of each Order Form will commence on the Effective Date set forth on such Order Form and will continue for the subscription period outlined on such Order Form. Unless otherwise set forth on the relevant Order Form, each Order Form will automatically renew after the Initial Term for successive twelve-month periods (each a "Renewal Term"), unless either Party gives prior written notice (Section 11.2) of its intent not to renew such Order Form at least thirty (30) days prior to the end of the Initial Term or then-current Renewal Term. Wrike may increase the Fees due under Order Forms for the applicable Renewal Term (if any) by providing notice to Customer of such increase at least sixty (60) days before the commencement of the upcoming Renewal Term, provided that the per-unit Subscription Fees shall be increased by no more than five-percent (5%) of the Subscription Fees of the prior Subscription Term.

3.3 Termination for Cause. A Party may terminate this Agreement, an Order Form, or a Statement of Work for cause: (i) if the other Party is in material breach under this Agreement and fails to cure such breach within thirty (30) days of receipt of written notice (Section 11.2) of such material breach from the non-breaching Party; or (ii) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors and such proceeding is not favorably resolved within sixty (60) days.

3.4 Return of Customer Data. At any time during the then-current Term, Wrike will provide Customer with access to Customer Data in the then-current standard export format or another industry-standard format mutually agreed by the Parties. In the event this Agreement is terminated, if Customer requests Customer Data within 30 days of termination, Wrike will make available to Customer an electronic copy of the Customer Data for an additional fee at Wrike's then-current rates. After such 30-day period, Wrike shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control in accordance with Wrike's then-current practices on the same. Wrike will not provide extracts of Customer Data unless all Fees have been paid by Customer.

3.5 Effect of Termination. Except in instances of an uncured material breach by Wrike (Section 3.3), in which case Customer shall be entitled to a pro-rata refund of any pre-paid but unused Fees due on the then-current Term, all Fees due on the then-current Term are not absolved and Wrike does not provide any refunds for Customer's not-for-cause termination of this Agreement, Order Form or Statement of Work. The following provisions shall survive any termination or expiration of this Agreement: Sections 1; 3.4; 3.5; 4; 6.2-6.6, 7, 8.2-8.3, 9-11.

4. FEES AND PAYMENT.

4.1 Fees. Customer shall pay all fees specified in all applicable Order Form(s) and Statement(s) of Work ("Fees"). Except as otherwise specified herein or in any Order Form or Statement of Work, all Fees are quoted and payable in United States dollars, payment obligations are non-cancelable, and Fees paid are non-refundable. Fees for the Service are based on Subscriptions purchased and not actual usage. For purposes of clarity, the Subscription purchased cannot be decreased during a Subscription Term.

4.2 Invoicing and Payment. Unless otherwise set forth in an Order Form, Customer will pay to Wrike (by wire transfer or other method mutually acceptable to the Parties) all Fees within thirty (30) days of the applicable invoice. Late payment of Fees may be subject to interest on the past due amount at the lesser of 1.5% per month or the maximum rate permitted by applicable law. Customer is responsible for providing complete and accurate billing address and contact information to Wrike. If Customer believes a particular invoice is incorrect, Customer must contact Wrike in writing (accountsreceivable@team.wrike.com) within sixty (60) days of such invoice date to be eligible to receive an adjustment or credit.

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4.3 Suspension of Service. If Customer is thirty (30) days or more overdue (except for charges then under reasonable and good faith dispute), then, following five (5) business days' written notice and opportunity to cure (which notice may be provided via email), in addition to any of its other rights or remedies, Wrike reserves the right but not obligation to suspend Customer's access to the Service until such amounts are paid in full. For purpose of clarity, and avoidance of doubt, Customer will continue to be charged for the Subscription during any period of suspension. **Taxes.** Unless otherwise stated, Fees do not include any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, use or withholding taxes (collectively, "**Taxes**"). Customer is responsible for paying all Taxes associated with its purchases hereunder, excluding taxes based on Wrike's net income or property. If Wrike has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides Wrike with a valid tax exemption certificate authorized by the appropriate taxing authority.

4.4 Resellers and Payment Processors. Customers may elect to purchase certain Services through an authorized reseller (or one of its Affiliates) (each a "**Reseller**") or elect to pay for the Services through a third party who processes Customer's payments (each a "**Payment Processor**"). Customer's obligation for payment to, and relationship with, such Reseller or Payment Processor is between Customer and such Reseller or Payment Processor. If Customer elects to utilize a Reseller or Payment Processor in connection with the Services, Customer acknowledges and agrees that information about Customer, this Agreement, and any Orders and SOWs may be disclosed to such Reseller or Payment Processor to facilitate payment.

5. MUTUAL RIGHTS AND RESPONSIBILITIES.

5.1 Wrike's Responsibilities. Wrike shall: (i) not use or modify Customer Data except as otherwise set forth in this Agreement;

(ii) use commercially reasonable efforts to maintain the security and integrity of the Service and Customer Data; (iii) make the Service available in accordance with its Service Level Agreement located at <https://learn.wrike.com/enterprise-wsla/> ("**SLA**") (iv) provide Support Services to Customer in accordance with the applicable Support Service purchased by Customer, and (iv) comply with all applicable laws in providing the Service and Professional Services.

5.2 Customer's Responsibilities. Customer is responsible for all activity that occurs within its account and for its Users' compliance with this Agreement. Customer shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability and appropriateness of all Customer Data; (ii) prevent unauthorized access to, or use of, the Service, and notify Wrike promptly of any such unauthorized access or use; and (iii) comply with all applicable laws in using the Service.

6. PROPRIETARY RIGHTS.

6.1 Access to Service. In exchange for payment of the Fees listed on the Order Form, and subject to the terms of this Agreement and any applicable Order Form and/or SOW, Wrike grants Customer (a) a nonexclusive, royalty-free, nontransferable (except in instances of permissible assignment in Section 11.5) right, solely during the Subscription Term (i) to access and use the Service solely for Customer's internal business purposes and (ii) to use the Wrike Materials solely in conjunction with Customer's authorized use of the Service. Customer shall not alter or remove, or permit any third party to alter or remove, any proprietary trademark or copyright markings incorporated in, marked on or affixed to any Wrike Materials.

6.2 Reservation of Rights. Except for the limited rights expressly granted to Customer hereunder, Wrike reserves all rights, title and interest in and to the Service, the underlying software, the Wrike Materials, and the Professional Services, including all related Intellectual Property Rights inherent therein. No rights are granted to Customer hereunder other than as expressly set forth in this Agreement.

6.3 Restrictions. Customer shall not (i) modify, copy, display, republish or create derivative works based on the Service or the underlying software; (ii) modify, copy or create derivative works of the Wrike Materials; (iii) reverse engineer the Service or the underlying software; (iv) access the Service in order to build a competitive product or service, or copy any ideas, features, functions or graphics of the Service; (v) license, sublicense, sell, resell, rent, lease, transfer, assign (except as permitted in Section 11.5), distribute, time share or otherwise commercially exploit or make the Service available to any third party, other than to Users or as otherwise contemplated by this Agreement; (vi) use the Service to send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third-party privacy rights; (vii) upload to the Service or use the Service to send or store viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, agents or programs; (viii) interfere with or disrupt the integrity or performance of the Service or the data contained therein; (viii) attempt to gain unauthorized access to the Service or its related systems or networks, or (ix) export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside the U.S. in connection with this Agreement without first complying with all applicable export control laws and regulations that may be imposed by the U.S.

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Government and any country or organization of nations within whose jurisdiction Customer operates or does business, and shall not cause Wrike to violate the same.

6.4 Customer Data. As between Wrike and Customer, Customer retains ownership of all rights, title and interest in and to all Customer Data. Customer Data is deemed the Confidential Information of Customer under this Agreement. For the duration of the Subscription Term, Customer grants Wrike a non-exclusive, transferable, sublicensable, royalty free license to use Customer Data solely to (i.) provide the Service to Customer, (ii.) make improvements to the Service for Customer's use. **Aggregated Anonymous Data.** Wrike may aggregate the metadata and usage data of Customer or User collected or otherwise made available through the Service so that the results are non-personally identifiable with respect to Customer or User ("**Aggregated Anonymous Data**"). The Aggregated Anonymous Data will be deemed Wrike Technology, and Customer acknowledges that Wrike may use the Aggregated Anonymous Data, both during and after the Term, (i) for its own internal, statistical analysis, (ii) to develop and improve the Services, and (iii) to create and distribute reports and other materials regarding use of the Services. For purposes of clarity, nothing in this Section 6.5 gives Wrike the right (or ability) to publicly identify Customer as the source of any Aggregated Anonymous Data.

6.5 Intellectual Property Rights Ownership, Use. Wrike alone shall own all right, title and interest, including all related Intellectual Property Rights, in and to all of Wrike's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) (hereafter, "**Wrike Technology**") made available to Customer by Wrike in providing the Service and the Wrike Technology. This Agreement is not a sale and does not convey to Customer any rights of ownership in or related to the Services, the Wrike Technology or the Intellectual Property Rights owned by Wrike and its suppliers. The Wrike name, the Wrike logo, and the product names associated with the Service are trademarks of Wrike or its suppliers, and no right or license is granted to use them. Customer will not accrue any residual rights to the Wrike technology or Service, including any rights to the Intellectual Property Rights in connection therewith. Customer may be asked to provide suggestions, ideas, recommendations, bug fixes, corrections, or other feedback ("**Feedback**") regarding the Service(s), though Customer is under no obligation to provide Feedback. Customer agrees that if Customer provides Feedback, Wrike is free to reproduce, make, use, create derivative works of, publicly perform, display, import, transmit, distribute, license, sell, offer to sell, or otherwise dispose of such Feedback without payment of compensation or any other obligation of any kind to Customer.

7. CONFIDENTIALITY.

7.1 Definition of Confidential Information. As used herein, "**Confidential Information**" means all confidential and proprietary information of a Party ("**Disclosing Party**") disclosed to the other Party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information or the circumstances of disclosure, including (a) the terms and conditions of this Agreement (including pricing and other terms reflected in all Order Forms and Statements of Work hereunder), (b) Customer Data, (c) a Party's proprietary technology or computer software in all versions and forms of expression and the Service, whether or not the same has been patented or the copyright thereto registered, is the subject of a pending patent or registration application, or forms the basis for a patentable invention (collectively the "**Proprietary Technology**") and Wrike Technology, (d) Wrike Materials, Wrike's security information and reports, and (e) each Party's respective business and marketing plans, technology and technical information, product designs, and business processes. The obligations in this Section 7 shall not apply to any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party and without an obligation of confidentiality; (iii) was independently developed by the Receiving Party without the use of or reference to the Confidential Information of the Disclosing Party; or (iv) is lawfully received from a third Party without breach of any obligation owed to the Disclosing Party and without an obligation of confidentiality. In the event that the Customer is subject to any statutes or regulations pertaining to freedom of information act, open records acts, or similar legislation requiring the disclosure of this Agreement to the public that exceed or conflict with the terms contemplated in Section 7 of the Agreement, such disclosure will not be deemed to be breach of Section 7 and such statute or regulation will be applied to the extent legally required.

7.2 Confidentiality. The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except with the Disclosing Party's prior written permission. Either Party may disclose Confidential Information to its personnel, auditors, or financial advisors who are subject to confidentiality obligations comparable in scope to those herein, which are in no event less than a reasonable standard of care. Notwithstanding anything contrary in the Agreement, Wrike may disclose the existence or terms of this Agreement to third parties who are under confidentiality obligations to Wrike no less protective of Customer than the confidentiality terms set forth herein when in relation to due

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diligence efforts related to bank lines, equity funding, IPO, or changes in control with a merger or acquisition; provided that, Wrike shall be liable for a breach of this Section 7.2 by any such third parties.

7.3 Protection. Receiving Party will use at least the same level of care to prevent unauthorized use of the Confidential Information as it uses for its own confidential and proprietary information of like kind, but in no event less than a reasonable standard of care.

7.4 Compelled Disclosure. If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure, to the extent legally permitted, and reasonable assistance, at Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

8. WARRANTIES AND DISCLAIMERS.

8.1 Warranties. Each Party represents and warrants that it has the legal power and authority to enter into this Agreement. Wrike warrants that: (i) it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof; (ii) the Service will perform materially in accordance with Wrike's Published Documentation under normal use and circumstances; and (iii) it will perform all Professional Services in a professional and workmanlike manner.

8.2 Remedies. Customer's exclusive remedy and Wrike's entire liability for a breach of the warranties set forth in Section 8.1 above shall be as follows: (i) for a breach of the warranties set forth in Section 8.1(i) and 8.1(ii), Wrike shall correct any material reproducible impairments to the features and functionality in the Service so that it materially conforms to this warranty, and if Wrike is unable to provide such Service as warranted within thirty (30) days following receipt of written notice of breach from Customer, Customer shall be entitled to terminate the applicable Order Form and receive a pro-rata refund of any prepaid and unused Fees applicable to the remaining portion of the Subscription Term following the effective date of termination; (ii) for a breach of the warranty set forth in Section 8.1(iii), Wrike shall re-perform the applicable Professional Services. If Wrike determines that it is unable to perform such Professional Services as warranted within thirty (30) days following receipt of written notice of breach from Customer, Customer shall be entitled to terminate the applicable SOW and recover the Fees paid for the nonconforming Professional Services, provided that Customer discontinues all use of any service deliverables delivered under the applicable SOW and certifies that it has done such and have destroyed all copies in Customer control.

8.3 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, CUSTOMER UNDERSTANDS AND AGREES THAT THE SERVICE AND CONTENT ARE PROVIDED "AS IS" AND WRIKE, ITS AFFILIATES, SUPPLIERS, RESELLERS, AND ITS LICENSORS MAKE NO WARRANTIES OF ANY KIND WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT AND NON- INFRINGEMENT OF THIRD PARTY RIGHTS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST. CUSTOMER MAY HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.

9. INDEMNIFICATION.

9.1 Indemnification by Wrike. Provided that Customer complies with the procedures set forth in this Section 9.1, Wrike shall defend Customer, at Wrike's expense, against any claims, demands, suits or proceedings ("Claims") made or brought against Customer by an unaffiliated third party alleging that the use of the Service as contemplated hereunder directly infringes a U.S. patent, copyright, or trademark of a third party or misappropriates such third Party's trade secrets. Further, Wrike shall indemnify and hold Customer harmless against all reasonable costs (including reasonable attorneys' fees) finally awarded against Customer by a court of competent jurisdiction or arbitrator or agreed to in a written settlement agreement signed by Wrike, in connection with such Claims. Promptly upon receiving notice of a Claim, Customer shall (a) give Wrike prompt written notice of the Claim; (b) give Wrike sole control of the defense and settlement of the Claim (provided that Wrike may not settle or defend any claim unless it unconditionally releases Customer of all liability); and (c) provide to Wrike, at Wrike's cost, all reasonable assistance in the defense or settlement of such Claim. Wrike's indemnification obligation shall be offset to the extent its ability to defend or settle a claim is jeopardized by Customer's failure to comply with the preceding sentence. Both Parties acknowledge and agree that Wrike will have no obligation under Section 9.1 with respect to any claim of infringement arising from the combination of the Service with any services, hardware, data or business processes not provided by Wrike. If the Service is held or likely to be held infringing, Wrike shall have the option, at its sole liability and expense, to (i) replace or modify the Service as appropriate, (ii) obtain a license for Customer to continue using the Service, (iii) replace the Service

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with a functionally equivalent service; or (iv) terminate the applicable Service and provide a pro-rata refund for any pre-paid but unused Fees of the Subscription Term immediately following the effective date of termination. This Section 9.1 states Wrike's entire liability and Customer's exclusive remedy for any claim of intellectual property infringement.

9.2 Indemnification by Customer. Intentionally Omitted

10. LIMITATION OF LIABILITY.

10.1 Exclusion of Consequential and Related Damages. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY OR ITS LICENSORS FOR ANY LOST PROFITS OR FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES HOWEVER ARISING AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.2 Limitation of Liability. EXCEPT FOR EITHER PARTY'S INDEMNIFICATION OBLIGATIONS (SECTION 9) OR CUSTOMER'S BREACH OF RESTRICTIONS (SECTION 6.3) (IN EITHER CASE WHERE LIABILITY IS CAPPED AT FIVETIMES (5X) THE CONTRACT VALUE OF ALL ORDERS MADE UNDER THIS AGREEMENT) IN NO EVENT SHALL EITHER PARTY'S OR ITS LICENSORS' AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AMOUNTS ACTUALLY PAID (OR DUE) FROM CUSTOMER UNDER THE APPLICABLE ORDER FORM OR SOW IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY.

11. GENERAL PROVISIONS.

11.1 Relationship of the Parties. The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties. Wrike may have its rights and obligations under this Agreement exercised or performed by its Affiliates and third-party contractors.

11.2 Notices. All notices required to be sent hereunder shall be in writing and shall be deemed to have been given upon (i) the date it was delivered by courier, or (ii) if sent by certified mail return receipt requested, on the date received, in each case addressed to the addresses set forth above and, if to Wrike, to the attention of the Legal Department with copy by email to legal@team.wrike.com, and, if to Customer, to the attention of the signatory of this Agreement, or to such other address or individual as the Parties may specify from time to time by written notice to the other Party.

11.3 Waiver and Cumulative Remedies. No failure or delay by either Party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a Party at law or in equity.

11.4 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in full force and effect.

11.5 Assignment. Neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other Party (not to be unreasonably withheld). Notwithstanding the foregoing, either Party may assign this Agreement in its entirety (including all Order Forms and Statements of Work), without the consent of the other Party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other Party. Any attempt by a Party to assign its rights or obligations under this Agreement in breach of this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties, their respective successors and permitted assigns.

11.6 Governing Law and Venue. This Agreement and any disputes arising out of or related hereto shall be governed by and construed in accordance with the laws of the state in which the Customer is domiciled, without giving effect to its conflicts of laws rules, the United Nations Convention on the International Sale of Goods, or the Uniform Computer Information Transactions Act. If the Customer is an entity of the United States federal government, the Parties agree that the courts located in Santa Clara County, California will preside over the dispute. Notwithstanding any provision in this Agreement, either Party may request any judicial, administrative, or other authority in any other jurisdiction to order any provisional or conservatory measure, including injunctive relief, specific performance, or other equitable relief, prior to the institute of legal or arbitration

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proceedings, or during the proceedings, for the preservation of its rights and interests or to enforce specific terms that are suitable for provisional remedies.

- 11.7 Injunctive Relief.** The Parties acknowledge and agree that any breach or threatened breach of the Agreement may cause harm for which money damages may not provide an adequate remedy. Accordingly, the Parties agree that in the event of a breach or threatened breach of the Agreement, in addition to any other available remedies, each Party may seek temporary and permanent injunctive relief without the need to post any bond or other security that otherwise may be required under applicable law.
- 11.8 Force Majeure.** Except for Customer's payment obligations, neither Party shall be responsible for failure or delay of performance if caused by: an act of war, hostility, sabotage, flood, earthquake, or natural disasters; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated Party; government restrictions (including the denial or cancellation of any export or other license); or other event outside the reasonable control of the obligated Party. Each Party shall use commercially reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 20 days, either Party may cancel unperformed Services upon written notice (which notice may be made via e-mail to the other Party). This section does not excuse either Party of its obligations to take reasonable steps to follow its normal disaster recovery procedures or Customer's obligation to pay for the Service or Professional Services provided.
- 11.9 Publicity.** Either Party may reference the name and logo of the other Party in lists of customers or vendors. Either Party may issue press releases relating to this Agreement with the other Party's prior written consent.
- 11.10 Entire Agreement; Counterparts.** This Agreement, including all exhibits and addenda hereto and all Order Forms and Statements of Work, constitutes the entire agreement between the Parties, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. For purposes of clarity, any non-disclosure or confidentiality agreement between Parties (if any) is terminated and completely superseded by this Agreement and all information that had been considered "Confidential Information" under such agreement will instead be treated as "Confidential Information" of the relevant Party under this Agreement. The Parties are not relying and have not relied on any representations or warranties whatsoever regarding the subject matter of this agreement, express or implied, except for the representations and warranties set forth in this Agreement. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the Party against whom the modification, amendment or waiver is to be asserted. To the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form or Statement of Work, the terms of such exhibit, addendum, Order Form or Statement of Work shall prevail. No terms or conditions set forth on any Customer, Reseller, or Payment Processor purchase order or preprinted form or document shall add to or vary the terms and conditions of this Agreement, and all such terms or conditions shall be null and void. This Agreement and any Order Form or Statement of Work executed hereunder may be executed by facsimile and in counterparts, which taken together shall form one legal instrument.

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

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COMMISSIONERS' COMMITTEES REPORTS

Commissioner Benton

-CEBCO will hold their annual meeting tomorrow.

-The video produced last year to celebrate Delaware County (from Outsider Video & Motion Graphics) won top honors last night at the Government Social Media national conference.

Commissioner Merrell

-Attended the Vietnam Veteran's event Tuesday.

Commissioner Lewis

-Attended the Vietnam Veteran Memorial Day Tuesday.

RECESS 9:46 AM/RECONVENE 2:00 PM

RESOLUTION NO. 22-234

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

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

WHEREAS, pursuant to section 121.22(G) of the Revised Code, a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive

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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. 22-235

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. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners