

COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 8, 2022

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

Present:
Jeff Benton, Vice President
Gary Merrell, Commissioner

Absent:
Barb Lewis, President

1
RESOLUTION NO. 22-641

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD AUGUST 1, 2022:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on August 1, 2022; 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 Mrs. Lewis Absent Mr. Merrell Aye Mr. Benton Aye

2
PUBLIC COMMENT
-None.

3
RESOLUTION NO. 22-642

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0805:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve Then and Now Certificates, payment of warrants in batch numbers CMAPR0805 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
(P2201007) CAR CCMEP	Client Services	22311611-5348	\$25,000.00
(P2202525) MSD Environmental	Rental Services	66211900-5335	\$20,000.00
(P2201521) Koorsen Protection	Maintenance & Repair Services	66211900-5328	\$5,600.00
(P2200434) Beems	Fuel	10011106-5228	\$70,000.00
(P2201770) BoundTree	EMS Medical Supplies	10011303-5244	\$20,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Account</u>	<u>Amount</u>
R2203786	SAFE BUILT OHIO LLC	OUTSOURCE INSPECTION & PLAN REVIEW SERVICES	10011301 - 5301	\$50,000.00

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

4
RESOLUTION NO. 22-643

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Facilities Department is requesting that Sean Raeuchle attend a HVAC Training in Columbus, Ohio September 26-27, 2022; at the cost of \$1,195.00 (fund number 10011105).

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

5
RESOLUTION NO. 22-644

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IN THE MATTER OF A NEW LIQUOR LICENSE REQUEST FROM OHIO SPRINGS INC (DBA SHEETZ) AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

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

WHEREAS, the Ohio Division of Liquor Control has notified the Delaware County Board of Commissioners of a request for a new D1 liquor license request from Ohio Springs Inc (DBA Sheetz), located at 8059 Columbus Pike, Lewis Center, Ohio 43035; and

WHEREAS, the Delaware County Board of Commissioners has found no reason to file an objection;

NOW, THEREFORE, BE IT RESOLVED that the Clerk of the Board shall complete the necessary forms and notify the Ohio Division of Liquor Control that no objections are made and no hearing is requested by this Board of County Commissioners.

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

6
RESOLUTION NO. 22-644

IN THE MATTER OF A NEW LIQUOR LICENSE REQUEST FROM HENMICK BREWERY LLC AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

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

WHEREAS, the Ohio Division of Liquor Control has notified the Delaware County Board of Commissioners of a request for a new A1C, A2 and A1A liquor license request from Henmick Brewery LLC, located at 5901 SR521, Sunbury, Ohio 43074; and

WHEREAS, the Delaware County Board of Commissioners has found no reason to file an objection;

NOW, THEREFORE, BE IT RESOLVED that the Clerk of the Board shall complete the necessary forms and notify the Ohio Division of Liquor Control that no objections are made and no hearing is requested by this Board of County Commissioners.

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

7
RESOLUTION NO. 22-646

A RESOLUTION TO PROCEED WITH SUBMISSION OF THE QUESTION OF LEVYING A RENEWAL OF AN EXISTING TAX, WITH AN INCREASE, IN EXCESS OF THE TEN-MILL LIMITATION FOR THE PURPOSE OF PROVIDING SENIOR CITIZENS SERVICES:

It was moved by Mr. Merrell and seconded by Mr. Benton to adopt the following Resolution:

PREAMBLE

WHEREAS, on August 1, 2022, the Delaware County Board of Commissioners (the “Board”) approved Resolution No. 22-640, declaring the necessity to levy a tax in excess of the ten-mill limitation; and

WHEREAS, the Delaware County Auditor (the “Auditor”) has certified the following information to the Board:

1. The total current tax valuation of the County is \$9,595,245,280.
2. The dollar amount of revenue that would be generated by 1.4 mills is \$11,060,089.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Delaware County, State of Ohio, at least two-thirds (2/3) of all of the members thereof concurring, as follows:

1. The Board shall proceed with the submission of the question of the tax to electors.
2. The rate of the tax levy, expressed in mills for each one dollar in tax valuation as estimated by the Auditor, is as follows:
 - a. 1.4 mills;
 - b. This rate amounts to fourteen cents (\$0.14) for each one hundred dollars of tax valuation;

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- c. The levy is a renewal levy at the rate of 1.3 mills for the existing tax levy, with an increase of 0.1 mill.
3. Pursuant to R.C. § 5705.03(B)(1):
- a. The purpose of the tax is for providing services for senior citizens through SourcePoint (formerly known as the Council for Older Adults), including but not limited to, home delivered meals, transportation, in-home care, caregiver support and adult day care, said purpose being authorized by R.C. 5705.19(Y);
 - b. The levy is a renewal of an existing tax, with an increase;
 - c. The sections of the Revised Code authorizing submission of the question of the tax are R.C. 5705.03, 5705.19(Y), 5705.191, and 5705.25;
 - d. The term of the tax is five (5) years;
 - e. The territory where the tax is to be levied is the entire territory of the County;
 - f. The date of the election at which the question of the tax shall appear on the ballot is November 8, 2022;
 - g. The ballot measure shall be submitted to the entire territory of the County;
 - h. The tax will be first levied in tax year 2023 and first collected in calendar year 2024;
 - i. No territory outside the County is subject to the tax.
4. The Clerk of the Board is hereby directed to **certify the levy to the Board of Elections, Delaware County, Ohio (“BOE”)**. Certification shall include copies of **ALL** of the following documents:
- a. **Resolution of Necessity** (Resolution No. 22-640, adopted on August 1, 2022; and
 - b. **Certification of the Auditor**; and
 - c. **Resolution to Proceed** (This Resolution).

Certification shall occur by **no later than 4:00 PM on August 10, 2022** (90 days prior to the Election).

The Clerk of the Board shall also notify the BOE to cause notice of the Election on the question of levying the tax to be given as required by law.

5. The BOE is hereby directed to submit substantially the following question to the electors at the Election:

<p>OFFICIAL QUESTIONS AND ISSUES BALLOT GENERAL ELECTION NOVEMBER 8, 2022</p> <p>PROPOSED TAX LEVY (RENEWAL AND INCREASE) DELAWARE COUNTY, OHIO SENIOR CITIZENS SERVICES AND FACILITIES</p> <p>A majority affirmative vote is necessary for passage</p> <p>A majority affirmative vote is necessary for passage</p>	
<p>A renewal of 1.3 mills and an increase of 0.1 mill to constitute a tax for the benefit of Delaware County, Ohio for the purpose of providing services for senior citizens through SourcePoint (formerly known as the Council for Older Adults), including but not limited to, home delivered meals, transportation, in-home care, caregiver support and adult day care, at a rate not exceeding 1.4 mills for each one dollar of valuation, which amounts to fourteen cents (\$0.14) for each one hundred dollars of valuation, for five (5) years commencing in 2023, first due in calendar year 2024.</p>	
	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

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6. All formal actions of this Board concerning and relating to the passage of this Resolution were adopted in an open meeting of the Board, and all deliberations of this Board and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including R.C. § 121.22.

7. This Resolution shall be in full force and effect immediately upon adoption.

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

8
TIM WILSON, DELAWARE COUNTY VISITORS BUREAU
DESTINATION DELAWARE COUNTY OHIO
PRESENTATION/UPDATES
-TOURISM ECONOMIC REPORT FOR 2021
-UPDATE FOR THE YEAR

9
RESOLUTION NO. 22-647

IN THE MATTER OF APPROVING AN AGREEMENT AND ADDENDUM BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, THE DELAWARE COUNTY SHERIFF’S OFFICE, AND DEEP TREKKER, INC. FOR AN UNDERWATER DRONE:

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

WHEREAS, the Delaware County Sheriff and staff recommend approval of an agreement with Deep Trekker, Inc. for an underwater drone;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the agreement with Deep Trekker, Inc. for an underwater drone:

Terms and Conditions of Sale

The following terms and conditions of sale shall apply to any sale of goods and services by Deep Trekker Inc. (“Vendor”). Purchaser shall be deemed to have full knowledge of the terms and conditions herein and shall be deemed to have made an unqualified acceptance of the terms and conditions on the earliest to occur of the following (a) Vendor’s receipt of any invoice or agreement signed by Purchaser or other communication confirming Purchaser’s acceptance hereof; (b) Purchaser’s payment of any amounts due under any invoice or agreement incorporating the terms and conditions; (c) Vendor’s delivery of the Products (as defined below); or (e) any other event constituting acceptance under applicable law.

1. Governing Provisions

Vendor is offering to provide the goods and/or services described herein (the “Products”) to the purchaser so identified on the attached invoice (“Purchaser”), subject to the terms and conditions set forth herein. Purchaser may not modify, change, renounce or waive any term or condition hereof without Vendor’s express written consent. Vendor agrees to provide to Purchaser the Products and Purchaser accepts the Products only on the terms hereof. Purchaser may not amend, modify or replace the terms hereof with any conflicting, different or additional terms previously or hereafter received by Vendor, even if such terms recite that any action or inaction by Vendor constitutes agreement or consent by Vendor to such amendment, modification or replacement. If this document is deemed an acceptance of a prior offer by Purchaser, such acceptance is limited to the express terms contained herein. Vendor hereby objects to and rejects any additional, different or varying terms proposed by Purchaser, unless an authorized officer of Vendor expressly assents to such terms in writing. Such proposal of additional, different or varying terms by Purchaser shall not operate as a rejection of Vendor’s offer except to the extent such variances are in the terms of the description, quantity, price or place or date of delivery of the Products, and Vendor’s offer shall be deemed accepted without such additional, different or varying terms.

2. Payment

Payment will be deemed to have been made when funds are received by Vendor. Late payments will be accrued after the notice period, until receipt by Vendor of full payment at the lesser of (a) one and one-half percent per month compounded monthly, or (b) the maximum rate permitted by law.

3. Cancellation or Modification

Purchaser may not cancel or modify its order except upon terms accepted by Vendor in writing, as cancellation requests are subject to Vendor receiving Vendor approval. In the event of any cancellation or modification, Purchaser shall compensate Vendor for all costs and damages resulting therefrom, including, but not limited to, out-of-pocket expenses and lost profits and the fees and charges imposed by Vendor’s suppliers.

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4. Returns

No Products may be returned to Vendor without its prior, written authorization and Products may be returned only on the terms or conditions specified in such authorization. Returned Products must be of current manufacture, unused, in resalable condition, and securely packed to reach Vendor without damage.

5. Additional Fees

Purchaser shall pay or reimburse Vendor for any tax (including sales, use, service, value added, goods and service, or harmonized taxes), assessments, duty, custom, inspection or testing fee or any other fee or charge imposed on, in connection with or measured by the transaction between Vendor and Purchaser in addition to the prices quoted or invoiced.

6a. General

Risk in all Products supplied hereunder shall pass to Purchaser when delivered to the carrier and thereafter, except as otherwise specifically provided herein, all risk of loss and/or damage to any Products ordered hereunder shall be borne by Purchaser and shall not relieve the Purchaser from any obligation hereunder. Title of any Products ordered hereunder shall not pass to the Purchaser until Vendor has received in full all sums due to it in respect of the Products and all other sums which are or which become due to Vendor from the Purchaser on any account. Until title on the goods has passed to the Purchaser, the Purchaser shall maintain the goods in satisfactory condition and keep them insured on Vendor's behalf for their full price against all risks. Vendor expressly reserves the right to effect delivery of Products ordered in any number of separate shipments. Subject to Purchaser's instructions as to carrier, delivery shall be effected using such modes of transport and such carriers as Vendor shall deem appropriate. During any period of shortage of any product, Vendor shall have the right to allocate its supply of such product among its customers, including Purchaser, pursuant to their respective orders and contracts in any manner Vendor deems appropriate.

6b. Export Permit

Vendor's products, inclusive of technical data, materials, software and related services, are subject to the Export and Import Permits Act of Canada, Purchaser is obligated to comply with Vendor's requests at time of acceptance of purchase order for information required to ensure timely completion and award of an export permit. Products will not be shipped if an export permit is not obtained.

6c. Delivery Date

Vendor's products, inclusive of technical data, materials, software and related services, are subject to the Export and Import Permits Act of Canada, Purchaser is obligated to comply with Vendor's requests at time of acceptance of purchase order for information required to ensure timely completion and award of an export permit. Products will not be shipped if an export permit is not obtained.

6d. Delivery Delays

Any delay in delivery due to causes beyond Vendor's reasonable control, or due to any priorities or allocations necessitated by governmental orders or regulations, or due to any causes specified in the following sentence, shall extend the term of delivery by a period equal to the length of such delay.

6e. Claims

Claims for shortages, defects, non-conformities or other errors must be made in writing to Vendor within five (5) days after Vendor's delivery. Failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Purchaser. Purchaser shall, promptly upon delivery, open, inspect and test all Products and report any discrepancy in writing to Vendor.

7. Software License

If a Product includes any Vendor-provided software, including but not limited to program code together with applicable technical documentation made available by Vendor from time to time (collectively "Software"), Purchaser acknowledges that the Software may be subject to additional terms and conditions as set forth in executable or electronic license agreements ("Other Agreements"). The Other Agreements, if any, shall control and govern all such licensed Software use to the extent necessary to resolve any conflict herewith. Subject to the terms of the Other Agreements, all rights not expressly granted herein are reserved, and all other uses of the Software are subject hereto as well as to the payment of any applicable Software license fees, including fees for specific Software functionalities, as identified by Vendor in writing.

8. Proprietary Information

All information disclosed in written, graphic, model, or oral form including, but not limited to, drawings, prints, publications, specifications, processes, manufacturing techniques, oral explanations, schedules, financial reports, or mechanical, electrical or software attributes obtained by Purchaser from Vendor prior to and during the performance of the order which is marked "Proprietary" by Vendor shall be kept confidential by Purchaser and shall remain the property of Vendor, and shall be returned at Vendor's request. Such information shall be used in performance of this order and shall not be used for other purposes unless agreed to in writing by Vendor. Such information shall not be reproduced, published, disseminated, or disclosed to

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any third party by Purchaser without written consent of Vendor. Nothing contained herein shall be construed as granting an implied license or a license by Vendor or otherwise for any of Vendor's intellectual property.

9. Restrictions on Use

Purchaser agrees that it shall not directly or indirectly: (i) modify, enhance, adapt, translate, make improvements to, create derivative works based upon, disassemble, decompile, reverse engineer, reduce to any human or machine readable form, or circumvent any technological measure that controls access to or permits derivation of the source code of, the Software or any part thereof; (ii) reverse engineer the Products, any part thereof, or any composition made using the Products; (iii) rent, lease, sell, transfer, assign, or sublicense the rights granted hereunder, except in connection with the rental, lease, sale or transfer of the entire Product; (iv) copy any part of the Software except for one (1) complete copy thereof for archival and/or back-up purposes, or as otherwise expressly authorized by Vendor in writing; (v) change, distort, or delete any patent, copyright or other proprietary notices which appear in writing on or in a Product (or in any copies of Software); (vi) operate or make use of the Products in any way that violates of applicable laws and regulations; and/or (vii) take or permit any other action which could impair Vendor's rights, or damage the image or reputation of quality inherent in the Products, Vendor's business, reputation, intellectual property or other valuable assets or rights.

10. Purchaser Problems

For any Purchaser problems with Products, the Vendor Support Team in its sole discretion shall determine and diagnose the issues prior to taking any other course of action. Purchaser shall communicate with Vendor Support via email at support@deeptrekker.com.

11. Vendor's Trademarks

Certain trademarks, trade names, service marks and logos used on or in association with the Products are registered and unregistered trademarks, trade names and service marks of Vendor and its affiliates. Neither Purchaser nor anyone else is granted by implication, estoppel, or otherwise, any license or right to use any trademarks, trade names, service marks or logos without the written permission of Vendor.

12. Limited Warranties

The Products limited warranty can be found within the applicable Product manual. There is NO WARRANTY in cases of damage in transit, acts of God, acts of war, or other such occurrence beyond either parties control, negligence, abuse, abnormal usage, misuse, alteration or modification so as to adversely affect the Product's operation, performance or durability, accidents, damage due to an impact with another object, partial cuts of or severed tether, normal wear and tear, damage due to chemical attack, environmental, or natural elements, a Product being serviced by an unauthorized repair center, failure to follow Vendor's instructions or improper installation, storage, maintenance or reassembly. Purchaser must make claims for defects in writing within five (5) days after discovery of such defects. Purchaser's failure to make such claim within the warranty period and within five (5) days after discovering a defect shall constitute Purchaser's irrevocable acceptance of the Products and Purchaser's acknowledgement that the Products fully comply with the terms and conditions hereof. Vendor shall repair or replace, at its expense, the factory installed parts and components of any covered Products, including equipment, hardware and software, proved to Vendor's satisfaction to be defective within either (a) the one (1) year warranty period from the date of delivery to the Purchaser if the Product is delivered within twenty four (24) months from the date of manufacture, or (b) the period ending thirty six (36) months after the date of manufacture where the Product is delivered more than twenty four (24) months from the date of manufacture. Such warranty satisfaction shall be available to the Purchaser only if: (i) Vendor or the Purchaser's factory authorized dealer is notified in writing within five (5) days after discovery of an alleged defect; and (ii) the defect has not been caused by Purchaser's misuse, neglect or alteration or by physical environment. A purchase receipt or other proof of date of original purchase is required before warranty or service is performed. **VENDOR'S SOLE OBLIGATION AND PURCHASER'S EXCLUSIVE REMEDY HEREUNDER SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF DEFECTIVE PRODUCTS DETERMINED BY VENDOR TO BE COVERED BY THIS LIMITED WARRANTY.** Notice of any warranty claim or request for warranty service should be sent to Vendor at the following address: Deep Trekker Inc., 830 Trillium Drive Kitchener, ON, N2R 1K4, Attention: Jeff Lotz. Any assistance Vendor provides to or procures for Purchaser outside the terms, limitations or exclusions of this warranty will not constitute a waiver of the terms, limitations or exclusions of this limited warranty, nor will such assistance extend or revive the warranty. Vendor will not reimburse Purchaser for any expenses incurred by Purchaser in repairing, correcting or replacing any defective Products, except for those incurred with Vendor's prior written permission. This warranty gives Purchaser specific legal rights, and Purchaser may also have other rights which vary from region to region.

13. Limitations of Liability

OTHER THAN AS SET OUT IN SECTION 13, VENDOR SHALL NOT BE LIABLE TO PURCHASER, OR TO ANYONE CLAIMING UNDER PURCHASER, FOR ANY OBLIGATIONS OR LIABILITIES, INCLUDING, BUT NOT LIMITED TO, OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE OR OTHER TORT OR ANY THEORY OF STRICT LIABILITY, WITH RESPECT TO THE SALE, INSTALLATION, USE, SERVICE OR FAILURE OF ANY PRODUCTS, INCLUDING EQUIPMENT, HARDWARE AND SOFTWARE, OR ANY DEFECT THEREIN, OR FROM ANY OTHER CAUSE. IN NO EVENT SHALL VENDOR BE LIABLE FOR LOST

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PROFITS OR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR OTHER DAMAGES. VENDOR'S AGGREGATE LIABILITY UNDER THIS CONTRACT (INCLUDING BREAK OF CONTRACT ACTIONS, OR ACTION ARISING IN TORT) SHALL BE LIMITED TO THE MONIES PAID TO VENDOR HEREUNDER. Note: SOME STATES OR PROVINCES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. Purchaser agrees that Vendor has no post-sale duty to warn Purchaser or any other party about any matter or, if such duty exists, Vendor satisfies that duty by providing any required warnings only to Purchaser. Purchaser assumes all post-sale duty to warn its customers and indemnifies Vendor against any damages in connection with such duty or failure to warn.

14. Purchaser's Obligations

Prior to using or permitting use of the Products, including equipment, hardware and software, Purchaser shall determine the suitability of the Products, including equipment, hardware and software, for the intended use and under Purchaser's operating conditions, and Purchaser shall assume all risk and liability whatsoever in connection therewith.

15. Disclaimer of Limitations of Other Warranties

VENDOR AND PURCHASER AGREE THAT THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS, IMPLIED OR COLLATERAL WARRANTIES. VENDOR HEREBY DISCLAIMS ALL OTHER EXPRESS, IMPLIED OR COLLATERAL WARRANTIES. FOR COMMERCIAL PRODUCTS, ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE, ARE DISCLAIMED. FOR CONSUMER PRODUCTS, ALL WARRANTIES IMPLIED BY LAW, INCLUDING THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY LIMITED TO THE PERIOD OF THE WARRANTY STATED ABOVE FOR THE RELEVANT PRODUCT. NOTE: SOME STATES OR PROVINCES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. Any oral or written description of the Products is for the sole purpose of identifying the Products and shall not be construed as an express warranty.

16. Purchaser Shall Not

Purchaser shall not, in connection with this contract or its performance hereunder, directly or indirectly, offer, pay, promise to pay, or authorize the payment of, or give, promise to give, or authorize the giving of, any money or thing of value to any governmental official or to any person, director, employee, agent, representative or any other person acting on behalf or in the interest of a commercial entity or government authority where circumstances would seem to suggest that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, for the purpose of influencing any act or decision of such person to use his influence in order to obtain for Purchaser and/or Vendor a contract or influence a business transaction, whereby Purchaser and/or Vendor is given dishonest and unfair preferential treatment with regard to a procurement of goods or services as reflected under this contract. Purchaser's directors, shareholders, officers, employees and consultants will respect the obligations contained herein, and comply with all applicable laws in its jurisdiction in carrying out its obligations under this contract. Purchaser acknowledges that no employee of Vendor (including any of its divisions or affiliated companies) has any authority to give any direction, written or oral, in connection with the making of any payment or commitment by Purchaser to any third party in contravention of the foregoing. If Purchaser violates the provisions of this section, Vendor shall be entitled to terminate this contract immediately without compensation or indemnification whatsoever.

17. Compliance with Export Laws

Purchaser is responsible to ensure all local export laws are fully complied with. Purchaser shall indemnify and hold Vendor harmless for all claims, demands, damages, costs, fines, penalties, attorney's fees, and other expenses arising from Purchaser's failure to comply with this clause. These items are controlled by both the Canadian and/or the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the Canadian and/or U.S. government or as otherwise authorized by Canadian and or U.S. law and regulations.

18. Indemnification of Vendor

Purchaser shall indemnify, and hold harmless Vendor and its affiliates, and their employees, officers, and directors, against any claim, suit or proceeding arising out of or relating to: (a) any production, sale or use of prototypes, outputs, or other results of the Products; (b) any method of using a Product other than methods inherent in, and necessary for, the operation of, the Product as supplied; (c) the use of any Product with any consumables, supplies, equipment, device or software not manufactured or supplied and certified by Vendor; (d) the use of any Product which has been modified by Purchaser or any third party without obtaining Vendor's prior written authorization; (e) the result of Vendor's compliance with any of Purchaser's requested designs or specifications; and/or (f) Purchaser's continued use of any Product after receipt of notice of infringement, provided that Purchaser shall not settle any claim or enter into any agreement that affects

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Vendor's rights or interests without Vendor's prior written consent; and that if Purchaser does not diligently defend against such claim, suit, or proceeding, Vendor shall be entitled to obtain its own legal counsel to direct the defense thereof at Purchaser's sole cost and expense.

Neither party may assign these Terms and Conditions or any rights or obligations hereunder without the prior written consent of the other party; provided, however, Vendor may assign, without Purchaser's consent, these Terms and Conditions or its interest herein to any affiliate or to any entity succeeding to Vendor's business. Subject to the foregoing, these Terms and Conditions shall bind and enure to the benefit of Vendor and Purchaser and their successors and permitted assigns.

19. Governing Law

The laws of the Province of Ontario and the federal laws of Canada applicable therein shall govern the rights and obligations of Vendor and Purchaser hereunder and any disputes thereon. Neither these Terms and Conditions nor sales hereunder shall be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods. Any cause of action, claim, suit or demand by Purchaser allegedly arising from or related to the terms hereof or the relationship of the parties that after good faith negotiations cannot be resolved to both parties' satisfaction shall be brought in a court situated in the Province of Ontario. Both parties hereby irrevocably admit themselves to and consent to the exclusive jurisdiction of said court.

Vendor reserves the right to correct clerical or similar errors relating to price or any other term shown in any applicable invoice or agreement. The failure of Vendor to insist, in any one or more instances, upon performance of any of the terms, covenants and conditions hereof shall not be construed as a waiver or relinquishment of any rights granted hereunder or the future performance of any such term, covenant or condition. The invalidity of any provision or clause hereof shall not affect the validity of any other provision or clause hereof.

20. Entire Agreement

These terms and conditions constitutes the entire agreement of the parties with respect to the subject matter hereof. Any negotiations or understandings between Vendor and Purchaser which are not contained in this agreement (including without limitation, correspondence or statements that conflict with, differ from or modify this agreement) shall have no force of effect, unless in writing and signed by authorized officers of Vendor and Purchaser.

**ADDENDUM TO DEEP TREKKER, INC.
STANDARD TERMS AND CONDITIONS**

This Addendum to the Deep Trekker Standard Terms and Conditions of Sale Agreement ("Agreement") entered into this 8th day of May, 2022 by and between Deep Trekker, Inc. (hereinafter "Vendor"), whose principal place of business is located at 830 Trillium Drive, Kitchener, Ontario, Canada N2R 1K4, and the Delaware County Sheriff's Office, Delaware, County, Ohio (hereinafter, "DCSO"), whose principal place of business is located at 149 N. Sandusky Street, Delaware, Ohio 43015, and Delaware County Board of Commissioners, Delaware County, Ohio, whose principal place of business is located at 91 North Sandusky Street, Delaware, Ohio 43015 ("County") (Vendor and DCSO and County, individually "Party" and collectively "Parties").

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

Maximum Payment Vendor agrees to accept as full payment for the services/deliverables provided pursuant to this Contract/Agreement the amount of actual expenditures accrued by the DCSO in accordance with the pricing provided as indicated in Invoice DT- USD04 1 79. Vendor agrees that the maximum amount to be paid to Vendor under the Agreement shall not exceed Twelve Thousand Seventy-Five Dollars and Ninety-Seven Cents (\$12,075.97).

Indemnification. Vendor shall provide indemnification as follows:

- i. To the fullest extent of the law and without limitation, Vendor agrees to indemnify and hold free and harmless the DCSO, County, and all of their respective boards, officers, officials, employees, volunteers, agents, servants and representatives (collectively "Indemnified Parties") from claims, suits, demands, judgments, damages, losses, costs, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, related in any manner, in whole or in part, to Vendor's performance of this Contract/Agreement or Vendor's actions, inactions, or omissions including, but not limited to, the performance, actions, inactions, or omissions of any of Vendor's boards, officers, officials, employees, volunteers, agents, servants and representatives. Vendor agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that Vendor shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, and expenses. Vendor further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that Vendor shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, and expenses, including, but not limited to attorney's fees.

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- ii. Vendor shall assume full responsibility for, pay for, and shall indemnify and hold free and harmless the Indemnified Parties from any harm, damage, destruction, injury, or loss, regardless of type or nature, known or unknown, realized or unrealized, to any property, real or personal, belonging to the Indemnified Parties or others, including but not limited to real estate, buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts arising out of or resulting in whole or in part from any actions, inactions, or omissions negligent or accidental, actual or threatened, intentional or unintentional of Vendor or Vendor's boards, officers, officials, employees, volunteers, agents, servants and representatives.
- iii. Vendor shall defend Licensee, Delaware County, and its elected officials and employees against any third party claim(s) that any Vendor-provided software, or its use by Licensee, infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and shall promptly pay the amount of any resulting adverse final judgment (or settlement to which Vendor consents). Licensee shall notify Vendor promptly in writing of the claim and give Vendor sole control over its defense or settlement; provided, however, Vendor may not agree to any settlement that requires payment or adversely impacts Licensee without Licensee's prior written approval. Licensee agrees to provide Vendor with reasonable assistance, cooperation, and information in defending the claim at Vendor' expense.
- iv. The County shall not indemnify Vendor under any circumstances. Delaware County is a political subdivision of the State of Ohio and is unable to enter into indemnification agreements.

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

Said insurance shall, at a minimum, be of a type which is customary in the industry and shall provide coverage in an amount that is both customary in the industry and equal to and covering all sums which Vendor may or shall become legally obligated to pay as damages. Vendor shall be responsible for any and all premiums for such policy(ies).

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

Certification Regarding Personal Property Taxes. Vendor, by signature of its authorized representative below, hereby certifies that it is not charged with delinquent personal property taxes on the general list of personal property in Delaware County, Ohio, or any other counties containing property in the taxing districts



under the jurisdiction of the Auditor of Delaware County, Ohio.

Vendor

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

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

Civil Rights. Vendor 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 Vendor 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.

Taxes. The County and all boards, departments, offices, and agencies thereof are exempt from all federal, state, and local taxes. As such, the County and DCSO shall not be invoiced for and shall not pay any taxes. A tax exempt certificate shall be provided to Vendor upon request.

Access to Records. At any time during regular business hours, with reasonable notice, and as often as the Board or other agency or individual authorized by the Board may deem necessary, Vendor shall make available to any or all the above named parties or their authorized representatives, at no cost, all contracts, subcontracts, invoices, receipts, reports, documents, and all other information or data, regardless of form or media, relating to all matters covered by this Agreement (collectively "Records"). The Board and the above named parties shall be permitted by Vendor and shall be entitled to inspect or audit and/or make excerpts, copies, and/or transcripts of the Records.

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Public Records. Vendor agrees and acknowledges that the Agreement and any records created as a result of the Agreement may be subject to the Public Records Law of the State of Ohio.

Retention of Records. For a minimum of three (3) years after expiration or termination of this Agreement, Vendor shall retain and maintain and assure that all of its subcontractors retain and maintain all Records. If an audit, litigation, or other action related to this Agreement is initiated during the term of this Agreement or the three (3) year retention period, Vendor shall retain and maintain, and assure that all of its subcontractors retain and maintain the Records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever occurs last.

Headings. The subject headings of the paragraphs in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

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

Counterparts. This Agreement may be executed in counterparts.

Signatures. 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.

Competitive Bidding Not Required. Consistent with R.C. § 307.86 this Agreement is not required to be competitively bid.

Incorporation of Documents. The following documents are attached to this Addendum and by this reference incorporated into and made a part of this Agreement:

- Deep Trekker Standard Ten11S and Conditions of Sale
- Invoice DT-USD04179 Dated 12-21-2021

Force Majeure. The inability of Vendor to obtain sufficient materials or services required to conduct its business, including internet access, shall not excuse the nonperformance of Vendor.

Severability. If any item, condition, portion, or section of the Agreement or this Addendum 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.

Conflicts. In the event of a conflict between the terms of the other contract documents and this Addendum, the terms of this Addendum shall prevail. All terms and conditions of the Agreement not changed by this Addendum remain the same, unchanged, and in full force and effect.

Waiver. 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.

Warranty. Vendor's disclaimer of Non-Infringement Warranty is modified to the extent that this Addendum requires Vendor to indemnify DCSO and County for third-party intellectual property actions and claims.

Amendment. The terms of the Agreement and this Addendum may only be amended in writing with the mutual consent and agreement of the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Addendum.

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

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RESOLUTION NO. 22-648

IN THE MATTER OF ACCEPTING THE SHERIFF'S OFFICE BUDGET ESTIMATING THE COST OF OPERATING THE JAIL AND FEEDING ITS INMATES FOR 2023:

It was moved by Mr. Merrell, seconded by Mr. Benton to accept the Sheriff's Office Budget estimating the cost of operating the jail and feeding its inmates for 2023.

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

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

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RESOLUTION NO. 22-649

IN THE MATTER OF APPROVING AN AGREEMENT WITH THE CITY OF SUNBURY FOR PLAN REVIEW, PERMITTING AND INSPECTION SERVICES:

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

WHEREAS, the City of Sunbury is desirous of having Delaware County perform plan review, permitting and inspection services for both commercial and residential construction; and

WHEREAS, the State of Ohio Board of Building Standards allows for certified building departments to provide enforcement of the building codes to other jurisdictions via formal agreement; and

WHEREAS, the Delaware County Department of Building Safety is a certified building department by the State of Ohio; and

WHEREAS, the Chief Building Official recommends approval of the agreement with the City of Sunbury;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the following agreement with the City of Sunbury to provide plan review, permitting and inspection services for both residential and commercial buildings within the City:

**AGREEMENT FOR PLAN REVIEW,
PERMITTING, AND INSPECTION SERVICES**

This Agreement is made and entered into on August 1, 2022, by and between the City of Sunbury, Ohio (hereinafter referred to as the "City"), and the County of Delaware, Ohio, by and through its Board of County Commissioners (hereinafter referred to as the "County").

RECITALS:

WHEREAS, the City is desirous of having the County's Department of Building Safety (hereinafter referred to as the "Department") perform plan review, permitting, and inspection duties relative to both residential and commercial construction as addressed by the Building Code of Delaware County (hereinafter referred to as the "Building Code"), except for plumbing and medical gas, in the City;

WHEREAS, the Building Code incorporates by reference the Residential Code of Ohio and the Ohio Building Code;

WHEREAS, the County, through the Department, is willing and able to perform such services for the City;

NOW, THEREFORE, be it agreed by and between the parties hereto as follows:

1. The personnel of Department shall perform for the City all necessary plan review, permitting and inspections as required by the Building Code, except plumbing and medical gas.
2. The Department shall assess and collect all fees for permits required by the Building Code issued in the City. No part of said fees shall be remitted back to the City, but shall be retained by Department for and as full payment for its services.
3. No permit will be issued by Department within the City until a zoning certificate has been issued by the City.
4. This Agreement may be revoked by either party hereto upon one hundred eighty (180) days written notice to the other party of intent to make such revocation.
5. This Agreement shall become effective on October 1, 2022 and shall remain in effect until revoked by either party or by mutual consent of the parties.

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

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RESOLUTION NO. 22-650

IN THE MATTER OF APPROVING PROFESSIONAL SERVICES AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND SAFE BUILT OHIO, LLC FOR INSPECTION AND PLAN REVIEW SERVICES:

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

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WHEREAS, the Chief Building Official recommends approval of the agreement with SAFEbuilt OHIO, LLC;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the following agreement with SAFEbuilt OHIO, LLC for inspection and plan review services:

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN DELAWARE COUNTY, OHIO AND SAFEbuilt OHIO, LLC**

This Professional Services Agreement ("Agreement") is made and entered into by and between Delaware County, Ohio, ("County") and SAFEbuilt Ohio, LLC, a wholly owned subsidiary of SAFEbuilt, LLC, ("Consultant"). County and Consultant shall be jointly referred to as "Parties".

RECITALS

WHEREAS, County is seeking a consultant to perform the services listed in Exhibit A - List of Services, ("Services"); and

WHEREAS, Consultant is ready, willing, and able to perform Services.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, County and Consultant agree as follows:

1. SCOPE OF SERVICES

Consultant will perform Services in accordance with codes, amendments and ordinances adopted by the elected body of County, state laws and regulations. The qualified professionals employed by Consultant will maintain current certifications, certificates, licenses as required for Services that they provide to County. Consultant is not obligated to perform services beyond what is contemplated by this Agreement. Consultant shall provide the Services using hardware and software package.

2. CHANGES TO SCOPE OF SERVICES

Any changes to Services between County and Consultant shall be made in writing that shall specifically designate changes in Service levels and compensation for Services. Both Parties shall determine a mutually agreed upon solution to alter services levels and a transitional timeframe that is mutually beneficial to both Parties. No changes shall be binding absent a written Agreement or Amendment executed by both Parties.

3. FEE STRUCTURE

In consideration of Consultant providing services, County shall pay Consultant for Services performed in accordance with Exhibit B- Fee Schedule for Services. Fee Schedule shall be effective the 1st (first) day of the month following full execution of Agreement. The maximum compensation to Consultant for Services under this Agreement shall be Fifty Thousand Dollars (\$50,000).

4. INVOICE & PAYMENT STRUCTURE

Consultant will invoice County, on a monthly basis and provide all necessary supporting documentation. All payments are due to Consultant within 30 days of Consultant's invoice date. Payments owed to Consultant but not made within sixty (60) days of invoice date shall bear simple interest at the rate of one and one-half percent (1.5%) per month. If payment is not received within ninety (90) days of invoice date, Services will be discontinued until all invoices and interest are paid in full. County may request, and Consultant shall provide, additional information before approving the invoice. When additional information is requested County will identify specific disputed item(s) and give specific reasons for any request. Undisputed portions of any invoice shall be due within 30 days of Consultants invoice date, if additional information is requested, County will submit payment within thirty (30) days of resolution of the dispute.

5. TERM

This Agreement shall be effective on the latest date on which this Agreement is fully executed by both Parties. The term of this Agreement shall be twelve (12) months.

6. TERMINATION

Either Party may terminate this Agreement, or any part of this Agreement upon ninety (90) days written notice, with or without cause and with no penalty or additional cost beyond the rates stated in this Agreement. In case of such termination, Consultant shall be entitled to receive payment for work completed up to and including the date of termination within thirty (30) days of the termination.

All structures that have been permitted, a fee collected, and not yet expired at the time of termination may be completed through final inspection by Consultant if approved by County. Consultant's obligation is met upon completion of final inspection or permit expiration, provided that the time period to reach such completion and finalization does not exceed ninety (90) days. Alternately, County may exercise the option to negotiate a refund for permits where a fee has been collected but inspections have not been completed. The refund will be prorated according to percent of completed construction as determined by Consultant and mutually agreed upon by all Parties. No refund will be given for completed work.

7. FISCAL NON-APPROPRIATION CLAUSE

Financial obligations of County payable after the current fiscal year are contingent upon funds for that

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purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of County, and other applicable law. Upon the failure to appropriate such funds, this Agreement shall be terminated.

8. COUNTY OBLIGATIONS

County shall timely provide all data information, plans, specifications and other documentation reasonably required by Consultant to perform Services (Materials). County has the right to grant and hereby grants Consultant a fully paid up, non-exclusive, non-transferable license to use the Materials in accordance with the terms of this Agreement.

9. PERFORMANCE STANDARDS

Consultant shall perform the Services using that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by members of the same profession practicing or performing the substantially same or similar services. Consultant represents to County that Consultant retains employees that possess the skills, knowledge, and abilities to competently, timely, and professionally perform Services in accordance with this Agreement.

10. INDEPENDENT CONTRACTOR

Consultant is an independent contractor, and, except as provided otherwise in this section, neither Consultant, nor any employee or agent thereof, shall be deemed for any reason to be an employee or agent of County. County shall have no liability or responsibility for any direct payment of any salaries, wages, payroll taxes, or any and all other forms or types of compensation or benefits to any personnel performing services for County under this Agreement. Consultant shall be solely responsible for all compensation, benefits, insurance and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with Consultant.

Consultant hereby certifies that it has five or more employees and that, for purposes of this Agreement, none of the employees are public employees pursuant to Chapter 145 of the Ohio Revised Code.

Consultant and County agree that Consultant will provide similar service to other clients while under contract with County and County acknowledges that Consultant employees may provide similar services to multiple clients. Consultant shall at its sole discretion assign and reassign qualified employees, as determined by Consultant, to perform services for County. County may request that a specific employee be assigned to or reassigned from work under this Agreement and Consultant shall consider that request when determining staffing. Consultant shall determine all conditions of employment for its employees, including hours, wages, working conditions, promotion, discipline, hiring and discharge. Consultant exclusively controls the manner, means and methods by which services are provided to County, including attendance at meetings, and Consultant's employees are not subject to the direction and control of County. Except where required by County to use County information technology equipment or when requested to perform the services from office space provided by the County, Consultant employees shall perform the services using Consultant information technology equipment and from such locations as Consultant shall specify. No Consultant employee shall be assigned a County email address as their exclusive email address and any business cards or other IDs shall state that the person is an employee of Consultant or providing Services pursuant to a contractual agreement between County and Consultant.

It is the intention of the Parties that, to the greatest extent permitted by applicable law, Consultant shall be entitled to protection under the doctrines of governmental immunity and governmental contractor immunity, including limitations of liability, to the same extent as County would be in the event that the services provided by Consultant were being provided by County. Nothing in this Agreement shall be deemed a waiver of such protections.

11. ASSIGNMENT AND SUBCONTRACT

Neither party shall assign all or part of its rights or obligations under this Agreement to another entity without the written approval of both Parties; consent shall not be unreasonably withheld. Notwithstanding the preceding, Consultant may assign this Agreement in connection with the sale of all or substantially all of its assets or ownership interest, effective upon notice to County, and may assign this Agreement to its parent, subsidiaries or sister companies (Affiliates) without notice to County. Consultant may subcontract any or all of the services to its Affiliates without notice to County. Consultant remains responsible for any Affiliate's or subcontractor's performance or failure to perform. Affiliates and subcontractors will be subject to the same performance criteria expected of Consultant. Performance clauses will be included in agreements with all subcontractors to assure quality levels and agreed upon schedules are met.

12. INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall defend, indemnify, and hold harmless County, its elected and appointed officials, employees and volunteers and others working on behalf of County, from and against any and all third-party claims, demands, suits, costs (including reasonable legal costs), expenses, and liabilities ("Claims") alleging personal injury, including bodily injury or death, and/or property damage, but only to the extent that any such Claims are caused by the negligence of Consultant or any officer, employee, representative, or agent of Consultant. Consultant shall have no obligations under this Section to the extent that any Claim arises as a result of Consultants compliance with County law, ordinances, rules, regulations, resolution, executive orders or other instructions received from County.

If either Party becomes aware of any incident likely to give rise to a Claim under the above indemnities, it

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shall notify the other and both Parties shall cooperate fully in investigating the incident.

13. LIMITS OF LIABILITY

EXCEPT ONLY AS MAY BE EXPRESSLY SET FORTH HEREIN, CONSULTANT EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ERROR-FREE OPERATION, PERFORMANCE, ACCURACY, OR NON-INFRINGEMENT. EXCEPT TO THE EXTENT ARISING FROM COUNTY'S PAYMENT OBLIGATIONS FOR SERVICES, IN NO EVENT SHALL CONSULTANT OR COUNTY BE LIABLE TO ONE ANOTHER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, EXEMPLARY, OR SPECIAL DAMAGES INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOST REVENUES, LOST DATA OR OTHER INFORMATION, OR LOST BUSINESS OPPORTUNITY, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, INDEMNITY, NEGLIGENCE, WARRANTY, STRICT LIABILITY, OR TORT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMAINING REMEDY. EXCEPT WITH RESPECT TO PAYMENT OBLIGATIONS FOR SERVICES, IN NO EVENT SHALL THE LIABILITY OF COUNTY OR CONSULTANT UNDER THIS AGREEMENT FROM ANY CAUSE OF ACTION WHATSOEVER (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER LEGAL THEORY, AND WHETHER ARISING BY NEGLIGENCE, INTENTIONAL CONDUCT, OR OTHERWISE) EXCEED THE GREATER OF THE AMOUNT OF FEES PAID TO CONSULTANT PURSUANT TO THIS AGREEMENT OR THE AVAILABLE LIMITS OF CONSULTANTS INSURANCE (SUCH LIMITS DEFINE COUNTY MAXIMUM LIABILITY TO THE SAME EXTENT AS IF COUNTY HAD BEEN OBLIGATED TO PURCHASE THE POLICIES.)

14. INSURANCE

A. Consultant shall procure and maintain and shall cause any subcontractor of Consultant to procure and maintain, the minimum insurance coverages listed below throughout the term of this Agreement. Such coverages shall be procured and maintained with forms and insurers acceptable to County. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

B. Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of one million dollars (\$1,000,000) bodily injury each accident, one million dollars (\$1,000,000) bodily injury by disease - policy limit, and one million dollars (\$1,000,000) bodily injury by disease - each employee . Worker's compensation coverage in "monopolistic" states is administered by the individual state and coverage is not provided by private insurers. Individual states operate a state administered fund of workers compensation insurance which set coverage limits and rates. Monopolistic states: Ohio, North Dakota, Washington, Wyoming.

C. Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, independent Consultant's, and products. The policy shall contain a severability of interest provision and shall be endorsed to include County and County's officers, employees, and consultants as additional insureds.

D. Professional liability insurance with minimum limits of one million dollars (\$1,000,000) each claim and two million dollars (\$2,000,000) general aggregate.

E. Automobile Liability : If performance of this Agreement requires use of motor vehicles licensed for highway use, Automobile Liability Coverage is required that shall cover all owned, non-owned, and hired automobiles with a limit of not less than \$1,000,000 combined single limit each accident.

F. County shall be named as an additional insured on Consultant's commercial general liability and automobile liability insurance coverage.

G. Prior to commencement of Services, Consultant shall submit certificates of insurance acceptable to County.

15. THIRD PARTY RELIANCE

This Agreement is intended for the mutual benefit of Parties hereto and no third-party rights are intended or implied.

16. OWNERSHIP OF DOCUMENTS

Except as expressly provided in this Agreement, County shall retain ownership of all Materials and of all work product and deliverables created by Consultant pursuant to this Agreement. The Materials, work product and deliverables shall be used by Consultant solely as provided in this Agreement and for no other purposes without the express prior written consent of County. As between County and Consultant, all work product and deliverables shall become the exclusive property of County when Consultant has been compensated for the same as set forth herein, and County shall thereafter retain sole and exclusive rights to receive and use such materials in such manner and for such purposes as determined by it. Notwithstanding the preceding, Consultant may use the Materials, work product, deliverables, applications, records, documents and other materials provided to perform the Services or resulting from the Services, for purposes of (i) benchmarking of County's and other client's performance relative to that of other groups of customers served by Consultant; (ii) improvement, development marketing and sales of existing and future Consultant services,

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tools and products; (iii) monitoring Service performance and making improvements to the Services. For the avoidance of doubt, County Data will be provided to third parties, other than hosting providers, development consultants and other third parties providing services for Consultant, only on an anonymized basis and only as part of a larger body of anonymized data. If this Agreement expires or is terminated for any reason, all records, documents, notes, data and other materials maintained or stored in Consultant's secure proprietary software pertaining to County will be exported into a CSV file and become property of County. Notwithstanding the preceding, Consultant shall own all rights and title to any Consultant provided software and any improvements or derivative works thereof.

Upon reasonable prior written notice, County and its duly authorized representatives shall have access to any books, documents, papers and records of Consultant that are related to this Agreement for the purposes of audit or examination, other than Consultant's financial records, and may make excerpts and transcriptions of the same at the cost and expense of County.

17. CONSULTANT ACCESS TO RECORDS

Parties acknowledge that Consultant requires access to Records in order for Consultant to perform its obligations under this Agreement. Accordingly, County will either provide to Consultant on a daily basis such data from the Records as Consultant may reasonably request (in an agreed electronic format) or grant Consultant access to its Records and Record management systems so that Consultant may download such data. Data provided to or downloaded by Consultant pursuant to this Section shall be used by Consultant solely in accordance with the terms of this Agreement.

18. CONFIDENTIALITY

Consultant shall not disclose, directly or indirectly, any confidential information or trade secrets of County without the prior written consent of County or pursuant to a lawful court order directing such disclosure.

19. CONSULTANT PERSONNEL

Consultant shall employ a sufficient number of experienced and knowledgeable employees to perform Services in a timely, polite, courteous and prompt manner. Consultant shall determine appropriate staffing levels and shall promptly inform County of any reasonably anticipated or known employment-related actions which may affect the performance of Services. Additional staffing resources shall be made available to County when assigned employee(s) is unavailable.

20. DISCRIMINATION & ADA COMPLIANCE

Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability, national origin or any other category protected by applicable federal or state law. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of Equal Opportunity laws. Consultant shall comply with the appropriate provisions of the Americans with Disabilities Act (the "ADA"), as enacted and as from time to time amended, and any other applicable federal regulations. A signed certificate confirming compliance with the ADA may be requested by County at any time during the term of this Agreement.

21. E-VERIFY/VERIFICATION OF EMPLOYMENT STATUS

Consultant certifies that it is registered with and uses the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Consultant during the term of the Agreement. Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Agreement and will verify immigration status to confirm employment eligibility. If Consultant enters into a contract with a subcontractor to perform work or provide services pursuant to the Agreement, Consultant shall likewise require the subcontractor to verify immigration status to confirm employment eligibility, and the subcontractor shall provide to Consultant an affidavit stating that the subcontractor does not employ, contract with or subcontract with an unauthorized alien. Consultant will maintain a copy of such affidavit for the duration of its contract with owner. Consultant is prohibited from using the E-Verify program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

22. SOLICITATION /HIRING OF EMPLOYEES

During the term of this Agreement and for one year thereafter, County shall not solicit, recruit or hire, or attempt to solicit, recruit or hire, any employee or former employee of Consultant who provided services to County pursuant to this Agreement {"Service Providers"}, or who interacted with County in connection with the provision of such services (including but not limited to supervisors or managers of Service Providers, customer relations personnel, accounting personnel, and other support personnel of Consultant). Parties agree that this provision is reasonable and necessary in order to preserve and protect Consultant's trade secrets and other confidential information, its investment in the training of its employees, the stability of its workforce, and its ability to provide competitive building department programs in this market.

Consultant 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. Consultant further agrees that it will not employ in any manner a current County employee during the term of this Agreement and for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County. Parties agree that this provision is reasonable and necessary in order to protect the County's investment in the training of its employees and the stability of its workforce.

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If any provision of this section is found by a court or arbitrator to be overly broad, unreasonable in scope or otherwise unenforceable, Parties agree that such court or arbitrator shall modify such provision to the minimum extent necessary to render this section enforceable.

23. NOTICES

Any notice under this Agreement shall be in writing and shall be deemed sufficient when presented in person, or sent, pre-paid, first class United States Mail, or delivered by electronic mail to the following addresses:

If to County: Duane Matlack, CBO Delaware County Dept. of Building Safety 50 Channing Street Delaware, OH 43015 Email: dmatlack@co.delaware.oh.us	If to Consultant: Joe DeRosa, CRO SAFEbuilt, LLC 444 N. Cleveland, Suite 444 Loveland, CO 80537 Email: jderosa@safebuilt.com
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24. FORCE MAJEURE

Any delay or nonperformance of any provision of this Agreement by either Party (with the exception of payment obligations) which is caused by events beyond the reasonable control of such party, shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing such performance.

25. DISPUTE RESOLUTION

In the event a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, Parties agree first to try in good faith to settle the dispute by mediation, before resorting to arbitration, litigation, or some other dispute resolution procedure. The cost thereof shall be borne equally by each Party.

26. ATTORNEY'S FEES

In the event of dispute resolution or litigation to enforce any of the terms herein, each Party shall pay all its own costs and attorney's fees.

27. AUTHORITY TO EXECUTE

The person or persons executing this Agreement represent and warrant that they are fully authorized to sign and so execute this Agreement and to bind their respective entities to the performance of its obligations hereunder.

28. CONFLICT OF INTEREST

Consultant shall refrain from providing services to other persons, firms, or entities that would create a conflict of interest for Consultant with regard to providing the Services pursuant to this Agreement. Consultant shall not offer or provide anything of benefit to any County official or employee that would place the official or employee in a position of violating the public trust as provided under County's charter and code of ordinances, state or federal statute, case law or ethical principles.

29. GOVERNING LAW AND VENUE

The negotiation and interpretation of this Agreement shall be construed under and governed by the laws of the State of Ohio, without regards to its choice of laws provisions. Exclusive venue for any action under this Agreement, other than an action solely for equitable relief, shall be in the state courts of Delaware County, Ohio, and each party waives any and all jurisdictional and other objections to such exclusive venue.

30. COUNTERPARTS

This Agreement and any amendments or task orders may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. For purposes of executing this Agreement, electronic or scanned signatures shall be as valid as the original.

31. ELECTRONIC REPRESENTATIONS AND RECORDS

Parties hereby agree to regard electronic representations of original signatures as legally sufficient for executing this Agreement and scanned signatures emailed by PDF or otherwise shall be as valid as the original. Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

32. WAIVER

Failure to enforce any provision of this Agreement shall not be deemed a waiver of that provision. Waiver of any right or power arising out of this Agreement shall not be deemed waiver of any other right or power.

33. ENTIRE AGREEMENT

This Agreement, along with attached exhibit s, constitutes the complete, entire and final agreement of the Parties hereto with respect to the subject matter hereof, and shall supersede any and all previous agreements, communications, representations, whether oral or written, with respect to the subject matter hereof. Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word

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herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

34. COUNTY POLICIES

The Consultant shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Consultant shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing 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 Consultant to comply with this Section. 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.

IN WITNESS HEREOF, the undersigned have caused this Agreement to be executed in their respective names on the dates hereinafter enumerated.

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

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

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RESOLUTION NO. 22-651

IN THE MATTER OF APPROVING AN AGREEMENT BY AND BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND TITLE FIRST AGENCY, INC. FOR TITLE SERVICES FOR THE AGRICULTURAL EASEMENT PURCHASE PROGRAM:

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

AGREEMENT FOR TITLE SERVICES

This Agreement is made and entered into on this 8th day of August 2022 by and between the Delaware County Board of Commissioners, 91 North Sandusky Street, Delaware, Ohio 43015, (“Commissioners”), and Title First Agency, Inc., 999 Polaris Parkway, Suite 101, Columbus, Ohio 43240 (“Contractor”), *the Ohio Department of Agriculture, 8995 East Main Street, Reynoldsburg, Ohio 43068 (“ODA”) shall be considered a third party beneficiary of this agreement* who hereby agree as follows:

WHEREAS, the Commissioners desire to engage Contractor to perform title search, commitment, escrow and closing services; and

WHEREAS, Ohio Revised Code Section 901.21 empowers the Ohio Department of Agriculture (ODA) in Cooperative Agreement with the Commissioners to acquire agricultural easements and to do all things necessary to retain land acquired thereby predominantly in agricultural use; and

WHEREAS, the Commissioners and ODA are proposing to purchase agricultural easements using funds from the Clean Ohio Agricultural Easement Purchase Program; and

WHEREAS, the Commissioners are required by Cooperative Agreement and deems it necessary to conduct a title search, obtain title insurance and secure an escrow agent for closing for such purposes; and

WHEREAS, Contractor desires to perform such services for the Commissioners in accordance with the terms and conditions prescribed by the Commissioners;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements set forth herein, the parties hereto agree as follows:

ARTICLE I: NATURE OF CONTRACT

- 1.1 Contractor shall be employed as an independent contractor, to fulfill the terms of this Agreement. It is specifically understood that the nature of the services to be rendered under this Agreement are of such a nature that the Commissioners are the sole judge of the adequacy of such services.
- 1.2 The Commissioners enter into this Agreement in reliance upon Contractor’s representations that it has the necessary expertise and experience to perform its obligations hereunder, and Contractor warrants that it does possess the necessary expertise and experience.
- 1.3 Contractor shall perform the services to be rendered under this Agreement and the Commissioners shall not hire, supervise, or pay any assistants to Contractor in its performance under this Agreement. The Commissioners shall not be required to provide any training to Contractor to enable it to perform services required hereunder.

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- 1.4 The Commissioners may, from time to time as it deems appropriate and necessary, communicate specific instructions and requests to the Contractor concerning the performance of the work described in this Agreement. Upon such notice and within a reasonable time, the Contractor shall comply with such instructions and fulfill such requests to the satisfaction of the Commissioners. It is expressly understood by the parties that the instructions and requests are for the sole purpose of performing the specific tasks requested and to ensure satisfactory completion of the work described in this Agreement.

ARTICLE II. SCOPE OF WORK

- 2.1 The Contractor shall perform the services set forth in Exhibit A, Scope of Work, for the property described in Exhibit B, both attached hereto and incorporated by reference as if fully rewritten herein.
- 2.2 The closing shall occur within ten (10) business days ("Closing Date") after the Commissioners via the Delaware Soil and Water Conservation District ("District") and ODA forwards the Escrow Agreement with Purchase Payment to Escrow Agent.
- 2.3 The Commissioners may, from time to time as it deems appropriate, communicate specific instructions and requests to the Contractor concerning the performance of the work described in this contract. Upon such notice, the Contractor shall comply with such instructions and fulfill such requests to the satisfaction of the Commissioners. It is expressly understood by the parties that these instructions and requests are for the sole purpose of performing the specific tasks requested to ensure satisfactory completion of the work described in this contract. The Contractor shall retain responsibility for the management of the work, including the exclusive right to control or direct the manner or means by which the work described herein is performed. The Commissioners retains the right to ensure that the work of the Contractor is in conformity with the terms and conditions of the Agreement. Contractor is to accept direction from the District and ODA in the performance of work contained in this Agreement and set forth in Exhibit A, unless explicitly stated otherwise in writing by the Commissioners.

ARTICLE III. TIME OF PERFORMANCE.

- 3.1 The services as stated in Exhibit A, Scope of Work, shall be commenced on the date this agreement is entered into and concluded on or before the due date set forth in Exhibit B, excluding the recording of the easement. The recording of the easement shall occur on or before ____TBD____.
- 3.2 This Agreement shall remain in effect until the work described in Exhibit A, Scope of Work, is completed to the satisfaction of the Commissioners and until Contractor is paid in accordance with Article IV, Compensation, or until terminated as provided in Article VI, Termination of Contractor's Services, whichever is sooner.
- 3.3 It is expressly agreed by the parties that none of the rights, duties, and obligations herein shall be binding on either party if award of this Agreement would be contrary to the terms of Ohio Revised Code ("R.C.") 3517.13, R.C. 127.16, or R.C. Chapter 102.

ARTICLE IV. COMPENSATION.

- 4.1 Initial title examination fees shall be paid, upon completion of the initial services by the Landowners who the District issued Notices of Selection to proceed to Phase 3, in accordance with the Ohio Administrative Code (OAC) 901-2-06 in Exhibit C. The Contractor shall be paid for services rendered as outlined in Exhibit B. Contractor shall be paid at the closing out of the proceeds to be deducted from the ODA's purchase funds.
- 4.2 The total amount due was computed according to the cost schedule set forth in Exhibit B.
- 4.3 Contractor shall not be reimbursed for travel, lodging or any other expenses incurred in the performance of this Agreement.
- 4.4 Contractor shall submit an invoice for the services performed at least thirty (30) days prior to closing consistent with this Article IV, Compensation. The invoice shall contain a description of the services performed and the sum due at that time pursuant to this Agreement.
- 4.5 Payment for Contractor services shall be made after all documents are recorded as required by the closing of the agricultural easement.
- 4.6 If, after costs are incurred for services, Landowners become ineligible for any reason or withdraws from receiving funding, Landowners shall be held completely responsible and shall reimburse the Commissioners or Contractor for all such costs in Exhibit B.
- 4.7 All additional attorney fees accrued from additional services required to secure a title commitment shall be paid by the landowner under separate agreement, and under no circumstances shall the Commissioners be required to pay the cost, expense, or fees incurred for any services performed by Contractor by, through, or in connection with this Agreement.

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ARTICLE V: CERTIFICATION OF FUNDS

- 5.1 It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to, R.C. 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, and the Commissioners shall receive written notice that such funds have been made available to the Commissioners by the Clean Ohio Agricultural Easement Purchase Program funding source.

ARTICLE VI: TERMINATION OF CONTRACTOR'S SERVICES

- 6.1 The Commissioners may, at any time prior to the completion of services by the Contractor under this Agreement, suspend or terminate this Agreement with or without cause by giving written notice to the Contractor.
- 6.2 Upon notice of suspension or termination, Contractor shall cease all work on the suspended or terminated activities under this Agreement, suspend or terminate all subcontracts relating to the suspended or terminated activities, take all necessary steps to limit disbursements and minimize costs, and if requested by the Commissioners, furnish a report, as of the date of receipt of notice of suspension or termination, describing the status of all work under this Agreement, including, without limitation, results, conclusions resulting therefrom, and any other matters the Commissioners require.
- 6.3 Contractor shall be paid for services rendered up to the date the Contractor received notice of suspension or termination, less any payments previously made, provided Contractor has supported such payments with detailed factual data containing services performed and hours worked. In the event of suspension or termination, any payments made by the Commissioners for which Contractor has not rendered services shall be refunded.
- 6.4 In the event this Agreement is terminated prior to its completion, Contractor, upon payment as specified, shall deliver to Commissioners all work products and documents which have been prepared by Contractor in the course of providing services under this Agreement. All such materials shall become and remain the property of the Commissioners, to be used in such manner and for such purpose as the Commissioners may choose.
- 6.5 Contractor agrees to waive any right to, and shall make no claim for, additional compensation against the Commissioners by reason of such suspension or termination.
- 6.6 Contractor may terminate this Agreement upon thirty (30) days prior written notice provided to the Commissioners.

ARTICLE VII: RELATIONSHIP OF PARTIES

- 7.1 The Commissioners and Contractor agree that Contractor shall be engaged by the Commissioners solely on an independent contractor basis, and Contractor shall therefore be responsible for all of its own business expenses, including, but not limited to, computers, phone service and office space. Contractor will also be responsible for all licenses, permits, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers' Compensation and Unemployment Compensation coverage, if any.
- 7.2 While Contractor shall be required to render services described hereunder for the Commissioners during the term of this Agreement, nothing herein shall be construed to imply, by reason of Contractor's engagement hereunder as an independent contractor, that the Commissioners shall have or may exercise any right of control over Contractor with regard to the manner or method of Contractor's performance of services hereunder.
- 7.3 Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent.
- 7.4 It is fully understood and agreed that the Contractor is an independent contractor and is not an agent, servant or employee of the Commissioners or the State of Ohio.

ARTICLE VIII: RECORD KEEPING

- 8.1 During the performance of the services required by this Agreement and for a period of three years after its completion, the Contractor shall maintain auditable records of all charges pertaining to this Agreement and shall make such records available to the Commissioners as the Commissioners may reasonably require.

ARTICLE IX: RELATED AGREEMENTS

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- 9.1 The work contemplated in this Agreement is to be performed by Contractor, who may subcontract without the Commissioner's approval for the purchase of articles, supplies, components, or special mechanical services that do not involve the type of work or services described in Exhibit A, Scope of Work, but which are required for its satisfactory completion. Contractor shall not enter into other subcontracts related to the work described in this Agreement without prior written approval by the Commissioners. All work subcontracted shall be at Contractor's expense.
- 9.2 Contractor shall bind its subcontractors to the terms of this Agreement, so far as applicable to the work of the subcontractor, and shall not agree to any provision which seeks to bind the Commissioners to terms inconsistent with, or at variance from, this Agreement.
- 9.3 Contractor warrants that it has not entered into, nor shall it enter into, other agreements, without prior written approval of the Commissioners, to perform substantially identical work for the State of Ohio such that the product contemplated hereunder duplicates the work called for by the other agreements.
- 9.4 Contractor shall furnish to the Commissioners a list of all subcontractors, their addresses, tax identification numbers, and the dollar amount of each subcontract.

ARTICLE X: CONFLICTS OF INTEREST AND OFFSHORE LABOR PROHIBITION

- 10.1 No personnel of Contractor or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this Agreement is being carried out, and who exercise any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.
- 10.2 Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to the Commissioners in writing. Thereafter, he or she shall not participate in any action affecting the work under this Agreement, unless the Commissioners shall determine in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

ARTICLE XI: NONDISCRIMINATION OF EMPLOYMENT

- 11.1 Pursuant to R.C. 125.111, Contractor agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor, shall not discriminate, by reason of race, color, religion, sex, age, national origin, sexual orientation, military status, ancestry, or disability against any citizen of this state in the employment of any person qualified and available to perform the work under this Agreement.
- 11.2 Contractor further agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, national origin, sexual orientation, military status, ancestry, or disability.
- 11.3 Contractor represents that it has a written affirmative action program for the employment and effective utilization of economically disadvantaged persons and shall file a description of the affirmative action program and a progress report on its implementation with the equal employment opportunity office of the Commissioners of Administrative Services.

ARTICLE XII: RIGHTS IN DATA AND COPYRIGHTS/PUBLIC USE

- 12.1 The Commissioners shall have unrestricted authority to reproduce, distribute and use (in whole or in part) any reports, data or materials prepared by Contractor pursuant to this Agreement. No such documents or other materials produced (in whole or in part) with funds provided to Contractor by the Commissioners shall be subject to copyright by Contractor in the United States or any other country.
- 12.2 Contractor agrees that all deliverables or original works created under this Agreement shall be made freely available to the general public to the extent permitted or required by law until and unless specified otherwise by the Commissioners. Any requests received by Contractor should be referred to the Commissioners.

ARTICLE XIII: CONFIDENTIALITY

- 13.1 Contractor shall not discuss or disclose any information or material obtained pursuant to its obligations under this Agreement without the prior written consent of the Commissioners.
- 13.2 All provisions of this Agreement relating to "confidentiality" shall remain binding upon Contractor in the event of cancellation.

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ARTICLE XIV: LIABILITY

- 14.1 Contractor agrees to indemnify and to hold the Commissioners and the State of Ohio harmless and immune from any and all claims for injury or damages arising from this Agreement which are attributable to Contractor's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third parties utilized by Contractor, or joint ventures while acting under this Agreement. Such claims shall include any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving patents, copyrights, and trademarks.
- 14.2 Contractor shall bear all costs associated with defending the Commissioners and the State of Ohio against any claims as outlined in paragraph 14.1.
- 14.3 In no event shall either party be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits.

ARTICLE XV: COMPLIANCE WITH LAWS

- 15.1 Contractor, in the execution of duties and obligations under this Agreement, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.
- 15.2 Contractor affirms that it has all of the approvals, licenses, or other qualifications needed to conduct business in Ohio and all are current. If at any time during the contract period Contractor, for any reason, becomes disqualified from conducting business in the State of Ohio, Contractor will immediately notify the Commissioners in writing and will immediately cease performance of contract activities.

ARTICLE XVI: DRUG FREE WORKPLACE

- 16.1 Contractor agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors purchase, transfer, use or possess illegal drugs or alcohol, or abuse prescription drugs in any way when they are engaged in the work being performed hereunder.

ARTICLE XVII: CAMPAIGN CONTRIBUTIONS

- 17.1 Contractor hereby certifies that neither Contractor nor any of Contractor's partners, officers, directors, shareholders nor the spouses of any such person have made contributions in excess of the limitations specified in R.C. 3517.13.

ARTICLE XVIII: ENTIRE AGREEMENT/WAIVER

- 18.1 This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto.
- 18.2 This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.
- 18.3 A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

ARTICLE XIX: NOTICES

- 19.1 All notices, consents, requests and other communications hereunder shall be in writing and shall be deemed to be given upon receipt thereof, and shall be sent to the addresses set forth hereunder or to such other address as the other party hereto may designate by written notice transmitted in accordance with this provision.

1) In case of the Commissioners to:
Delaware County Commissioners
91 N. Sandusky Street
Delaware, Ohio 43015

2) In case of the Contractor, to:
Title First Agency, Inc.
999 Polaris Pkwy, Suite 101
Columbus, Ohio 43240

ARTICLE XX: HEADINGS

- 20.1 The headings in this Agreement have been inserted for convenient reference only and shall not be

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considered in any questions of interpretation or construction of this Agreement.

ARTICLE XXI: SEVERABILITY

- 21.1 The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless, be binding and enforceable.

ARTICLE XXII: CONTROLLING LAW

- 22.1 This Agreement and the rights of the parties hereto shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. Contractor agrees that only Ohio courts shall have jurisdiction over any action or proceeding concerning this Agreement and/or performances thereunder.

ARTICLE XXIII: SUCCESSORS AND ASSIGNS

- 23.1 Neither this Agreement nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part by the Contractor, without the prior written consent of the Commissioners.

ARTICLE XXIV: FINDINGS FOR RECOVERY

- 24.1 Contractor warrants that it is not subject to an "unresolved" finding for recovery under R.C. 9.24. If this warranty is found to be false, this Agreement is void ab initio and the Contractor shall immediately repay to the Commissioners any funds paid under this Agreement.

ARTICLE XXV: DEBARMENT

- 25.1 Contractor represents and warrants that it is not debarred from consideration for contract awards by the Director of the Commissioners of Administrative Services, pursuant to either R.C. 153.02 or R.C. 125.25. If this representation and warranty is found to be false, this Agreement is void ab initio and Contractor shall immediately repay to the Commissioners any funds paid under this Agreement.

ARTICLE XXVI: EXECUTION

- 27.1 This Agreement is not binding upon the Commissioners unless executed in full.

ARTICLE XXVII: ANTITRUST ASSIGNMENT

- 28.1 Contractor agrees to assign to the Commissioners all State and Federal antitrust claims and causes of action that relate to all goods and services provided for in this Agreement.

ARTICLE XXVIII: CONFLICT

- 29.1 In the event of any conflict between the terms and provisions of the body of this Agreement and any exhibit hereto, the terms and provisions of the body of this Agreement shall control.

**Exhibit A
SCOPE OF WORK**

- A. **Title Search.** The Contractor, under the direction and to the satisfaction of the Commissioners, shall search the public records concerning the titles to the parcels of such real estate as delineated in the Agricultural Easement Parcel Number List attached hereto as Exhibit B and incorporated herein by reference. The Contractor shall submit a written report, in a form acceptable to the Commissioners, as to each parcel, each of which shall include the factual information enumerated below, to the extent that such information can be ascertained from a search of the public records relating to the title of said real estate. The search shall cover a period sufficient to satisfy the State that all matters presently affecting the title have been found, but in no event for a period less than ninety (90) years with legible copies of the source documents. The search shall be documented in a Commitment for Title Insurance, which should include at a minimum the following:
1. The name, address, and marital status of record holder or holders of title.
 2. The name, address of spouse, if any, a record holder or holders of title.
 3. List of the combined actual total acreage for the entire interest in land being acquired in the Easement
 4. The names, and if it appears of record, the address, of the owners of any encumbrances upon or interest in the real estate. such as mortgages, land contract, leases, easements, rights-of-way, mineral rights or reservations, together with the recording references and dates thereof.

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5. Unsatisfied executions and lien judgments, foreign or domestic, or pending suits of record in the courts of records and on file in the Sheriff's office and the Clerk of Court's office of said county, which may affect the title to the real estate examination.
 6. Any other tax liens, mechanics liens, recognizance liens, unemployment compensation liens, workers compensation liens or any other infirmity, encumbrances, liens, or cloud on title disclosed by the public records of the County where the real estate is located.
 7. The tax duplicate description, auditor's parcel number, current agricultural recoupment or use valuation, if applicable, and current tax valuation, including statement of taxes, assessment liens, penalties, and interest which have not been paid and are a lien.
 8. The gross acres of all parcels, minus highway rights-of-way and all other exclusions or transfers, in order to provide a net acreage of all parcels for the agricultural easement.
 9. Attach a complete copy of recorded deed of the land or parcels of land which make up an owner's property which are used as a unit of land acquired for the Commissioners and the Ohio Department of Agriculture's (ODA) purposes, together with the recording reference and dates thereof, and a statement of the total acreage to be acquired by the agricultural easement.
- B. Title Insurance Commitment
1. Contractor shall provide a title insurance commitment naming the Ohio Department of Agriculture as an insured party.
- C. Escrow Services
1. Contractor shall provide escrow services and shall serve as escrow agent at closing specified by The Commissioners and the Ohio Department of Agriculture for the purchase of the agricultural easement.
 2. The Contractor shall be paid for services rendered as outlined in Exhibit B. Contractor shall be paid at the closing out of the proceeds to be deducted from the ODA's purchase funds as documented in the ODA approved settlement statement (HUD-1).
- D. Closing
1. Contractor shall provide recording services surrounding the agricultural easement acquisition in the most cost effective manner on behalf of the Commissioners and ODA subject to the pre approval of the Commissioners and ODA.
 2. Unless otherwise agreed to in advance by the Commissioners and ODA, Contractor shall schedule and conduct a "roundtable" closing for the agricultural easement at a mutually convenient place and time for all necessary parties.
 3. The title agent will collect all required signatures for necessary documents and record the easement and any other necessary documents, in addition to any other items outlined in the Closing Letter.
 4. The Commissioners and ODA shall tender a lump sum payment to title insurance company, as escrow agent, for distribution to the landowner and/or landowner's assignee(s) in the proportions directed by the landowner.
 5. All recorded original documents as requested in the Closing Letter must be returned to the Commissioners and ODA as soon as possible.
 6. Secure a policy of title insurance if the federal government is involved on A.L.T.A U.S. Policy Form 1991 for an amount specified by the Commissioners and ODA or an A.L.T.A. U.S. Policy Form 2006 to the local sponsor when requested.
 7. Secure an Owners Policy of title insurance for ODA.

Exhibit B

This property to be covered by easement in the Ohio Agricultural Easement Purchase Program is inclusive of the following parcels:

Owner: WATKINS BENJAMIN J

Property Location: 6006 Hoskins Road

County: Delaware

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Township: Radnor

Parcel Number(s):	Acres:
62020001035000	98.000
62020001036000	2.00

Title Search:	\$ 400.00
Title Insurance:	\$1,087.50 based on \$200,000 policy
Title Commitment:	\$ 50.00
Title Insurance Premium:	\$-
Settlement Fee:	\$ 350
TOTAL:	\$-

Plus additional Costs as needed:

Title Update and Recording:	\$75.00 + 375.00 (recording estimate)
Copy Costs:	\$2.00/pg
Courier Fee:	\$75.00

Title Search Due Date: 10/28/2022

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

**14
RESOLUTION NO. 22-652**

IN THE MATTER OF APPROVING THE CHILD PLACEMENT SERVICES CONTRACT, FIRST AMENDMENT, AND SECOND AMENDMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, AND CHILD PLACEMENT PROVIDER A LOVING HEART YOUTH SERVICES, INC.:

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

WHEREAS, Delaware County contracts with Child Care Placement providers in accordance with state and federal regulations; and

WHEREAS, the Director of Jobs & Family Services recommends approval of the following contract, first amendment, and second amendment;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the following contract, first amendment, and second amendment for a Child Care Placement provider:

Child Placement Service	Per diem cost and per diem reimbursement for the following categories
Name: A Loving Heart Youth Services, Inc. Address: 3195 W Siebenthaler Ave Dayton, Ohio 45406 This Agreement in effect from 7/6/2022-6/30/2023	A. Maintenance B. Administration C. Case Management D. Transportation E. Other Direct Services (e.g., special diets, clothing, insurance, respite care) F. Behavioral Healthcare G. Other costs - (any other cost the Agency has agreed to participate in)

A Loving Heart Youth Services, Inc.

**FIRST AMENDMENT TO THE AGREEMENT
FOR TITLE IV-E AGENCIES AND PROVIDERS FOR THE PROVISION OF CHILD
PLACEMENT BETWEEN DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY
SERVICES AND A LOVING HEART YOUTH SERVICES, INC.**

This First Amendment to the Agreement for Title IV-E Agencies and Providers for the Provision of Child Placement Between Delaware County Department of Job and Family Services (“Agency”) and A Loving Heart Youth Services, Inc. (“Provider”) (“First Amendment”) is entered into this August 8, 2022.

Whereas, Agency and Provider have entered an Agreement for Title IV-E Agencies and Providers for the Provision of Child Placement with a term of 07/06/22 through 06/30/23 (“Agreement”); and

Whereas, Article XV of the Agreement allows the Parties to amend the Agreement via a written amendment signed by both parties; and,

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Whereas, Agency and Provider desire and have agreed to amend the Agreement to include the additional terms and conditions set forth herein.

Now Therefore, the Parties agree to amend the Agreement as follows:

Section 1 – Supplemental Terms and Conditions

The following terms and conditions shall be added to and supplement the indicated sections of the Agreement:

- A. Article II.** This agreement shall have an initial service period of 07/06/22 through 06/30/23.
- By mutual consent, the Agency and Provider may determine that an extension of this contract is in the best interest of all Parties. Therefore, by mutual agreement of the Parties, the contract may be extended for two (2) additional consecutive years in one (1) year period increments. There shall be no increase in transaction costs nor a decrease in services, and all other terms of this contract remain unchanged, unless amended by a separate written amendment signed by all Parties.
- Extension is contingent upon the availability of funds, the terms of the grant agreement between the Agency, the state of Ohio and/or the federal government, as well as satisfactory performance by the Provider, and is subject to approval by the Agency, with renegotiation to be initiated by the Agency before the expiration of the existing service period.
- B. Article V.E.** Provider agrees to submit a monthly progress report as negotiated by the parties to the Children Services Assistant Director for each child no later than the twentieth (20th) day of each month. The progress report will be based on the child's Individual Child Care Agreement and case plan and should include documentation of services provided to the child (visits to the child, counseling outcome(s), etc.). Failure to submit the progress reports may result in a delay of payment until such time as the Provider comes into compliance.
- C. Article V.F., G. and H.** Notification as required by these sections shall be made to the Agency's 24/7 emergency number. The emergency number is 740-833-2340.
- D. Article V.I.** Provider also agrees to notify the Agency when and if the following safety condition exists:
- The child's medication has changed.
- E. New Article V. AA.** Provider agrees to transfer copies of the child's records to the Agency within forty-eight (48) hours of the request, excluding weekends and holidays. Copies of the records are to be submitted electronically via email as an attachment, scanned pdf file(s), or via facsimile (fax).
- F. New Article V. BB.** Provider agrees to provide transportation for the child to subsequent placements including those outside the Provider network. Transportation shall be limited to within the State of Ohio.
- G. Article VIII. A.** There shall be no pre-defined maximum amount payable pursuant to this contract. PROVIDER agrees to accept as full payment for Services rendered in a manner satisfactory to the Agency the amount of actual expenditures made by PROVIDER for purposes of providing the Services.
- H. New Article VIII. J.** Per diem rates shall remain unchanged during the initial service period defined in Article II, Term of Agreement. Upon completion of the initial service period, Provider may update per diem rates through a mutually agreed upon contract amendment not more than once annually during each one (1) year service period extension. Provider agrees to provide written notification to the Agency of requested per diem rate changes. Written notification shall be sent electronically via email to the attention of Mr. Jeffrey Sell, Protective Services Administrator whose email address is jeffrey.sell2@jfs.ohio.gov and Ms. Jenifer Wattenschaidt, Business Administrator, whose email address is Jenifer.wattenschaidt@jfs.ohio.gov. Written notification shall contain the total per diem rate and the per diem rate components (Maintenance, Administration, Transportation, Other, etc.). Per diem rate changes shall take effect the first calendar day of the month after the per diem rate change has been formally approved by the Provider and Agency in a contract amendment. Provider and Agency shall ensure service levels and per diem rates specified in an Individual Child Care Agreement (ICCA) are incorporated into the contract. In the event of a conflict between the per diem rate represented in an ICCA and the rates mutually agreed upon in the contract, rates in the contract shall prevail. In the event that an ICCA specifies a service level that is not yet included in the per diem rate schedule in the contract, Provider shall not provide the services for or bill the Agency for the services until the service level and related per diem rate has been incorporated into the contract through a contract amendment.
- I. Article XII.D. Independent Contractor Acknowledgement/No Contribution to OPERS**
Agency, Board, and Delaware County, Ohio (for purposes of this section collectively "County") are public employers as defined in R.C. § 145.01(D). The County has classified the Provider 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 Provider 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 Agreement. Provider acknowledges and agrees that the County, in accordance with R.C. §

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145.038(A), has informed it of such classification and that no contributions will be made to OPERS. If Provider is an individual or has less than five (5) employees, Provider, in support of being so informed and pursuant to R.C. § 145.038, agrees to and shall complete and shall have each of its employees complete an OPERS Independent Contractor/Worker Acknowledgement Form (“OPERS Form”). The OPERS Form is attached to this First Amendment as Exhibit 1. The Agency shall retain the completed OPERS Form(s) and immediately transmit a copy(ies) of it/them to OPERS.

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

Signature	Date
Printed Name	
Title	

- J. Article XX.D.** In lieu of the coverage amount indicated in the Agreement, Provider agrees to procure and maintain Umbrella and Excess liability insurance coverage of at least Two Million Dollars (\$2,000,000.00) per occurrence and in the aggregate above the commercial general and business auto primary policies.
- K. Article XX.F.** The Delaware County Board of Commissioners (Board”) shall be listed as the Certificate Holder.

Section 2 - Miscellaneous

- A. Exhibits to Agreement.**
 - 1. Exhibit 1 – Scope of Work. This exhibit is referenced throughout the Agreement. It does not exist.
 - 2. Exhibits II and III. The Agreement was not competitively bid. These exhibits do not exist.
 - 3. Exhibit IV – Rate Schedule. This exhibit is also referenced as “Schedule A.” It is attached to the Agreement labeled “Title IV-E Schedule A Rate Information.”
- B. Attachments to First Amendment.** The following are attached to this First Amendment and by this reference are incorporated into this First Amendment:
 - 1. OPERS Independent Contractor/Worker Acknowledgement.
- C. Conflicts.** In the event of a conflict between the terms of the Agreement and this First Amendment, the terms of this First Amendment shall prevail.
- D. Other Terms and Conditions Unchanged.** All terms and conditions of the Agreement not changed by this First Amendment remain the same, unchanged, and in full force and effect.
- E. Signatures.**
 - 1. Unless otherwise stated and unless the Agreement is otherwise signed by the Board or, where authorized, the Delaware County Administrator (“Administrator”) on behalf of the Board, the signatures of the Board or Administrator below shall be approval of both the Agreement and this First Amendment.
 - 2. Any person executing this First Amendment in a representative capacity hereby warrants that he/she has authority to sign this First Amendment or has been duly authorized by his/her principal to execute this First Amendment on such principal’s behalf and is authorized to bind such principal.
- F. Auditor’s Certification.** The Auditor’s Certification attached to this First Amendment shall serve as the Auditor’s Certification for the Agreement.

IN WITNESS WHEREOF, the Parties have executed the Agreement and this First Amendment as of the date of the signature of the Parties.

**SECOND AMENDMENT TO THE AGREEMENT
FOR TITLE IV-E AGENCIES AND PROVIDERS FOR THE PROVISION OF CHILD
PLACEMENT BETWEEN DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY
SERVICES AND A LOVING HEART YOUTH SERVICES, INC.**

This Second Amendment to the Agreement for Title IV-E Agencies and Providers for the Provision of Child Placement Between Delaware County Department of Job and Family Services (“DCDJFS”) and A Loving Heart Youth Services, Inc. (“Provider”) (“Second Amendment”) is entered into this August 8,

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2022. This Second Amendment adds the Delaware County Family and Children First Council (hereinafter, "DCFCFC") as a party when services are rendered by Provider pursuant to the terms of this Second Amendment. DCDJFS is the Administrative Agent for DCFCFC, and therefore they are related parties. DCDJFS and DCFCFC are collectively referred to as "Agency."

Whereas, DCDJFS and Provider have entered an Agreement and a First Amendment for Title IV-E Agencies and Providers for the Provision of Child Placement with a term of 07/06/22 through 06/30/23 ("Agreement"); and,

Whereas, Article XV of the Agreement allows the Parties to amend the Agreement via a written amendment signed by both parties; and,

Whereas, on occasion the Agency identifies children who require placement with a provider but who are not in Agency custody. There is alternative funding through DCFCFC to pay for services under these circumstances; and,

Whereas, DCDJFS and Provider desire and hereby amend the Agreement to include additional terms and conditions for the purpose of including DCFCFC as a party to the Agreement and First Amendment. This will allow Provider to render services to Agency clients that are not in Agency custody with payment for the services made through DCFCFC's funding sources; and,

Whereas, this Second Amendment is intended to define the responsibilities of the Parties under this alternative placement arrangement.

Now Therefore, the Parties agree to amend the Agreement as follows:

Section 1 – Changes in Terms and Conditions

The terms and conditions of the Agreement and First Amendment shall apply equally to this Second Amendment, except for the following terms which apply only for services under this Second Amendment:

Agreement

Article VI, Section D. – this section does not apply to services provided pursuant to this Second Amendment.

Article VIII – The words "Schedule C" shall be substituted in all instances where "Schedule A" appears in Article VIII.

Article XVI – For services provided pursuant to this Second Amendment, Notice shall be sent to Agency at the following address:

Delaware County Family and Children First Council
145 N Union St
Delaware, OH 43015

Notice shall also be sent to the legal guardian/custodian of the child at the address given to Provider by the Agency.

First Amendment

Section 1(B) – The words "Children's Services Assistant Director" shall be replaced with "Family & Children First Council Coordinator."

Section 1(H) – The words "Mr. Jeffrey Sell, Protective Services Administrator whose email address is jeffrey.sell2@jfs.ohio.gov" shall be replaced with:

"Ms. Rachel Layne, Family & Children First Council Coordinator whose email address is rachel.layne@jfs.ohio.gov."

Section 1(H) – The following words are removed from the Agreement for purposes of this Second Amendment only:

"Provider and Agency shall ensure service levels and per diem rates specified in an Individual Child Care Agreement (ICCA) are incorporated into the contract. In the event of a conflict between the per diem rate represented in an ICCA and the rates mutually agreed upon in the contract, rates in the contract shall prevail. In the event that an ICCA specifies a service level that is not yet included in the per diem rate schedule in the contract, Provider shall not provide the services for or bill the Agency for the services until the service level and related per diem rate has been incorporated into the contract through a contract amendment."

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Section 2(A)(3) - The words "Schedule C" shall be substituted in all instances where "Schedule A" appears.

Section 2 – Supplemental Terms and Conditions

The following terms and conditions shall be added to and supplement the terms of this Second Amendment, and shall apply only to services provided under this Second Amendment:

- A. Throughout Agreement and First Amendment**– In all instances where the Provider is required to give a report or notice to the Agency, the Provider must also give the same notice or report to the guardian/custodian of the child. Agency shall provide Provider with the contact information of the guardian/custodian.
- B. Custody of Child.** At all times while services are rendered under this Second Amendment, the child will remain in the custody of his or her legal guardian/custodian. In all instances where Provider must obtain consent for care or course of action, such consent must be obtained from the child’s legal guardian/custodian, with follow-up notice given to Agency.
- C. Funding – Multiple System Youth**
- D. Auditor’s Certification.** The Auditor’s Certification attached to this Second Amendment shall apply only to the Second Amendment.

IN WITNESS WHEREOF, the Parties have executed the Agreement and this First Amendment as of the date of the signature of the Parties.

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

15

RESOLUTION NO. 22-653

IN THE MATTER OF APPROVING THE THIRD AMENDMENT TO THE CONTRACT BETWEEN THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, THE DELAWARE COUNTY BOARD OF COMMISSIONERS, AND ENA, INC. FOR CHILD PLACEMENT SERVICES:

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

WHEREAS, the Director of Job & Family Services recommends approval of the following third amendment with ENA, Inc. for child placement services;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the third amendment to the contract between the Delaware County Department of Job and Family Services, the Delaware County Board of Commissioners, and ENA, Inc. for child placement services:

**Third Amendment
To
Contract for the Purchase of
Residential Treatment Care Services
Between
Delaware County Department of Job and Family Services
and
ENA, Inc.**

This Third Amendment of the Contract For The Provision of Residential Treatment Care Services is entered into this 8th day of August, 2022 by and between Delaware County Board of County Commissioners (hereinafter "Board"), whose address is 101 North Sandusky Street, Delaware, Ohio 43015, the Delaware County Department of Job and Family Services, a Title IV-E Agency, (hereinafter "Agency") whose address is 145 North Union Street, 2nd Floor, Delaware, Ohio 43015, and ENA, Inc. (hereinafter "Provider") whose address is 115 Private Road 977, Pedro, Ohio 45659 (hereinafter collectively the "Parties").

WHEREAS, the Parties entered into the Contract for Residential Treatment Care Services ("Contract") on June 28, 2021

WHEREAS, the parties agree to the addition of certain provisions to the Contract (collectively, "Provisions").

NOW THEREFORE, the Parties agree as follows:

- 1. The Parties agree to amend the Contract to add the following Provisions:
 - A. The contract shall be extended for the service period July 1, 2022 through June 30, 2023.

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- B. Appendix I updates Schedule A Per Diem Rates for the service period July 1, 2022 through June 30, 2023.
- C. Appendix II updates Schedule B Per Diem Rates for the service period July 1, 2022 through June 30, 2023.

2. Signatures

Any person executing this Third Amendment in a representative capacity hereby warrants that he/she has authority to sign this Third Amendment or has been duly authorized by his/her principal to execute this Third Amendment on such principal's behalf.

3. Conflicts

In the event of a conflict between the terms of the Contract, the First Amendment, the Second Amendment, and this Third Amendment, the terms of this Third Amendment shall prevail.

4. Terms of Agreement Unchanged

All terms and conditions of the Contract, the First Amendment, and Second Amendment, not changed by this Third Amendment remain the same, unchanged, and in full force and effect.

**Appendix I
Schedule A Rate Information
Per Diem Rates
July 1, 2022 – June 30, 2023
ENA, Inc.**

Service Description	Service ID	Person	Person ID	Maintenance Per Diem	Administration Per Diem	Case Management Per Diem	Transportation / Administration Per Diem	Transportation / Maintenance Per Diem	Other Direct Services Per Diem	Behavioral Healthcare Per Diem	Other Per Diem Cost	Total Per Diem Cost	Cost Begin Date	Cost End Date
Residential Services - Level 1 (20662)	1507540			\$445.00	\$5.00							\$450.00	07/01/2022	06/30/2023
Residential Services - Level 2 (20743)	2167672			\$478.00	\$8.00							\$486.00	07/01/2022	06/30/2023
Residential Services - Level 3 (20744)	2167673			\$503.00	\$13.00							\$516.00	07/01/2022	06/30/2023
Residential Services - Level 4 (20849)	6263663			\$526.00	\$15.00							\$541.00	07/01/2022	06/30/2023

**Appendix II
Schedule B Rate Information
Per Diem Rates
July 1, 2022 – June 30, 2023
ENA, Inc.**

Service Description	Service ID	Person	Person ID	Maintenance Per Diem	Administration Per Diem	Case Management Per Diem	Transportation / Administration Per Diem	Transportation / Maintenance Per Diem	Other Direct Services Per Diem	Behavioral Healthcare Per Diem	Other Per Diem Cost	Total Per Diem Cost	Cost Begin Date	Cost End Date
Residential Services - Level 1 (20662)	1507540			\$445.00	\$5.00							\$450.00	07/01/2022	06/30/2023
Residential Services - Level 2 (20743)	2167672			\$478.00	\$8.00							\$486.00	07/01/2022	06/30/2023
Residential Services - Level 3 (20744)	2167673			\$503.00	\$13.00							\$516.00	07/01/2022	06/30/2023
Residential Services - Level 4 (20849)	6263663			\$526.00	\$15.00							\$541.00	07/01/2022	06/30/2023

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

**16
RESOLUTION NO. 22-654**

IN THE MATTER OF ADOPTING A DELAWARE COUNTY BULK FUEL INVENTORY AND USAGE POLICY:

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

WHEREAS, Delaware County owns, operates, and maintains vehicle refueling sites at the Delaware County

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Service Station and various fuel depots within Delaware County; and

WHEREAS, the Director of Facilities recommends adoption of a Bulk Fuel Inventory and Usage Policy;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby adopts the following Delaware County Bulk Fuel Inventory and Usage Policy:

DELAWARE COUNTY

Subject	Effective	Supersedes	This Sheet	Total
Bulk Fuel Inventory and Usage		NEW	1	2

1.0 Purpose

To provide a procedure for the internal controls of bulk fuel inventories and usage.

2.0 Scope

All Delaware County employees.

3.0 Distribution

To all Delaware County employees.

4.0 Definitions

“Fuel Management System” means the system comprised of a software application and subsystems, which cooperate for data entry, collection, display, and reporting of system generated fueling/inventory transactions and vehicle telematics.

“FMU” means the fuel management unit that controls fueling at the fuel island dispenser(s). The FMU controls access to the fuel records. This data is then downloaded by the Central Controller software where it is used for accounting or fleet management purposes.

“Prokee” means a proprietary, electronic, programmable chip embedded in a hard-plastic casing.

“AIM” means an automotive information module used to authorize fueling without requiring user interaction with the FMU (passive fueling) and interfaces with the OBD II port on the vehicle accessing readable information from the vehicle’s computer. This allows information to be recorded by the FMU from the vehicle such as vehicle ID, odometer, current mileage, date, time, fuel quantity, fuel type, engine hours, PTO hours and much more.

5.0 Policy

1. This policy applies to all Delaware County employees that operate and/or are required to refuel a County vehicle at one of the County’s refueling stations. Such use of the County’s fuel inventory shall be for the purpose of conducting County business. Under no circumstance will the usage of fuel purchased by the County be permitted for personal usage and / or in a personal vehicle or personal equipment.
2. To secure the County’s fuel inventory the County uses a Fuel Management System.
 - a. Each County vehicle will be issued a Prokee or have an AIM device installed on the vehicle. A Prokee may be issued to refuel outdoor equipment and/or fuel cans for use in County equipment.
 - b. As applicable, a Prokee will be set to require the current odometer reading to be entered into the system when refueling. Employees are required to accurately enter all information into the system.
 - c. Authorized employees will be issued a User ID number that must be used in conjunction with the Prokee or AIM to get fuel. Upon termination of employment or if an employee no longer needs access to the County Fuel Management System the supervisor will immediately notify the Service Center in order to terminate the access.
 - d. Employees shall contact the Service Center immediately to replace a lost, stolen or damaged Prokee.
 - e. The Fuel Management System will record for each transaction the date and time, site/FMU #, vehicle ID #, User ID #, hose, product, quantity, and current odometer.
3. When refueling employees shall not allow anyone else to use a dispenser they have authorized to refuel another vehicle.
4. The Lead Mechanic for the tanks operated by the Service Center and the Shop Superintendent for the Engineer’s tanks, or their designee, shall place all orders for bulk fuels. A record of the date, product, amount, and cost per gallon shall be logged.
5. Monthly the Lead Mechanic and the Shop Superintendent will run reports on the Fuel Management System to monitor for any inconsistencies in the number of transaction, time, mileage, quantities, fuel efficiency, etc. that could indicate inappropriate use of fuel. Any such inconsistencies shall be reported to the appointing authority/supervisor.

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- 6. The Lead Mechanic and the Shop Superintendent will run reports on the Fuel Management System to reconcile usage to quantities ordered and received.

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

17

RESOLUTION NO. 22-655

IN THE MATTER OF ADOPTING AN UPDATED DELAWARE COUNTY COOPERATIVE REFUELING POLICY:

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

WHEREAS, Delaware County owns, operates, and maintains vehicle refueling sites at the Delaware County Service Station and various fuel depots within Delaware County; and

WHEREAS, in the interest of cooperation and in furtherance of the State of Ohio’s promotion of shared government resources, the Delaware County Board of Commissioners desires to permit certain other governmental entities within Delaware County to utilize the refueling sites, subject to established procedures and reimbursement requirements; and

WHEREAS, the Director of Facilities recommends adoption of an updated Delaware County Cooperative Refueling Policy;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby adopts the following Delaware County Cooperative Refueling Policy:

DELAWARE COUNTY COOPERATIVE REFUELING POLICY

- 1.0 Purpose: Delaware County owns, operates, and maintains vehicle refueling sites at the Delaware County Service Station and various fuel depots within Delaware County. This policy shall set forth the terms and conditions for certain governmental entities to utilize the refueling sites and for the entities to reimburse Delaware County for such utilization. The policy shall be known as the Delaware County Cooperative Refueling Policy (hereinafter referred to as the “Policy”).
- 2.0 Scope: The Policy shall pertain to Delaware County agencies subject to the county cost allocation plan, the Delaware County Board of Elections (“BOE”), the Delaware General Health District (“GHD”), the Delaware County Office of Homeland Security and Emergency Management (“EMA”), the Delaware Soil and Water Conservation District (“SWCD”), and any Delaware County township that enters into an agreement pursuant to this Policy (hereinafter referred to individually as a “Participating Entity” and collectively as “Participating Entities”).
- 3.0 Participation: A Participating Entity that desires to receive refueling privileges in accordance with this Policy shall submit a request in writing to the Delaware County Director of Facilities. The Director of Facilities shall submit the request, with the Director of Facilities’ recommendation, to the County Administrator for approval or disapproval. In the case of a Participating Entity that is a Delaware County township, the County Administrator is authorized, pursuant to R.C. 305.30, to execute the participation agreement, provided the term thereof does not exceed three (3) years. The Director of Facilities shall maintain a roster of approved Participating Entities.
- 4.0 Refueling Procedures: Upon the County Administrator’s approval of a Participating Entity, the Director of Facilities shall issue a unique key and passcode to the Participating Entity for use at the designated refueling site(s). The Participating Entity shall limit refueling to legitimate public purposes and shall maintain records sufficient to document that all refueling is for a legitimate public purpose. The Participating Entity shall be responsible for securing the key and passcode and shall be held financially responsible for all refueling attributed to such assigned key and passcode, regardless of whether such refueling is authorized. The Director of Facilities shall prepare invoices at regular intervals showing the fuel usage and associated costs, including any surcharge, for each key and passcode and shall submit the invoices to the Participating Entity assigned the respective key and passcode. Invoices shall be paid in accordance with Section 7.0 within thirty (30) days of the date of issuance.
- 5.0 Supply Shortages and Emergencies: Delaware County reserves the right to limit, suspend, or terminate refueling privileges when, in the opinion of the County Administrator upon advice of the Director of Facilities, such action is deemed necessary by a supply shortage or other emergency.
- 6.0 Limits on Refueling: Participating Entities that are Delaware County townships shall be limited to refueling not to exceed an aggregate of ten percent (10%) of the annual fuel usage purchased through the Delaware County Facilities Management Office.
- 7.0 Reimbursement: A Participating Entity shall reimburse Delaware County as follows:

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- 7.1 Delaware County agencies subject to the county cost allocation plan shall reimburse the county general fund via a memo transfer in accordance with the cost allocation plan without a surcharge.
- 7.2 The BOE, GHD, EMA, and SWCD shall reimburse the county general fund via a memo transfer and shall be assessed a surcharge of \$0.10 per gallon.
- 7.3 Delaware County townships shall reimburse Delaware County in accordance with the applicable participation agreement, which shall include assessment of a surcharge of \$0.10 per gallon.
- 7.4 The County Administrator may, upon advice of the Director of Facilities, modify the surcharge assessed in accordance with Sections 7.2 and 7.3 to reflect Delaware County’s actual expenses incurred to maintain the fuel tanks and systems. The Director of Facilities shall provide the Participating Entities with written notice of any modification to the surcharge at least thirty (30) days prior to the effective date of the modification.
- 8.0 Effective Date: This Policy shall be effective immediately upon adoption by the Delaware County Board of Commissioners.
- 9.0 Township Agreement Form: The form of any participation agreement with a Delaware County township shall substantially conform to the following:

**AGREEMENT TO ALLOW TOWNSHIP TO UTILIZE
DELAWARE COUNTY REFUELING SITES**

ARTICLE 1 – PREAMBLE

This Agreement is entered into this ____ day of _____, _____, by and between the Delaware County Board of Commissioners (“County”), whose address is 91 North Sandusky Street, Delaware, Ohio 43015, and the _____ Township Board of Trustees (the “Township”), whose address is _____ (hereinafter collectively the “Parties”).

ARTICLE 2 – PURPOSE

The purpose of this Agreement is to provide for the conditions on which the County shall allow the Township to utilize the <designated refueling sites> (the “Facility”), for refueling purposes. This purpose is limited to the use of the fuel pumps at the Facility in accordance with this Agreement and shall not extend to use of the Facility for any other purpose.

ARTICLE 3 – TERM

This Agreement shall take effect immediately upon the ratification by both Parties hereto and shall continue in effect until _____, whereupon it shall terminate. The Parties may, on or before that date, agree to extend or renew this Agreement, which must be approved in writing by both Parties.

ARTICLE 4 – COMPENSATION

In consideration for use of the Facility, the Township agrees to pay the County for all fuel pumped in accordance with this Agreement. The cost of the fuel shall be based on the price paid by the County to procure the fuel, plus a surcharge of \$0.10 per gallon. The surcharge shall be subject to modification by the County Administrator to reflect the County’s actual expenses incurred to maintain the fuel tanks and systems. The County shall provide the Township with written notice of any modification to the surcharge at least thirty (30) days prior to the effective date of the modification. The Township shall be provided with one or more fuel management system keys with unique access codes. The County shall submit monthly invoices to the Township for all fuel pumped in accordance with this Agreement, itemized by access code, and indicating the date of the use and the amount of fuel pumped. The Township shall pay all invoices within thirty (30) days of receipt thereof.

In the event the Township has not submitted timely payment, the full amount owed shall be made by the retention in the county treasury of the amounts due from taxes collected for the Township, and the County Auditor and County Treasurer all be governed by this payment provision in settling the accounts for such taxes.

ARTICLE 5 – FACILITY USE

The Township use of the Facility shall be limited to the fuel pumps and shall be subordinate to all use by the County. In the event of a supply shortage or other emergency, use of the Facility may, in the sole discretion of the County, be limited to the County. The Township shall ensure that its use of the Facility is restricted to the Township’s public purposes and shall immediately report any misuse of the Facility by Township personnel.

ARTICLE 6 – PARTIES RESPONSIBLE FOR THEIR OWN ACTIONS

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The County and the Township agree to be and shall be responsible for their own respective actions, and the actions of their respective officers, employees, agents, representatives, volunteers, servants, etc., arising from this Agreement. Therefore, each Party agrees to be individually and solely responsible for any and all accidents, liability, losses, damage, injury, including death, and/or related expenses that each may incur as a result of their own actions in the performance of this Agreement.

ARTICLE 7 – INSURANCE

The Parties certify that, for the full term of this Agreement, they each shall be covered by self-insurance and/or general liability insurance with a combined minimum limit of One Million Dollars (\$1,000,000.00). The Parties shall be provided proof of such insurance upon a request made in writing. Except in the case of self-insurance, any such general liability insurance coverage shall be issued by companies authorized to issue such policies within the State of Ohio.

ARTICLE 8 – TERMINATION

Either Party may terminate this Agreement for cause upon the occurrence of breach or default by providing written notice of termination to the other Party. Termination for cause shall be effective immediately upon provision of the written notice. Either Party may terminate this Agreement for convenience upon providing ninety (90) days written notice of termination to the other Party.

ARTICLE 9 – DISPUTE RESOLUTION

The Parties agree to submit any disputes arising under this Agreement to informal direct negotiations. If a resolution cannot be reached by direct negotiations, either Party may take any action authorized by law to resolve the dispute, but the Parties agree to engage in good faith negotiations prior to any formal legal or administrative action.

ARTICLE 10 – MISCELLANEOUS

A. 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.

B. ENTIRE AGREEMENT

This Agreement shall constitute the entire understanding and agreement among the Parties, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the Parties.

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

**18
RESOLUTION NO. 22-656**

**IN THE MATTER OF APPROVING THE PLAT OF SUBDIVISION FOR PIATT PRESERVE
EXTENSION SECTION 1 REVISION:**

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

WHEREAS, DR Horton- Indiana, LLC, previously submitted the Plat of Subdivision (“Plat”) for Piatt Preserve Extension Section 1, including related development plans (“Plans”) and requested approval thereof by the Board of Commissioners of Delaware County (the “Board”); and

WHEREAS, per Resolution No. 22-402, the Board approved the Plat on May 16, 2022; and

WHEREAS, the Plat was recorded on June 7, 2002, and was subsequently determined to contain errors in the lot numbers; and

WHEREAS, the Delaware County Recorder’s Office has determined that the corrections needed are more extensive than noting a scrivener’s error on the Plat and a new plat is required to be recorded to correct the errors in the lot numbers;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the revised plat of subdivision for Piatt Preserve Extension Section 1:

Situated in the Township of Berlin and being a part of Farm Lots 23, Section 3, Township 4N, Range 18W, County of Delaware, State of Ohio, United States Military Lands, and being 22.659 acres, being 17.184 acres, and being 5.475 acres out of a 26.056 acre parcel conveyed to DR Horton- Indiana, LLC, a Delaware Limited Liability Company, by deeds of record in O.R. 1648, PG. 887-897. All references to records being on file in

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the Office of the Recorder, Delaware County, Ohio. Cost is \$0 (previously paid).

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

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RESOLUTION NO. 22-657

IN THE MATTER OF APPROVING AN AGREEMENT WITH MICROSOFT ENTERPRISE ENROLLMENT FOR MICROSOFT OFFICE 365:

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

WHEREAS, the Director of Information Technology recommends approval of an agreement between Delaware County Microsoft Enterprise Enrollment for Microsoft Office 365;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the agreement with Microsoft Enterprise Enrollment for Microsoft Office 365, as follows:

This Microsoft Enterprise Enrollment is entered into between the entities as identified in the signature form as of the effective date. Enrolled Affiliate represents and warrants it is the same Customer, or an Affiliate of the Customer, that entered into the Enterprise Agreement identified on the program signature form.

This Enrollment consists of: (1) these terms and conditions, (2) the terms of the Enterprise Agreement identified on the signature form, (3) the Product Selection Form, (4) the Product Terms, (5) the Online Services Terms, (6) any Supplemental Contact Information Form, Previous Agreement/Enrollment form, and other forms that may be required, and (7) any order submitted under this Enrollment. This Enrollment may only be entered into under a 2011 or later Enterprise Agreement. By entering into this Enrollment, Enrolled Affiliate agrees to be bound by the terms and conditions of the Enterprise Agreement.

All terms used but not defined are located at <http://www.microsoft.com/licensing/contracts>. In the event of any conflict the terms of this Agreement control.

Effective date. If Enrolled Affiliate is renewing Software Assurance or Subscription Licenses from one or more previous Enrollments or agreements, then the effective date will be the day after the first prior Enrollment or agreement expires or terminates. If this Enrollment is renewed, the effective date of the renewal term will be the day after the Expiration Date of the initial term. Otherwise, the effective date will be the date this Enrollment is accepted by Microsoft. Any reference to “anniversary date” refers to the anniversary of the effective date of the applicable initial or renewal term for each year this Enrollment is in effect.

Term. The initial term of this Enrollment will expire on the last day of the month, 36 full calendar months from the effective date of the initial term. The renewal term will expire 36 full calendar months after the effective date of the renewal term.

Terms and Conditions

1. Definitions.

Terms used but not defined in this Enrollment will have the definition in the Enterprise Agreement. The following definitions are used in this Enrollment:

“Additional Product” means any Product identified as such in the Product Terms and chosen by Enrolled Affiliate under this Enrollment.

“Community” means the community consisting of one or more of the following: (1) a Government, (2) an Enrolled Affiliate using eligible Government Community Cloud Services to provide solutions to a Government or a qualified member of the Community, or (3) a Customer with Customer Data that is subject to Government regulations for which Customer determines and Microsoft agrees that the use of Government Community Cloud Services is appropriate to meet Customer’s regulatory requirements.

Membership in the Community is ultimately at Microsoft’s discretion, which may vary by Government Community Cloud Service.

“Enterprise Online Service” means any Online Service designated as an Enterprise Online Service in the Product Terms and chosen by Enrolled Affiliate under this Enrollment. Enterprise Online Services are treated as Online Services, except as noted.

“Enterprise Product” means any Desktop Platform Product that Microsoft designates as an Enterprise Product in the Product Terms and chosen by Enrolled Affiliate under this Enrollment. Enterprise Products must be licensed for all Qualified Devices and Qualified Users on an Enterprise-wide basis under this program.

“Expiration Date” means the date upon which the Enrollment expires.

“Federal Agency” means a bureau, office, agency, department or other entity of the United States Government.

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“Government” means a Federal Agency, State/Local Entity, or Tribal Entity acting in its governmental capacity.

“Government Community Cloud Services” means Microsoft Online Services that are provisioned in Microsoft’s multi-tenant data centers for exclusive use by or for the Community and offered in accordance with the National Institute of Standards and Technology (NIST) Special Publication 800-145. Microsoft Online Services that are Government Community Cloud Services are designated as such in the Use Rights and Product Terms.

“Industry Device” (also known as line of business device) means any device that: (1) is not useable in its deployed configuration as a general purpose personal computing device (such as a personal computer), a multi-function server, or a commercially viable substitute for one of these systems; and (2) only employs an industry or task-specific software program (e.g. a computer-aided design program used by an architect or a point of sale program) (“Industry Program”). The device may include features and functions derived from Microsoft software or third-party software. If the device performs desktop functions (such as email, word processing, spreadsheets, database, network or Internet browsing, or scheduling, or personal finance), then the desktop functions: (1) may only be used for the purpose of supporting the Industry Program functionality; and (2) must be technically integrated with the Industry Program or employ technically enforced policies or architecture to operate only when used with the Industry Program functionality.

“Managed Device” means any device on which any Affiliate in the Enterprise directly or indirectly controls one or more operating system environments. Examples of Managed Devices can be found in the Product Terms.

“Qualified Device” means any device that is used by or for the benefit of Enrolled Affiliate’s Enterprise and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Pro locally (in a physical or virtual operating system environment), or (2) a device used to access a virtual desktop infrastructure (“VDI”). Qualified Devices do not include any device that is: (1) designated as a server and not used as a personal computer, (2) an Industry Device, or (3) not a Managed Device. At its option, the Enrolled Affiliate may designate any device excluded above (e.g., Industry Device) that is used by or for the benefit of the Enrolled Affiliate’s Enterprise as a Qualified Device for all or a subset of Enterprise Products or Online Services the Enrolled Affiliate has selected.

“Qualified User” means a person (e.g., employee, consultant, contingent staff) who: (1) is a user of a Qualified Device, or (2) accesses any server software requiring an Enterprise Product Client Access License or any Enterprise Online Service. It does not include a person who accesses server software or an Online Service solely under a License identified in the Qualified User exemptions in the Product Terms.

“Reseller” means an entity authorized by Microsoft to resell Licenses under this program and engaged by an Enrolled Affiliate to provide pre- and post-transaction assistance related to this agreement;

“Reserved License” means for an Online Service identified as eligible for true-ups in the Product Terms, the License reserved by Enrolled Affiliate prior to use and for which Microsoft will make the Online Service available for activation.

“State/Local Entity” means (1) any agency of a state or local government in the United States, or (2) any United States county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer’s state and located within Customer’s state’s jurisdiction and geographic boundaries.

“Tribal Entity” means a federally recognized tribal entity performing tribal governmental functions and eligible for funding and services from the U.S. Department of Interior by virtue of its status as an Indian tribe.

“Use Rights” means, with respect to any licensing program, the use rights or terms of service for each Product and version published for that licensing program at the Volume Licensing Site and updated from time to time. The Use Rights include the Product-Specific License Terms, the License Model terms, the Universal License Terms, the Data Protection Terms, and the Other Legal Terms. The Use Rights supersede the terms of any end user license agreement (on-screen or otherwise) that accompanies a Product.

“Volume Licensing Site” means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. Order requirements.

a. Minimum order requirements. Enrolled Affiliate’s Enterprise must have a minimum of 250 Qualified Users or Qualified Devices. The initial order must include at least 250 Licenses for Enterprise Products or Enterprise Online Services.

(i) Enterprise commitment. Enrolled Affiliate must order enough Licenses to cover all Qualified Users or Qualified Devices, depending on the License Type, with one or more Enterprise Products or a mix of Enterprise Products and the corresponding Enterprise Online Services (as long as all Qualified Devices not covered by a License are only used by users covered with a user License).

(ii) Enterprise Online Services only. If no Enterprise Product is ordered, then Enrolled Affiliate need only maintain at least 250 Subscription Licenses for Enterprise Online Services.

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b. Additional Products. Upon satisfying the minimum order requirements above, Enrolled Affiliate may order Additional Products.

c. Use Rights for Enterprise Products. For Enterprise Products, if a new Product version has more restrictive use rights than the version that is current at the start of the applicable initial or renewal term of the Enrollment, those more restrictive use rights will not apply to Enrolled Affiliate's use of that Product during that term.

d. Country of usage. Enrolled Affiliate must specify the countries where Licenses will be used on its initial order and on any additional orders.

e. Resellers. Enrolled Affiliate must choose and maintain a Reseller authorized in the United States. Enrolled Affiliate will acquire its Licenses through its chosen Reseller. Orders must be submitted to the Reseller who will transmit the order to Microsoft. The Reseller and Enrolled Affiliate determine pricing and payment terms as between them, and Microsoft will invoice the Reseller based on those terms. Throughout this Agreement the term "price" refers to reference price. Resellers and other third parties do not have authority to bind or impose any obligation or liability on Microsoft.

f. Adding Products.

(i) Adding new Products not previously ordered. New Enterprise Products or Enterprise Online Services may be added at any time by contacting a Microsoft Account Manager or Reseller. New Additional Products, other than Online Services, may be used if an order is placed in the month the Product is first used. For Additional Products that are Online Services, an initial order for the Online Service is required prior to use.

(ii) Adding Licenses for previously ordered Products. Additional Licenses for previously ordered Products other than Online Services may be added at any time but must be included in the next true-up order. Additional Licenses for Online Services must be ordered prior to use, unless the Online Services are (1) identified as eligible for true-up in the Product Terms or (2) included as part of other Licenses.

g. True-up requirements. Enrolled Affiliate must submit an annual true-up order that accounts for any changes since the initial order or last order. If there are no changes, then an update statement must be submitted instead of a true-up order.

(i) Enterprise Products. For Enterprise Products, Enrolled Affiliate must determine the number of Qualified Devices and Qualified Users (if ordering user-based Licenses) at the time the true-up order is placed and must order additional Licenses for all Qualified Devices and Qualified Users that are not already covered by existing Licenses, including any Enterprise Online Services.

(ii) Additional Products. For Additional Products that have been previously ordered under this Enrollment, Enrolled Affiliate must determine the maximum number of Additional Products used since the latter of the initial order, the last true-up order, or the prior anniversary date and submit a true-up order that accounts for any increase.

(iii) Online Services. For Online Services identified as eligible for true-up in the Product Terms, Enrolled Affiliate may place a reservation order for the additional Licenses prior to use and payment may be deferred until the next true-up order. Microsoft will provide a report of Reserved Licenses ordered but not yet invoiced to Enrolled Affiliate and its Reseller. Reserved Licenses will be invoiced retrospectively to the month in which they were ordered.

(iii) Subscription License reductions. Enrolled Affiliate may reduce the quantity of Subscription Licenses at the Enrollment anniversary date on a prospective basis if permitted in the Product Terms, as follows:

- 1) For Subscription Licenses that are part of an Enterprise-wide purchase, Licenses may be reduced if the total quantity of Licenses and Software Assurance for an applicable group meets or exceeds the quantity of Qualified Devices and Qualified Users (if ordering user-based Licenses) identified on the Product Selection Form, and includes any additional Qualified Devices and Qualified Users added in any prior true-up orders. Step-up Licenses do not count towards this total count.
- 2) For Enterprise Online Services that are not a part of an Enterprise-wide purchase, Licenses can be reduced as long as the initial order minimum requirements are maintained.
- 3) For Additional Products available as Subscription Licenses, Enrolled Affiliate may reduce the Licenses. If the License count is reduced to zero, then Enrolled Affiliate's use of the applicable Subscription License will be cancelled.

Invoices will be adjusted to reflect any reductions in Subscription Licenses at the true-up order Enrollment anniversary date and effective as of such date.

(iv) Update statement. An update statement must be submitted instead of a true-up order if, since the initial order or last true-up order, Enrolled Affiliate's Enterprise: (1) has not changed the

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number of Qualified Devices and Qualified Users licensed with Enterprise Products or Enterprise Online Services; and (2) has not increased its usage of Additional Products. This update statement must be signed by Enrolled Affiliate's authorized representative.

- (v) **True-up order period.** The true-up order or update statement must be received by Microsoft between 60 and 30 days prior to each Enrollment anniversary date. The third-year true-up order or update statement is due within 30 days prior to the Expiration Date, and any license reservations within this 30 day period will not be accepted. Enrolled Affiliate may submit true-up orders more often to account for increases in Product usage, but an annual true-up order or update statement must still be submitted during the annual order period.
- (vi) **Late true-up order.** If the true-up order or update statement is not received when due, Microsoft will invoice Reseller for all Reserved Licenses not previously invoiced and Subscription License reductions cannot be reported until the following Enrollment anniversary date (or at Enrollment renewal, as applicable).

h. Step-up Licenses. For Licenses eligible for a step-up under this Enrollment, Enrolled Affiliate may step-up to a higher edition or suite as follows:

- (i) For step-up Licenses included on an initial order, Enrolled Affiliate may order according to the true-up process.
- (ii) If step-up Licenses are not included on an initial order, Enrolled Affiliate may step-up initially by following the process described in the Section titled "Adding new Products not previously ordered," then for additional step-up Licenses, by following the true-up order process.

i. Clerical errors. Microsoft may correct clerical errors in this Enrollment, and any documents submitted with or under this Enrollment, by providing notice by email and a reasonable opportunity for Enrolled Affiliate to object to the correction. Clerical errors include minor mistakes, unintentional additions and omissions. This provision does not apply to material terms, such as the identity, quantity or price of a Product ordered.

- j. **Verifying compliance.** Microsoft may, in its discretion and at its expense, verify compliance with this Enrollment as set forth in the Enterprise Agreement.

3. Pricing.

- a. **Price Levels.** For both the initial and any renewal term Enrolled Affiliate's Price Level for all Products ordered under this Enrollment will be Level "D" throughout the term of the Enrollment.
- b. **Setting Prices.** Enrolled Affiliate's prices for each Product or Service will be established by its Reseller. Except for Online Services designated in the Product Terms as being exempt from fixed pricing, As long as Enrolled Affiliate continues to qualify for the same price level, Microsoft's prices for Resellers for each Product or Service ordered will be fixed throughout the applicable initial or renewal Enrollment term. Microsoft's prices to Resellers are reestablished at the beginning of the renewal term.

4. Payment terms.

For the initial or renewal order, Microsoft will invoice Enrolled Affiliate's Reseller in three equal annual installments. The first installment will be invoiced upon Microsoft's acceptance of this Enrollment and remaining installments will be invoiced on each subsequent Enrollment anniversary date. Subsequent orders are invoiced upon acceptance of the order and Enrolled Affiliate may elect to pay annually or upfront for Online Services and upfront for all other Licenses.

5. End of Enrollment term and termination.

- a. **General.** At the Expiration Date, Enrolled Affiliate must immediately order and pay for Licenses for Products it has used but has not previously submitted an order, except as otherwise provided in this Enrollment.
- b. **Renewal option.** At the Expiration Date of the initial term, Enrolled Affiliate can renew Products by renewing this Enrollment for one additional 36-month term or by signing a new Enrollment. Microsoft must receive a Renewal Form, Product Selection Form, and renewal order prior to or at the Expiration Date. Microsoft will not unreasonably reject any renewal. Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at renewal.
- c. **If Enrolled Affiliate elects not to renew.**
 - (i) **Software Assurance.** If Enrolled Affiliate elects not to renew Software Assurance for any Product under its Enrollment, then Enrolled Affiliate will not be permitted to order Software Assurance later without first acquiring a new License with Software Assurance.
 - (ii) **Online Services eligible for an Extended Term.** For Online Services identified as eligible for an Extended Term in the Product Terms, the following options are available at the end of the Enrollment initial or renewal term.

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- 1) **Extended Term.** Licenses for Online Services will automatically expire in accordance with the terms of the Enrollment. An extended term feature that allows Online Services to continue month-to-month (“Extended Term”) is available. During the Extended Term, Online Services will be invoiced monthly at the then-current published price as of the Expiration Date plus a 3% administrative fee for up to one year. If Enrolled Affiliate wants an Extended Term, Enrolled Affiliate must submit a request to Microsoft at least 30 days prior to the Expiration Date.
- 2) **Cancellation during Extended Term.** At any time during the first year of the Extended Term, Enrolled Affiliate may terminate the Extended Term by submitting a notice of cancellation to Microsoft for each Online Service. Thereafter, either party may terminate the Extended Term by providing the other with a notice of cancellation for each Online Service. Cancellation will be effective at the end of the month following 30 days after Microsoft has received or issued the notice.

(iii) Subscription Licenses and Online Services not eligible for an Extended Term. If Enrolled Affiliate elects not to renew, the Licenses will be cancelled and will terminate as of the Expiration Date. Any associated media must be uninstalled and destroyed and Enrolled Affiliate’s Enterprise must discontinue use. Microsoft may request written certification to verify compliance.

d. Termination for cause. Any termination for cause of this Enrollment will be subject to the “Termination for cause” section of the Agreement. In addition, it shall be a breach of this Enrollment if Enrolled Affiliate or any Affiliate in the Enterprise that uses Government Community Cloud Services fails to meet and maintain the conditions of membership in the definition of Community.

e. Early termination. Any early termination of this Enrollment will be subject to the “Early Termination” Section of the Enterprise Agreement.

For Subscription Licenses, in the event of a breach by Microsoft, or if Microsoft terminates an Online Service for regulatory reasons, Microsoft will issue Reseller a credit for any amount paid in advance for the period after termination.

5. Government Community Cloud.

- a. **Community requirements.** If Enrolled Affiliate purchases Government Community Cloud Services, Enrolled Affiliate certifies that it is a member of the Community and agrees to use Government Community Cloud Services solely in its capacity as a member of the Community and, for eligible Government Community Cloud Services, for the benefit of end users that are members of the Community. Use of Government Community Cloud Services by an entity that is not a member of the Community or to provide services to non-Community members is strictly prohibited and could result in termination of Enrolled Affiliate’s license(s) for Government Community Cloud Services without notice. Enrolled Affiliate acknowledges that only Community members may use Government Community Cloud Services.
- b. All terms and conditions applicable to non-Government Community Cloud Services also apply to their corresponding Government Community Cloud Services, except as otherwise noted in the Use Rights, Product Terms, and this Enrollment.
- c. Enrolled Affiliate may not deploy or use Government Community Cloud Services and corresponding non-Government Community Cloud Services in the same domain.
- d. Use Rights for Government Community Cloud Services. For Government Community Cloud Services, notwithstanding anything to the contrary in the Use Rights:
 - (i) Government Community Cloud Services will be offered only within the United States.
 - (ii) Additional European Terms, as set forth in the Use Rights, will not apply.
 - (iii) References to geographic areas in the Use Rights with respect to the location of Customer Data at rest, as set forth in the Use Rights, refer only to the United States.

Enrollment Details

1. Enrolled Affiliate’s Enterprise.

- a. Identify which Agency Affiliates are included in the Enterprise. (Required) Enrolled Affiliate’s Enterprise must consist of entire offices, bureaus, agencies, departments or other entities of Enrolled Affiliate, not partial offices, bureaus, agencies, or departments, or other partial entities. Check only one box in this section. If no boxes are checked, Microsoft will deem

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the Enterprise to include the Enrolled Affiliate only. If more than one box is checked, Microsoft will deem the Enterprise to include the largest number of Affiliates:

- b. Please indicate whether the Enrolled Affiliate's Enterprise will include all new Affiliates acquired after the start of this Enrollment: Exclude future Affiliates

2. Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields. By providing contact information, Enrolled Affiliate consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at <https://www.microsoft.com/licensing/servicecenter>.

a. Primary contact. This contact is the primary contact for the Enrollment from within Enrolled Affiliate's Enterprise. This contact is also an Online Administrator for the Volume Licensing Service Center and may grant online access to others. The primary contact will be the default contact for all purposes unless separate contacts are identified for specific purposes

Name of entity (must be legal entity name)* Delaware County, OH

Contact name* First: Ron Last: Clayton

Contact email address* rclayton@co.delaware.oh.us

Street address* 145 N Union St

City* Delaware

State* OH

Postal code* 43015-1710

(Please provide the zip + 4, e.g. xxxxx-xxxx)

Country* United States

Phone* 740-833-2064

Tax ID

* indicates required fields

b. Notices contact and Online Administrator. This contact (1) receives the contractual notices, (2) is the Online Administrator for the Volume Licensing Service Center and may grant online access to others, and (3) is authorized to order Reserved Licenses for eligible Online Services, including adding or reassigning Licenses and stepping-up prior to a true-up order.

- o " Same as primary contact (default if no information is provided below, even if the box is not checked).

Contact name* First Jason Last Montgomery

Contact email address* jmontgomery@co.delaware.oh.us

Street address* 145 N Union St

City* Delaware

State* OH

Postal code* 43015-1710

(Please provide the zip + 4, e.g. xxxxx-xxxx)

Country* United States

Phone* 740-833-2054

Language preference. Choose the language for notices. English

" This contact is a third party (not the Enrolled Affiliate). Warning: This contact receives personally identifiable information of the Customer and its Affiliates.

* indicates required fields

c. Online Services Manager. This contact is authorized to manage the Online Services ordered under the Enrollment and (for applicable Online Services) to add or reassign Licenses and step-up prior to a true-up order.

Same as notices contact and Online Administrator (default if no information is provided below, even if box is not checked)

Contact name*: First Jason Last Montgomery

Contact email address* jmontgomery@co.delaware.oh.us

Phone* 740-833-2054

- o " This contact is from a third party organization (not the entity). Warning: This contact receives personally identifiable information of the entity.

* indicates required fields

d. Reseller information. Reseller contact for this Enrollment is:

Reseller company name* SHI International Corp.

Street address (PO boxes will not be accepted)* 290 Davidson Ave

City* Somerset

State* NJ

Postal code* 08873-4145

Country* United States

Contact name* Gabriela Garza

Phone* 888-764-8888

Contact email address* gabriela_garza@shi.com

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* indicates required fields

By signing below, the Reseller identified above confirms that all information provided in this Enrollment is correct.

Signature*

Printed name*

Printed title*

Date*

* indicates required fields

Changing a Reseller. If Microsoft or the Reseller chooses to discontinue doing business with each other, Enrolled Affiliate must choose a replacement Reseller. If Enrolled Affiliate or the Reseller intends to terminate their relationship, the initiating party must notify Microsoft and the other party using a form provided by Microsoft at least 90 days prior to the date on which the change is to take effect.

- e. If Enrolled Affiliate requires a separate contact for any of the following, attach the Supplemental Contact Information form. Otherwise, the notices contact and Online Administrator remains the default.
 - (i) Additional notices contact
 - (ii) Software Assurance manager
 - (iii) Subscriptions manager
 - (iv) Customer Support Manager (CSM) contact

3. Financing elections.

Is a purchase under this Enrollment being financed through MS Financing? Yes, xNo.

If a purchase under this Enrollment is financed through MS Financing, and Enrolled Affiliate chooses not to finance any associated taxes, it must pay these taxes directly to Microsoft.

The parties agree that the Enrollment is amended as follows:

1. On the first page of the Enrollment, the following is added after the second paragraph:

By entering into this Enrollment, the Enrolled Affiliate agrees that (1) it also has 25 or more Qualified Devices or Qualified Users; or (2) as a condition of entering into this Enrollment with 25-249 Qualified Devices or Qualified Users, Enrolled Affiliate has elected not to receive CD ROMs as part of the Enrollment and therefore no CD ROMs will automatically be shipped. If Enrolled Affiliate is enrolling with 25-249 Qualified Devices or Qualified Users and it would like to receive CD ROM Kits and updates, Enrolled Affiliate may order these through its Reseller for a fee.

The submission of this Amendment can only be placed against a 2011 Enterprise Agreement or an Enrollment that has the Updated EA Amendment terms and conditions applied. The submittal of this Amendment may not be contingent on submittal of a new Enterprise Agreement.

2. Section 2a of the Enrollment titled “Order Requirements”, is hereby amended and restated in its entirety with the following:

- a. **Minimum Order Requirements.** Enrolled Affiliate’s Enterprise must have a minimum of 25 Qualified Users or Qualified Devices.
 - (i) **Initial Order.** Initial order must include at least 25 Licenses from one of the four groups outlined in the Product Selection Form.
 - (ii) **If choosing Enterprise Products.** If choosing Enterprise Products in a specific group outlined in the Product Selection Form, Enrolled Affiliate’s initial order must include an Enterprise-wide selection of one or more Enterprise Products or a mix of Enterprise Products and corresponding Enterprise Online Services for that group.
 - (iii) **Additional Products.** Upon satisfying the minimum order requirements above, Enrolled Affiliate may order Additional Products.
 - (iv) **Country of Usage.** Enrolled Affiliate must specify the countries where Licenses will be used on its initial order and on any additional orders.
 - (v) **Enterprise Online Services only.** If no Enterprise Product is ordered, then Enrolled Affiliate need only maintain at least 25 Subscription Licenses for Enterprise Online Services.

3. Software Assurance renewal.

<p>Renewing Software Assurance: If Enrolled Affiliate will be renewing Products Software Assurance coverage from a separate agreement, check this box.</p>	<input type="checkbox"/>
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By checking the above box, a new section is added to the Enrollment entitled “Software Assurance Addition.” **Software Assurance Addition.** Enrolled Affiliate is permitted to and will include in its initial order under this Enrollment Software Assurance quantities from eligible Program’s identified in the table below, even though Enrolled Affiliate is not otherwise eligible to order such Software Assurance without simultaneously ordering a License.

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Enrolled Affiliate agrees that any perpetual Licenses received through the New Software Assurance shall supersede and replace the underlying Licenses, and the underlying Licenses are not to be transferred separately from any Licenses received through the New Software Assurance. Any remaining payment obligations with respect to the underlying Licenses shall continue in effect.

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

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

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RESOLUTION NO. 22-658

IN THE MATTER OF APPROVING AN AMENDMENT WITH ADVIZEX TECHNOLOGIES, LLC FOR MIGRATION SERVICES:

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

FIRST AMENDMENT TO ADVIZEX TECHNOLOGIES, LLC CONTRACT AND THE DELAWARE COUNTY AUDITOR’S OFFICE

This First Amendment is made between the Delaware County Auditor (“County”) and Advizex Technologies, LLC (“Contractor”), collectively the “Parties”.

WHEREAS, the County and the Contractor previously entered into an agreement titled Master Service Agreement (“Agreement”) on October 14, 2021, and the parties wish to amend the agreement,

THEREFORE, on exchange of mutual consideration and the parties’ mutual covenants and obligations, the parties agree as follows:

- 1. The Parties agree to add additional services as described and incorporated in attached Exhibit A, Advizex Statement of Work, and the following additions to the Agreement:

A) CERTIFICATION REGARDING FINDINGS FOR RECOVERY:

Contractor, by signature of its authorized representative below, hereby certifies that it is not subject to any current unresolved findings for recovery pending or issued against it by the State of Ohio.

B) INDEPENDENT CONTRACTOR ACKNOWLEDGEMENT/ NO CONTRIBUTION TO OPERS

The County is a public employer as defined in R.C. § 145.01(D). The County has classified Contractor 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 Contractor for services and/or deliverables rendered and/or received under or pursuant to this Contract. Contractor acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed Contractor of such classification and that no contributions will be made to OPERS. In support of being so informed and pursuant to R.C. § 145.038, Contractor agrees to and shall complete an OPERS Independent Contractor Acknowledgement Form (“Form”). The Form is attached hereto and by this reference is incorporated as a part of this Contract. The County shall retain the completed Form and immediately transmit a copy of it to OPERS.

C) CAMPAIGN FINANCE – COMPLIANCE WITH ORC § 3517.13

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

- D) Paragraph 9 shall be revised to state, “Maximum Pricing not to exceed \$49,200.”

- E) Omit Note 3. County shall not be responsible for travel expenses for Contractor.

- F) This Amendment may not be modified except by a writing signed by both parties.

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- G) Except as otherwise stated in this Amendment, all other terms and conditions of the Agreement remain in full force and effect.
- H) In the event that the terms of the Agreement conflict with the terms of this Amendment, the terms of this Amendment shall control.

The Parties, by and through their respective and proper officers, have on behalf of themselves or those whom they represent, signed this Amendment of their own free and voluntary will and agree to the Parties being bound thereby.

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

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ADMINISTRATOR REPORTS

Tracie Davies, County Administrator
-No reports.

Dawn Huston, Deputy Administrator
-No reports.

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COMMISSIONERS' COMMITTEES REPORTS

Commissioner Merrell

- Attended the Health Fair on Friday which was nicely done.
- Attended the groundbreaking ceremony for the Sawmill extension.
- Wishing a Happy belated Birthday to our clerk, Jennifer Walraven and an early birthday to Assistant Clerk, Sarah Dinovo.

Commissioner Benton

- Wishing our clerks Happy Birthdays.
- Attended the MORPC Executive meeting on Thursday afternoon.
- Led the opening ceremony for the Martial Arts competition held at Field House USA (formerly Sears at the Polaris Mall).
- We will have a Land Bank Special Meeting Thursday.

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RESOLUTION NO. 22-659

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

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

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

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

Section 1. The Board hereby adjourns into executive session for consideration of employment of a public employee or public official; for pending or imminent litigation.

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

RESOLUTION NO. 22-660

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 Mrs. Lewis Absent Mr. Benton Aye

There being no further business, the meeting adjourned.

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Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners