

**COMMISSIONERS JOURNAL NO. 79 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD DECEMBER 14, 2023**

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

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

**1  
RESOLUTION NO. 23-1074**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD DECEMBER 11, 2023:**

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on December 11, 2023; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

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

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

**2  
PUBLIC COMMENT**

James Andres – Item #11  
 Connie Skinner – Item #11

**3  
RESOLUTION NO. 23-1075**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR 1213, MEMO TRANSFERS IN BATCH NUMBERS MTAPR 1213:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR 1213, memo transfers in batch numbers MTAPR 1213, Procurement Card Payments and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO' Increase</b>			
P2300695 (PNC BANK) line 2	PROCUREMENT CARD	21411306-5300	\$5,000.00
P2300695 (PNC BANK) line 1	PROCUREMENT CARD	21411306-5201	\$3,500.00
P2300038 (PNC BANK)	PROCUREMENT CARD	20411305-5300	\$1,600.00
P2301561 (MS Consultants, Inc.)	URF Operations& Maintenance Projects	66611900-5410	\$10.832.77

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Account</u>	<u>Amount</u>

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

**4  
RESOLUTION NO. 23-1076**

**IN THE MATTER OF GRANTING ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, DONALD T. PLANK, PLANK LAW FIRM, LPA, REQUESTING ANNEXATION OF 6.357 ACRES OF LAND IN LIBERTY TOWNSHIP TO THE CITY OF POWELL:**

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

WHEREAS, on November 15, 2023, the Clerk to the Board of the Delaware County Commissioners received an annexation petition filed by Donald T. Plank, Plank Law Firm, LPA, agent for the petitioners, requesting annexation of 6.357 acres, more or less, from Liberty Township to the City of Powell; and

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WHEREAS, pursuant to section 709.023 of the Revised Code, if the Municipality or Township does not file an objection within 25 days after filing of the annexation petition, the Board at its next regular session shall enter upon its journal a resolution granting the proposed annexation; and

WHEREAS, 25 days have passed and the Clerk of the Board has not received an objection from the City of Powell or the Township of Liberty;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners grants the petition requesting annexation of 6.357 acres, more or less, from Liberty Township to the City of Powell.

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

**5  
RESOLUTION NO. 23-1077**

**IN THE MATTER OF SETTING DATE AND TIME FOR VIEWING AND PUBLIC HEARING FOR CONSIDERATION OF THE DRAINAGE IMPROVEMENT PETITION FOR THE WORTZ #459 WATERSHED, FILED BY CHRISTOPHER ACKER AND OTHERS:**

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

WHEREAS, on October 31, 2023, the Clerk of this Board gave notice to the Board of County Commissioners and the County Engineer of Delaware County, Ohio, on the filing with her of a petition signed by Christopher Acker and Others, to:

1. Generally improve the drainage, both surface and subsurface, to a good and sufficient outlet by replacing or repairing, or altering the existing improvement as required and/or creating new surface and subsurface drainage mains or laterals as requested by this petition.
2. In Delaware County, Brown Township, within the Wortz #459, watersheds and generally following, but not limited to, the course and termini of existing improvements.

WHEREAS, the proper bond has been filed with the clerk, conditioned to pay all costs associated in preparing for the view and first hearing if the petition is not granted or if the petition is for any cause dismissed;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners that February 22, 2024 at 10:00A.M., with the use of video technology at the Office of the Board of County Commissioners, 91 North Sandusky Street Delaware, Ohio 43015, be and the same is hereby fixed as the time and place for the view thereon; and

BE IT FURTHER RESOLVED that May 20, 2024, at 10:00A.M., at the Office of the Board of County Commissioners, 91 North Sandusky Street Delaware, Ohio, be and the same is hereby fixed as the time and place for the first hearing on the petition; and

BE IT FURTHER RESOLVED that notice of said view and hearing be given, as required by law.

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

**6  
RESOLUTION NO. 23-1078**

**IN THE MATTER OF SETTING DATE AND TIME FOR VIEWING AND PUBLIC HEARING FOR CONSIDERATION OF THE DRAINAGE IMPROVEMENT PETITION FOR THE BIG BEAR FARMS SECTION 2 PART 2 WATERSHED, FILED BY BIG BEAR FARMS HOMEOWNERS ASSOCIATION:**

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

WHEREAS, on November 21, 2023, the Clerk of this Board gave notice to the Board of County Commissioners and the County Engineer of Delaware County, Ohio, on the filing with her of a petition signed by Big Bear Farms Homeowners Association, to:

1. Generally improve the drainage, both surface and subsurface, to a good and sufficient outlet, by replacing, repairing, or altering the existing improvement as required and/or creating new surface and subsurface drainage mains or laterals, as requested by this petition, and to maintain these improvements.
2. In Delaware County, Liberty Township, within Section 2 Part 2 of the Big Bear Farms subdivision and generally following, but not limited to, the course and termini of existing improvements. This specifically includes, but is not limited to, the retention ponds located within Big Bear Farms Subdivision, immediately south of Seldom Seen Road.

WHEREAS, the proper bond has been filed with the clerk, conditioned to pay all costs associated in preparing for the view and first hearing if the petition is not granted or if the petition is for any cause dismissed;

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NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners that February 22, 2024 at 10:30A.M., with the use of video technology at the Office of the Board of County Commissioners, 91 North Sandusky Street Delaware, Ohio 43015, be and the same is hereby fixed as the time and place for the view thereon; and

BE IT FURTHER RESOLVED that May 13, 2024, at 10:00A.M., at the Office of the Board of County Commissioners, 91 North Sandusky Street Delaware, Ohio, be and the same is hereby fixed as the time and place for the first hearing on the petition; and

BE IT FURTHER RESOLVED that notice of said view and hearing be given, as required by law.

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

**7  
FIGHT AGAINST HUNGER GAMES 2023 - RECAP  
KAREN WADKINS  
KATIE STENMAN**

**8  
RESOLUTION NO. 23-1079**

**IN THE MATTER OF ESTABLISHING A NEW ORGANIZATION KEY, APPROVING A SUPPLEMENTAL APPROPRIATION AND RESCINDING SUPPLEMENTAL APPROPRIATIONS IN RESOLUTION 23-1043:**

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

<b>New Organization Key</b>			
21581312	2022 PUCO Hazardous Materials Training Grant		
<b>Supplemental Appropriations</b>			
21581312-5365	2022 PUCO Hazardous Materials Training Grant /Grant Related Services		12,500.00
<b>Supplemental Appropriations - Rescind</b>			
21581310-5365	PUCO Hazardous Materials Grant/Grant Related Services		12,500.00

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

**9  
RESOLUTION NO. 23-1080**

**IN THE MATTER OF APPROVING A SERVICES AGREEMENT BETWEEN THE BOARD OF COMMISSIONERS, DELAWARE, OHIO AND TERRACON CONSULTANTS, INC. FOR UNDERGROUND STORAGE TANK CLOSURES AT THE CHANNING STREET FACILITY:**

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

WHEREAS, the County Administrator recommends the approval of an agreement between the Board of Commissioners of Delaware County and Terracon Consultants, Inc., for the closure of underground storage tanks at the Channing Street facility;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the following agreement between the Board of Commissioners of Delaware County, Ohio and Terracon Consultants, Inc., for underground storage tank closure:

**AGREEMENT FOR SERVICES**

This AGREEMENT is between Delaware County OH (“Client”) and Terracon Consultants, Inc. (“Consultant”) for Services to be provided by Consultant for Client on the Delaware County Engineer Office project (“Project”), as described in Consultant’s Proposal dated 06/30/2023 (“Proposal”), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

**1. Scope of Services.** The scope of Consultant’s services is described in the Proposal, including but not limited to the Scope of Services section (“Services”), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. Consultant’s Services do not include the investigation or detection of, nor do recommendations in Consultant’s reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria,

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viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.

**2. Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order brother form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.

**3. Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.

**4. Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client is exempt from sales tax and shall submit to Consultant proper exemption certificates supporting Client's exemption from sales tax. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages.

**5. Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.

**6. LIMITATION OF LIABILITY.** CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$50,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.

**7. Indemnity.** Consultant shall indemnify and hold harmless Client and its respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by Consultant's negligent acts, errors, or omissions. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement.

**8. Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill

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ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**9. Insurance. Consultant** represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$2,000,000 ovr/ \$4,000,000 agg); (iii) automobile liability insurance (\$2,000,000 B.I. and P.D. combined single limit); (iv) umbrella liability (\$5,000,000 occ / agg); and (v) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client, its elected officials and employees, shall be named as additional insured with respect to all activities under this Agreement in the policies required by sections (ii), (iii), and (iv). Consultant shall requires all of its subcontractors to provide similar endorsements.

**10. CONSEQUENTIAL DAMAGES.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES. Reference Number: PN4237111

**11. Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.

**12. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.

**13. Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce- not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.

**14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take

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title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.

**15. Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.

**16. Utilities.** Unless otherwise stated in the Proposal, Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.

**17. Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any third parties, including Client's contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to unsafe site conditions. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes.

**18. Prohibited Interests.** Consultant agrees that no agent, officer, or employee of the Client 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 Client employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of Client.

**19. Independent Contractor.** The Parties acknowledge and agree that Consultant is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Client and the Consultant. Consultant also agrees that, as an independent contractor, Consultant assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. Consultant hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.

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

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

**22. 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.

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

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

**25. Client's Policies.** The Consultant shall adhere to all applicable Client 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

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volunteers performing services under this Agreement and/or for or on behalf of the Client to comply with all applicable Client policies and shall be responsible for such compliance. The Client 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 <https://humanresources.co.delaware.oh.us/policies/>. The Client reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time. Consultant will be notified of such change in order to be held to compliance with such policy.

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

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

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

BE IT FURTHER RESOLVED that the Board of Commissioners hereby approves requisition R2305434 to be converted into a purchase order.

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

**10  
RESOLUTION NO. 23-1081**

**IN THE MATTER OF AUTHORIZING THE SUBMITTING OF AN APPLICATION FOR THE BUILDING DEMOLITION AND SITE REVITALIZATION GRANT PROGRAM FOR THE COMMISSIONERS’ OFFICE:**

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

WHEREAS, the Director of Finance requests authorization to submit an application for the following grant to be used for the removal of underground fuel storage tanks within the 1405 US Highway 23 North property:

Source:	Ohio Department of Development
Grant Period:	July 4, 2023 – June 30, 2025
Grant Amount:	\$44,000.00
Local Match:	0.00
Total Grant Amount:	<u>\$44,000.00</u>

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

Section 1. The Board hereby authorizes the submitting of an application for the Building Demolition and Site Revitalization Program.

Section 2. The Board hereby designates the County Administrator as the authorized representative for the Grant with full authority to cause submission of the application, to take all other necessary actions, including approval and execution of the subrecipient agreement, to secure award of the Grant, and to accept the Grant on behalf of the Board. The Director of Finance shall be the grant contact for purposes of the Grant.

Section 3. When agreements, reports, or other documents require execution by the authorized representative, a copy thereof shall be provided to the Clerk of the Board, along with a copy of this Resolution.

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

**11  
RESOLUTION NO. 23-1082**

**IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN THE DELAWARE COUNTY SHERIFF’S OFFICE, THE DELAWARE COUNTY BOARD OF COMMISSIONERS, AND BURGESS & NIPLE, INC. FOR SHOOTING RANGE CONCEPT DEVELOPMENT:**

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

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WHEREAS, the Sheriff and Sheriff's Office Staff recommend approval of an agreement between the Delaware County Sheriff's Office, the Delaware County Board of Commissioners, and Burgess & Niple, Inc., regarding a shooting range concept development;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the following agreement between the Delaware County Sheriff's Office, the Delaware County Board of Commissioners, and Burgess & Niple, Inc., regarding shooting range concept development:

Mr. David Wiseman, CLEE  
Chief Deputy  
Professional Services Division  
Delaware County S.O.  
149 N. Sandusky Street  
Delaware, OH 43015

Re: Proposal No. 22-1157 (AC-60595)  
Shooting Range Concept Development

August 11, 2023

Dear Mr. Wiseman:

In accordance with our ongoing discussions, Burgess & Niple, Inc. (B&N) is pleased to submit this Proposal to the Delaware County Sheriff's Office (Owner) for development of a concept plan for the potential development of a new shooting range for the Owner's property located at 4981 County Home Road. The proposed range is desired to have a 200-yard rifle range; 50-yard pistol range; a tactical pistol range (paved for vehicular access); and a range building for offices, armory, restrooms, and classroom space.

Development of the concept plan will include evaluation of the existing site to determine the proper location, orientation, and needs of the new range. This includes assessment of the existing utilities in the area to determine their capacity and ability to meet the range needs. This assessment will also evaluate to meet the training needs of the department, potential impacts a range would have on the surrounding properties, parking facility needs, and permitting requirements. B&N will utilize these items for the development of concept plans for a proposed range for review and input from the department staff. The final recommended range layouts will then be summarized in a brief written letter/report along with an estimated design and construction budget for planning purposes.

THIS IS AN AGREEMENT effective as of December 14, 2023 ("Effective Date") between Owner and B&N. Your signature indicates acceptance of our Proposal and serves as notice to proceed with this instrument as an Agreement between the Owner and B&N.

Owner's Project, of which B&N's services under this Agreement are a part, is generally identified as follows:

- New Delaware County Sheriff's Office Gun Range Concept Plan Development (Project).

B&N's Services under this Agreement are generally identified as follows:

**1.01 Scope of Services**

- A. Review available information regarding the site located at 4981 County Home Road in Delaware County, Ohio, including but not limited to, published site topographic mapping through the Ohio Geographically Referenced Information Program (OGRIP), property line information from the County Auditor's mapping, wetlands from the National Wetland Inventory Maps, available facility drawings from the Owner, other pertinent information from the Owner, as well as surrounding utility information from utility providers such as:
- Del-Co Water;
  - Delaware County Sanitary Engineer's office for public sewers;
  - Delaware County Health Department (on-site septic systems);
  - Electric;
  - Natural Gas; and
  - Telecommunications – phone/internet.

Note that this will include a site visit to confirm utility capacities and types at the existing building, a preliminary wetland/waters evaluation to identify potential wetland areas that should be avoided in the plan development if possible, and other potential site issues that may impact the site layout.

- B. Visit the site once to identify potential wetland areas/features, drainage patterns, neighboring residential or business locations where noise from the range may be a concern, and other pertinent aspects of the property that may impact the selected location for the shooting range.
- C. Using the information collected in Tasks A and B, and the range needs previously discussed with the Owner's staff, identify potential rough site layouts/orientation for discussion



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purposes, including identification of shot fall danger zones for potential likely range orientations.

- D. Meet once with the Owner's personnel to discuss/review the desired range amenities and projected use. During this meeting, also discuss the potential concept layouts that have been developed for the range to identify general preferences for the new range, as well as safety features and operations proposed.
- E. Based on the collected information and the discussions from the initial concept planning meeting, refine the layouts into a proposed site and building floorplan layout. This will include consideration of utility routing, parking lot layout, and range amenities (shooting sheds, baffles, lighting, backstops/side berms, target distances, and Americans with Disabilities Act (ADA) access. The concept plans will be submitted to the Owner for review and comment.
- F. Meet with the Owner to review the refined concept plans to discuss questions or comments that may be developed through the plan review.
- G. Adjust the concept plans based on the Owner's comments and develop a budgetary cost estimate for design, permitting and construction of the range. Note that the cost estimate will be separated into the different ranges, buildings, and amenities so that the range may be constructed in phases or so that the layout may be easily adjusted to meet any anticipated budgetary constraints.
- H. Summarize the findings in a brief written summary along with a listing of anticipated permitting requirements, the concept plans, and cost estimates for review by the Owner. Meet once with the Owner to review the written summary and findings.

Owner and B&N further agree as follows:

**2.01 Basic Agreement and Period of Service**

- A. B&N shall complete its services within a reasonable time.
- B. If authorized by Owner, or if required because of changes in the Project, B&N shall furnish services in addition to those set forth above. Owner shall pay B&N for its services as set forth in Section 3 below.

**3.01 Basis of Payment—Lump Sum**

- A. Using the Scope of Work outlined in Section 1.01 and procedures set forth below, Owner shall pay B&N as follows:
  - 1. A Lump Sum amount of \$22,800.
- B. The portion of the compensation amount billed monthly for B&N's services will be based upon B&N's estimate of the percentage of the total services actually completed during the billing period.
- C. The maximum compensation owed to B&N by Owner shall be \$22,800.00, unless subsequently modified by mutual written agreement.
- D. For additional services B&N will negotiate with the Owner a modification to the fee.

**3.02 Invoicing**

- A. B&N shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. In addition, B&N may, after giving seven days written notice to Owner, suspend services under this Agreement until B&N has been paid in full all amounts due for services, expenses, and other related charges.. Payments will be credited first to interest and then to principal.

If the account remains delinquent for more than 30 days, B&N shall have the right to cease all services on the Project without notice.

**3.03 Tax Clause**

If after the Effective Date any governmental entity takes a legislative action that imposes taxes, fees, or charges on B&N's services or compensation under this Agreement, then B&N may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall reimburse B&N for the cost of such invoiced new taxes, fees, and charges; such reimbursement shall be in addition to the compensation to which B&N is entitled. If Owner is tax-exempt, Owner shall provide certificate of exemption to B&N upon request. B&N shall be responsible for any applicable fees, taxes, or charges if Owner is tax-exempt.

**4.01 Termination**

- A. The obligation to continue performance under this Agreement may be terminated:

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1. For cause,
  - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay B&N for its services is a substantial failure to perform and a basis for termination.
  - b. By B&N:
    - 1) Upon seven days written notice if owner demands that B&N furnish or perform services contrary to B&N's responsibilities as a licensed professional; or
    - 2) Upon seven days written notice if B&N's services for the Project are delayed for more than 90 days for reasons beyond B&N's control.

B&N shall have no liability to Owner on account of a termination by B&N under Section 4.01.A.1.b.
  - c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Section 4.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. For convenience, by Owner effective upon B&N's receipt of written notice from Owner.

- B. The terminating party under Section 4.01.A may set the effective date of termination at a time up to 30 days later than otherwise provided to allow B&N to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- C. In the event of any termination under Section 4.01, B&N will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination.

**5.01 Successors, Assigns, and Beneficiaries**

- A. Owner and B&N are hereby bound and the successors, executors, administrators, and legal representatives of Owner and B&N (and to the extent permitted by Section 5.01.B the assigns of Owner and B&N) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor B&N may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or B&N to any contractor, subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and B&N and not for the benefit of any other party.

**6.01 General Considerations**

- A. The standard of care for all professional engineering and related services performed or furnished by B&N under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. B&N makes no warranties, express or implied, under this Agreement or otherwise, in connection with B&N's services. Subject to the foregoing standard of care, B&N and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

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- B. B&N shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall B&N have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work.
- C. This Agreement is to be governed by the laws of the State of Ohio.
- D. B&N neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor. B&N is not responsible for variations between actual construction bids or costs and B&N's opinions or estimates regarding construction costs.
- E. B&N shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except B&N's own employees, agents, consultants, or subcontractors) at the Project site or otherwise furnishing or performing any construction work; or for any decision made regarding the construction contract requirements, or any application, interpretation, or clarification of the construction contract other than those made by B&N.
- F. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by B&N's Joint Contract Documents Committee (EJCDC C-700, 2013 Edition) unless the parties agree otherwise.
- G. All documents prepared or furnished by B&N are instruments of service, and B&N retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Unless subject to Ohio's Public Records Act, Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by B&N of full payment for all services relating to preparation of the documents and subject to the following limitations: (1) Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by B&N, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by B&N; (2) any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by B&N, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to B&N or to its officers, directors, members, partners, agents, employees, and consultants.
- H. To the fullest extent permitted by law, Owner and B&N (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that B&N's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by B&N, whichever is greater.
- I. Insurance: The insurance maintained by B&N is summarized below:
1. B&N shall comply with all Workers' Compensation laws and, if required, provide certificates of coverage in connection with this Agreement.
  2. During the term of this Agreement, B&N will maintain in full force and effect liability insurance coverage, and will provide to the Owner certificates confirming such coverage, upon request. Such coverage shall be as follows:
 

General Liability Coverage: B&N shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.

Automobile Liability Coverage: B&N shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.

Workers' Compensation Coverage: B&N shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.

Professional Liability Insurance: B&N hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional

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services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.

Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required under this Section. B&N shall require all of its subcontractors to provide like endorsements.

Proof of Insurance: Prior to the commencement of any work under this Agreement, B&N, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. B&N will replace certificates for any insurance expiring prior to completion of work under this Agreement.

- J. Indemnification by B&N: B&N shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of B&N or B&N's officers, directors, members, partners, agents, employees, or Consultants.
- K. Owner and B&N agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute may be mediated if both Parties agree to mediate the dispute as evidenced by mutual written agreement. If mediation is pursued and is unsuccessful, then the parties may still exercise their rights at law. This Section does not require a Party to pursue mediation of a dispute prior to exercising a right in contract or at law.
- L. The subject headings contained in this Agreement are for convenience only and shall not effect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- M. 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.
- N. 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.
- O. B&N certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- P. 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. This Agreement may be executed in Counterparts.
- Q. B&N shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. B&N shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work 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 B&N to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.

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- R. B&N agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. B&N shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- S. B&N hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

B&N certifies it will comply with all applicable laws regarding Non-Discrimination/Equal Opportunity and will not discriminate.

**7.01 Total Agreement**

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and B&N and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

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

**12  
RESOLUTION NO. 23-1083**

**IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN THE DELAWARE COUNTY SHERIFF’S OFFICE, THE DELAWARE COUNTY BOARD OF COMMISSIONERS, AND TRINITY SERVICES GROUP, INC. FOR FOOD SERVICES AT THE DELAWARE COUNTY JAIL:**

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

WHEREAS, the Sheriff and Sheriff’s Office Staff recommend approval of an agreement between the Delaware County Sheriff’s Office, the Delaware County Board of Commissioners, and Trinity Services Group, Inc., regarding food services at the Delaware County Jail;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the following agreement between the Delaware County Sheriff’s Office, the Delaware County Board of Commissioners and Trinity Services Group, regarding food services at the Delaware County Jail:

**FOOD SERVICES AGREEMENT**

THIS AGREEMENT is made by and between Delaware County, through the Delaware County Board of Commissioners, ("Client"), and Trinity Services Group, Inc., a Florida corporation with principal offices located at 477 Commerce Boulevard, Oldsmar, FL 34677- 3018 ("Trinity").

**WITNESSETH:**

WHEREAS Client has issued a Request for Proposal for Inmate Food Services at the Delaware County Jail ("RFP") and Trinity submitted its proposal to provide the necessary food services ("Proposal");and

WHEREAS Client desires to accept the Proposal and avail itself of Trinity's services; and

WHEREAS Trinity desires to perform such services for Client;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto, intending to be legally bound hereby, agree as follows:

**SECTION 1. CLIENT'S GRANT TO TRINITY**

Client grants to Trinity, as an independent contractor, the exclusive right to operate inmate food services at Delaware County Jail (such location hereinafter referred to as the "Premises"), and the exclusive right to serve to inmates, staff, and other persons at such Premises food products, non-alcoholic beverages, and other such articles ("Products") as shall be approved by the Client (such food service hereinafter referred to as "Services").

**SECTION 2. TRINITY'S RESPONSIBILITIES**

**2.1** Pursuant to the terms, conditions and requirements of the RFP and Trinity's Proposal, both of which are incorporated herein by this reference, and the provisions of this Agreement, Trinity will

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operate and manage its Services hereunder at the Premises and keep its Services adequately serviced and supplied with appropriate merchandise and food products of good quality at prices as agreed upon by the parties. Such Services shall meet or exceed the requirements set forth in the RFP.

**2.2** Trinity agrees: (i) to comply with PREA standards; (ii) to comply with all Federal state, and local laws and regulations governing the preparation, handling, and serving of foods; (iii) to procure, post as required by law and keep in effect all necessary licenses, permits, and food handler's cards required by law; (iv) meet all guidelines as prescribed by the American Correctional Association regarding food service. (v) meet all guidelines as prescribed by the American Correctional Association and Ohio Department of Rehabilitation and Correction Standards for Jails in Ohio: Full Service & Minimum Security Jails regarding food service. Trinity agrees to pay all Federal state, and local taxes which may be assessed against Trinity's equipment or merchandise while in the Premises, as well as all Federal, state, and local taxes assessed in connection with the operation of its Services at the Premises. All costs in connection with such taxes (excluding Client's real estate and personal property taxes) referred to herein, licenses, permits, and food handler's cards, shall be a cost of business and will be charged to the operation of the business and borne solely by Trinity. Except in circumstances in which the Client is exempt from sales tax, Trinity shall bill and Client shall pay for all applicable sales taxes

**2.3** Trinity shall hire all employees necessary for the performance of this Agreement, including a Food Service Director to oversee the food service operations. Upon being hired, such employees shall be subject to such health examinations as proper city, state, or Federal authorities may require in connection with their employment in addition to security background screening as permitted by law to include criminal background checks conducted by the Client. All persons employed by Trinity will be the employees of Trinity, and not of the Client, and will be covered by employee dishonesty coverage. The Client, at its sole option, may refuse access to the Jail by any Trinity employee. Trinity shall be solely responsible for all employment withholding, social security, and other taxes on the wages of its employees, and hereby indemnifies Client from any liability for such obligation. Trinity agrees to comply with applicable Federal, state, and local laws and regulations pertaining to wages and hours of employment.

2.1.1 All employees of Trinity shall be required to pass a criminal background check and pre-employment drug testing and all requirements of Trinity's drug free workplace policy at the cost of Trinity.

2.1.2 All employees of Trinity entering the Jail are subject to search of their person and belongings.

2.1.3 All Trinity employees assigned to duty on the Premises shall undergo a pre-employment medical examination and annual re-examinations. In addition, Trinity shall comply with any state or local regulations with regard to health or medical screens/exams requirements. Tuberculosis (TB) screening will be required upon employment and annually thereafter at the cost of the County. Written verification of the results of such examination shall be provided to the Delaware County Jail Medical Department within 7 days of its completion.

**2.4** Trinity shall perform all necessary cleaning of the food service equipment, foodservice on areas, and floors in the storage and food service preparation areas. Trinity agrees to maintain conditions of sanitation and cleanliness in accordance with applicable laws.

**2.5** All records shall be kept on file by Trinity for a period of three (3) years from the date the record is made and Trinity shall, upon reasonable notice, give the Client or its authorized representative the privilege during normal business hours of inspecting, examining, and auditing such of Trinity's business records which are solely and directly relevant to the financial arrangements set forth in Exhibit A. The cost of such inspection, examination, and audit will be at the sole expense of the Client and such inspection, examination, and audit shall be conducted at the Trinity locations where said records are normally maintained. Such information shall be deemed Confidential Information and shall be subject to the terms of Section 12 herein.

**2.6** Trinity agrees that Trinity's employees and agents shall comply with, and observe, all applicable rules and regulations concerning conduct on the Premises that Client imposes upon Client's employees and agents.

**2.7** Trinity agrees to be responsible for the repair and/or replacement of any equipment due to its employees' negligent acts or omissions but not due to the acts or omissions of inmates. This does not include the repair or maintenance for normal equipment wear and tear and other responsibilities of the Client as defined in Section 3.

**2.8** In connection with Services provided hereunder, Trinity shall purchase inventory, equipment, and services from various sellers and vendors selected by Trinity at its sole discretion (each a "Vendor"). Purchases from Vendors shall be made under such terms Trinity deems in its sole discretion as acceptable ("Vendor Terms"). All Vendor Terms are the exclusive obligation and property of Trinity. Client does not have any liability under, or any right to, any Vendor Terms and no Vendor Terms will operate to reduce or otherwise affect the amount or performance of Client's Obligations.

### **SECTION 3. CLIENT'S RESPONSIBILITIES**

**3.1.** Client shall, without cost to Trinity, provide Trinity with the necessary space for the operation of its Services, and shall furnish, without cost to Trinity, sufficient inmate labor of no less than

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three (3) inmate workers for each meal service and all utilities and facilities reasonable and necessary for the efficient performance of Trinity's services hereunder, include, but not limited to, the following: heat, hot and cold water, steam, gas, lights and electric current, garbage removal services, exterminator services, sewage disposal services, and office space.

**3.2.** Client shall, at its own cost and expense, provide all food equipment, facilities, and floor space as mutually agreed is necessary for the efficient provision of Trinity's Services hereunder. The Client will maintain, repair, and replace said equipment and facilities at its own expense. Notwithstanding the foregoing, if equipment provided by Client becomes inoperative, hazardous, or inefficient to operate Trinity shall notify Client and have the right to effect repairs or replacements at the expense of the Client, if the Client fails to do so after a reasonable amount of time after notice of said equipment deficiency. Furthermore, during such time period when the equipment is inefficient, hazardous, or fails to operate Client shall, if applicable, pay the cost of all paper products used during such time period. Client shall permit Trinity to have the use of all such equipment and facilities in the performance of its obligations hereunder, subject to the duty to exercise reasonable care in the use thereof. All equipment and items of equipment furnished by Client to Trinity are the sole property of the Client, and Trinity will not change, deface, or remove any symbol or mark of identity from said equipment furnished by the Client.

**3.3.** Client will be responsible, at no cost to Trinity, for all necessary cleaning of walls, windows, and electric light fixtures and all necessary scrubbing, mopping, and polishing of floors in any and all dayroom and dining areas. All such cleaning shall be accomplished by Client staff or inmate workers and supervised by Client staff and shall be performed on a schedule determined by agreement between the Client and Trinity.

**3.4.** Client will reimburse Trinity for all paper products used during unusual events such as power or utility failures, lack of inmate labor, lock down, or facility emergencies.

**3.5.** Client shall not, during the term of this Agreement nor for one (1) year following its termination or expiration, solicit to hire, hire, or contract with any employee or former employee of Trinity or any of its subsidiaries, for any food service position at the facility should the Client return to a County operated program. This provision shall not apply to any person who was employed by the Client prior to being employed by Trinity.

**3.6.** Client shall pay all real estate taxes with respect to the Premises, and Client shall pay all personal property taxes and similar taxes with respect to Client's equipment located in the Premises, to the extent that such taxes are applicable to Client as a county government of the State of Ohio performing a governmental or proprietary duty that is not for monetary gain.

**SECTION 4. FINANCIAL ARRANGEMENTS**

The financial arrangements of this Agreement are set forth in Exhibit A, which is attached hereto incorporated herein and made a part hereof as if fully set forth in this Agreement

**SECTIONS. INDEMNIFICATION AND INSURANCE**

**5.1.** Trinity shall indemnify and hold free and harmless the Client as required by the terms of the RFP. Trinity's obligation to indemnify and hold free and harmless is proportionate to the extent of its own negligent acts, errors, and/or omission. This includes the negligent acts, errors, and/or omissions of its employees, agents, subcontractor, their employees' and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

**5.2.** Trinity shall obtain and maintain insurance as required by the terms of the RFP. Certificates of Insurance for such coverages shall be provided by Trinity naming the Client as an additional insured as respects such coverage prior to the commencement of Services hereunder.

**5.3.** Client shall obtain and maintain insurance for the operation of the Premises, its equipment offices, and utilities against risks covered by standard forms of fire, theft, and extended coverage in such amounts under such policies as deemed appropriate by Client.

**SECTION 6. COMMENCEMENT AND TERMINATION**

**6.1.** Unless sooner terminated as provided herein, the term of this Agreement shall be for three (3) years beginning on January 1, 2024, with three (3) additional one (1) year renewal periods which may be exercised by mutual consent of the parties.

**6.2.** Either party may terminate this Agreement, for any reason, by providing notice of said termination in writing one hundred eighty days (180) days prior to the proposed termination date. Trinity will be entitled to receive compensation for any service satisfactorily performed through the date of termination.

**6.3** If either party shall refuse, fail, or be unable to perform or observe any of the terms or conditions of this Agreement for any reason other than Excused Performance reasons stated in Section 8

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herein, the party claiming such failure shall give the other party a written notice of such breach. If, within a reasonable period of time from such notice, the failure has not been corrected, the injured party may immediately cancel the Agreement.

**6.4.** Upon the termination or expiration of this Agreement, Trinity shall, as soon thereafter as is feasible, vacate all parts of the Premises occupied by Trinity, and where applicable, remove its property and equipment and return the Premises to Client, together with all the equipment furnished by the Client pursuant to this Agreement, in the same condition as when originally made available to Trinity, excepting reasonable wear and tear and fire and other casualty loss.

**SECTION 7. INDEPENDENT CONTRACTOR RELATIONSHIP**

Trinity shall be an independent contractor and shall retain control over its employees and agents. The employees of Trinity are not, nor shall they be deemed to be, employees of Client and employees of Client are not, nor shall they be deemed to be, employees of Trinity.

**SECTION 8. EXCUSED PERFORMANCE**

Generally, if the performance of any terms or provisions herein (other than the payment of monies) shall be delayed or prevented because of compliance with any law, decree, or order of any governmental agency or authority, either local, state, or federal, or because of riots, war, public disturbances, strikes, lockouts, differences with workmen, fires, floods, Acts of God or Nature, or any other reason whatsoever which is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence said party is unable to prevent, the party so suffering may at its option suspend, without liability, the performance of its obligations hereunder (other than the payment of monies) during the period such cause continues, and extend the term of this Agreement for the period of such suspension of the performance of duties hereunder.

Notwithstanding the preceding paragraph, excused performance for Trinity does not apply to any of the above-described scenarios as stated in Section 3.6 of the RFP. Trinity is required to provide contingency plans to provide service in the event of certain scenarios, including but not limited to, the events described in the preceding paragraph. Client and Trinity shall make all reasonable attempts to deal in good-faith to address any event that requires this Section to be applied. In the event that Trinity's contingency plans are unable to accommodate the service, Client shall possess all adequate remedies provided by law and this Agreement, including the RFP and accompanying documents, in order to provide the service and compensate the Client for any cover costs or damages sustained.

**SECTION 9. ASSIGNMENT**

Neither Trinity nor Client may assign or transfer this Agreement, or any part thereof, without the written consent of the other party, except the parties may, without prior approval and without being released from any of their responsibilities hereunder assign this Agreement to an affiliated company or wholly owned subsidiary.

**SECTION 10. ENTIRE AGREEMENT AND WAIVER**

This Agreement, the RFP and Trinity's Proposal constitute the entire Agreement between the parties with respect to the provision of Trinity's Services, and there are no other or further written or oral understandings or agreements with respect thereto. No variation or modification of this Agreement, and no waiver of its provisions, shall be valid unless in writing and signed by the duly authorized representatives of Trinity and Client. This Agreement supersedes all other agreements between the parties for the provision of Trinity's Services on the Premises.

**SECTION 11. NOTICES**

All notices to be given under this Agreement shall be in writing and shall be served either personally, by deposit with an overnight courier with charges prepaid or by deposit in the United States mail, first-class postage prepaid by registered or certified mail, addressed to the parties at the address stated below or at any other address as designated by one party upon notice to the other party. Any such notices shall be deemed to have been given (a) upon the first business day following personal service; or (b) one (1) business day after deposit with an overnight courier; or (c) three (3) business days after deposit in the United States mail.

If to Client: Nick Karafa, Jail Director  
Delaware County Sheriff's Office  
844 US Rt. 42 N  
Delaware, OH 43015

If to Trinity: Trinity Services Group, Inc.  
Attn: Chief Operating Office  
477 Commerce Blvd.



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Oldsmar, FL 34677-3018

With copy to: Trinity Services Group, Inc.  
Attn: General  
Counsel 1260 Andes  
Boulevard  
St. Louis, MO 63132

**SECTION 12. CONFIDENTIALITY**

In the course of providing Services hereunder, the parties may be exposed to trade secrets or other confidential or proprietary information and materials of the other party which includes, but is not limited to, Client security means and methods, recipes, food service surveys and studies, management guidelines, procedures, operating manuals, and software, all of which shall be identified as confidential ("Confidential Information"). The parties agree, to the extent permitted by law, to hold in confidence and not to disclose any Confidential Information during, and for two (2) years after, the term of this Agreement, except that the parties may use or disclose Confidential Information (a) to its employees and affiliates or others to the extent necessary to render any service hereunder, provided that the other party is first notified of the information that will be provided to any party outside of this Agreement and provided further that such information is disclosed only after such party is required to maintain it in confidence as required hereunder; (b) to the extent expressly authorized by either party; (c) to the extent that at the time of disclosure, such Confidential Information is in the public domain, or after disclosure, enters the public domain other than by breach of the terms of this Agreement; (d) is in the possession of either party at the time of disclosure and is not acquired directly or indirectly from the other party; (e) is subsequently received on a non-confidential basis from a third party having a right to provide such information; or (f) as required by order during the course of a judicial or regulatory proceeding or as required by a governmental authority. The parties agree not to photocopy or otherwise duplicate any Confidential Information without the express written consent of the other party. Each party's Confidential Information shall remain the exclusive property of the party and shall be returned by the party to the other party upon termination or expiration of this Agreement. In the event of any breach of this provision, the parties shall be entitled to equitable relief, in addition to all other remedies otherwise available to them at law. This provision shall survive the termination or expiration of this Agreement.

**SECTION 13. INFORMATION TECHNOLOGY SECURITY**

In connection with the services being provided hereunder, Trinity may need to operate certain information technology systems not owned by the Client ("Non-Client Systems"), which may need to interface with or connect to Client's networks, internet access, or information technology systems ("Client Systems"). Trinity shall be responsible for all Non-Client Systems, and Client shall be solely responsible for Client Systems, including taking the necessary security and privacy protections as are reasonable under the circumstances. If Trinity serves as the merchant-of-record for any credit or debit card transactions in connection with any of the services provided hereunder, then Trinity will be responsible for complying with all applicable laws, regulations and payment card industry data security standards related to the protection of cardholder data ("Data Protection Rules"). If Non-Client Systems interface with or connect to Client Systems, then Client agrees to implement forthwith upon request from Trinity, at its own expense, the changes to the Client Systems that Trinity reasonably requests and believes are necessary or prudent to ensure Trinity's compliance with the Data Protection Rules.

**SECTION 14. EXECUTION**

This Agreement may be executed in any number of counterparts all of which taken together shall constitute one single agreement between the Parties. The Parties may execute this Agreement and any amendment hereto by an exchange of scanned and emailed executed copies. In the event of such an exchange, this Agreement and any applicable amendment shall become binding and any scanned and emailed signed copies shall constitute admissible evidence of the existence of this Agreement and applicable amendment.

**SECTION 15. DISPUTE RESOLUTION AND GOVERNING LAW**

This Agreement shall be governed by the laws of the State of Ohio and any dispute, controversy claim, or disagreement arising out of or relating to this Agreement or the breach, termination, validity, or enforceability of any provision of this Agreement (each a "Dispute") not remedied within thirty (30) days after the parties use their best efforts to resolve and settle such Dispute by consulting and negotiating with each other in good faith and attempting to reach a just and equitable solution satisfactory to both parties, may be submitted to a court of competent jurisdiction within Delaware County, Ohio.

**SECTION 16. EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION**

The parties shall comply with all federal, state and local laws as required including, but not limited to, Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Act of 1974, as amended. The parties hereby incorporate the requirements of 41 C.F.R. §60-1.4(a) (7), 60-250.5 and 60-741.5, if applicable.

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**Section 17. ADDITIONAL PROVISIONS**

**17.1 Certification for Findings for Recovery.**

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

Signature here

**17.2 Independent Contractor Acknowledgement/No Contribution to OPERS.**

Sheriff 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 Trinity 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 Trinity and/or any of its officers, officials, employees, representatives, agents and/or volunteers for services and/or deliverables rendered and/or received under or pursuant to this Contract. Trinity acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed it of such classification and that no contributions will be made to OPERS. If Trinity is an individual or has less than five (5) employees, Trinity, 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 Acknowledgement Form ("Form"). The Form is attached hereto as Exhibit B and by this reference is incorporated as a part of this Contract. Sheriff shall retain the completed Form(s) and immediately transmit a copy(ies) of it/them to OPERS.

Signature here

**17.3 Non-discrimination.**

Trinity certifies and agrees as follows:

Trinity, all subcontractors, and/or any person acting on behalf of Trinity or any subcontractor shall comply with any and all applicable federal, state, and/or local laws prohibiting discrimination and providing for equal opportunity. Trinity, all subcontractors, and/or any person acting on behalf of Trinity or any subcontractor shall not in any way or manner discriminate on account of race, color, religion, sex, age, disability, handicap, sexual orientation, gender identity, or military status as defined in R.C. § 4112.01, national origin, or ancestry.

**17.4 Accessibility.**

Trinity certifies and agrees as follows:

Trinity, all subcontractors, and/or any person acting on behalf of Trinity or any subcontractor shall make all services/programs provided pursuant to this Contract accessible to the disabled/handicapped. Trinity, all subcontractors, and/or any person acting on behalf of Trinity or any subcontractor shall comply with any and all applicable federal, state, and/or local laws mandating accessibility and Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), all requirements imposed by the applicable HHS regulations (45 CFR 8;4) and all guidelines and interpretations issued pursuant thereto.

**17.5 Certification Regarding Personal Property Taxes.**

By signature of its representative below, Trinity 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 Ohio Auditor of State.

Signature here

**17.6 Drug Free Environment.**

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

**17.7 Prohibited Interests.**

Trinity agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.

**17.8 County Policies.**

Trinity shall be bound by, conform to, comply with, and abide by all current applicable Delaware County policies, including, but not limited to, the Contractor Safety Policy, Computer Usage Policy, Social

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Media Policy, and Internet Use Policy. Copies of such policies can be found at <http://www.co.delaware.oh.us/index.php/policies>

**17.9 Severability.**

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

**17.10 Competitive Bidding.**

Consistent with R.C. § 307.86 and the requirements of such statute, this Contract was competitively bid.

**17.11 Compensation, Contract Maximum, and Term**

In exchange for the Services, Sheriff shall pay Trinity the amount set forth in Exhibit A. It is expressly understood and agreed, unless otherwise agreed in writing by the Parties, that in no event shall the total amount to be paid under this Contract exceed Four Hundred and Forty Thousand Dollars (\$440,000.00) in year one and Four Hundred and Fifteen Thousand Dollars (\$415,000.00) in year two and year three. This contract shall be effective upon the date when the final party executes this contract. In the event the total sum appropriated in any contract year is exhausted prior to the expiration of that contract year, Trinity may refrain from providing services until such time as additional funds are allocated to compensate Trinity at the amounts set forth in Exhibit A.

**17.12 Taxes.**

Delaware County, Ohio is a political subdivision and tax exempt. Trinity shall not charge the Sheriff any tax and agrees to be responsible for all tax liability that accrues to Trinity as a result of this Contract and the Services that Trinity provides to the Sheriff pursuant to this Contract. Sheriff shall, upon request provide Trinity with proof of exemption

**EXHIBIT A  
FINANCIAL ARRANGEMENTS**

**I. PRICE PER MEAL**

Client shall pay Trinity the price per meal as detailed in the scale that is attached hereto as Schedule 1 and incorporated herein by this reference, which scale is based on the number of inmates. To the extent Trinity's receipts are less than Trinity's costs and expenses for providing such meals, Trinity shall bear all losses. To the extent Trinity's receipts exceed its costs and expenses, Trinity shall be entitled to all profits therefrom.

Meal prices are fixed for the first year of this Agreement. Thereafter, meal prices shall be adjusted annually, effective on the renewal date of the Agreement, by an amount equal to the change in the Bureau of Labor Statistics, Consumer Price Index, All Urban Consumers, U.S. City Average, Food Away From Home. Annual price adjustments shall be based on the most current data available sixty (60) days prior to the contract renewal date and shall be communicated to the Client not less than ten (10) days prior to the effective date of the new prices.

In the event of material cost changes in federal, state, or local taxes including, but not limited to, social security taxes, unemployment taxes or payroll based taxes or an increase in the minimum wage rate or the implementing regulations or the enactment or application of any "living wage", "prevailing wage" or similar laws by any governmental entity; and/or an increase in employee benefits whether as a result of a change in federal, state, or local laws or a federal, state, or local legislative or regulatory mandate or otherwise, it is agreed that the parties shall adjust the meal prices to reflect said increases. If other material conditions change due to causes beyond Trinity Services' control, including, but not limited to a change in the scope of services, menu changes requested by the facility, decreases in inmate population or the availability of inmate labor or changes in federal, state or local standards or regulations or other unforeseen conditions beyond Trinity Services' control, it is agreed that the parties shall adjust the meal prices to reflect the impact of the change in circumstances.

**II. PAYMENT TERMS**

Trinity shall invoice Client each month, in arrears, for the total amount due from Client as the result of the number of meals served in the preceding week. Client shall pay the invoice amount within thirty (30) days of date of the invoice from Trinity. All past due amounts due Trinity will be subject, at the option of Trinity, to a service charge equal to one and one-half percent (1.5%) per month of the unpaid balance.

In the event that said amounts set forth in said statements are not paid according to the terms hereof, or in the event that Trinity, in its sole discretion, determines that Client's credit has become impaired, Trinity shall have the option to: (a) either decline to continue provision of Services hereunder, except on a cash in advance basis, until such time as credit has been re-established to Trinity's satisfaction; or (b) terminate this Agreement without liability whatsoever to Trinity, by giving sixty (60) days prior written notice to Client.

All costs of collection of past due amounts, including but not limited to reasonable attorney's fees, shall

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be chargeable to and paid by the Client.

**EQUIPMENT FUND**

Trinity shall provide Client with a capital investment in the amount of Twenty-five Thousand Dollars (\$25,000 .00) for the purpose of purchasing new equipment necessary for Trinity's production processes to be effective ("Capital Investment"). The Capital Investment will be amortized over thirty-six (36) months (January 1, 2024, through December 31, 2026). Should the Agreement expire or be terminated prior to December 31, 2026, the full thirty-six (36) month Capital Investment amortization period, Client agrees to repay Trinity the unamortized value of the Capital Investment within thirty (30) days of the Agreement's expiration or termination. For example, if this Agreement is terminated with twelve (12) months remaining, Client would be responsible for reimbursing Trinity the unamortized amount of Eight Thousand Three Hundred Thirty-three and 34/100 Dollars (\$8,333.34) or  $(\$25,000/36 \text{ months} \times 12 \text{ months remaining})$ .

All equipment purchased with the Capital Investment (whether by Client or Trinity) will be the property of the Client, subject to the repayment obligations of this Section, and Client will be responsible for paying all sales taxes assessed on the equipment unless Client is exempt from the payment of sales tax. The Client will maintain, repair, and replace all other food service equipment at its own expense in accordance with Section 3.2.

**BASIS OF FINANCIAL TERMS**

The financial terms of this Agreement have been negotiated between the parties upon the condition that Trinity will operate its Services at the same points of service and remain in operation under the same operating standards as agreed at the time of execution of this Agreement. If Client desires Trinity to change the operation or scope of its Services, Client and Trinity shall mutually agree on the appropriate financial adjustments for the requested changes.

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**SCHEDULE 1  
MEAL PRICING SCALE  
Effective January 1, 2024**

**Delaware County Jail**

Inmate Meals Served

FROM	TO	PRICE
3	12	\$59.439
13	22	\$15.603
23	32	\$9.340
33	42	\$6.836
43	52	\$5.487
53	62	\$4.644
63	72	\$4.067
73	82	\$3.647
83	92	\$3.329
93	102	\$3.078
103	112	\$2.876
113	122	\$2.710
123	132	\$2.570
133	142	\$2.452
143	152	\$2.350
153	162	\$2.275
163	172	\$2.211
173	182	\$2.153
183	192	\$2.102
193	202	\$2.055
203	212	\$2.014
213	222	\$1.976
223	232	\$1.942
233	242	\$1.910
243	And over	\$1.882

Pricing Notes:

1. Special diet meals are billed at the same rate as regular meals unless there is an exceptional meal plan ordered by your administration (Kosher, Halal, etc.)
2. There is no charge for diabetic snacks as they are calculated into the daily nutritional values and costs for this type of diet.

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

**13  
ADMINISTRATOR REPORTS**

CA Davies – No Comments

**14  
COMMISSIONERS' COMMITTEES REPORTS**

Mr. Merrell – Attended a tour of the Intel property with Commissioner Lewis. Attended a Regional Planning meeting and Opioid meter on 12-13-2023. Congratulated Radnor Town Hall on becoming a member of the National Historical Society.

Mrs. Lewis – Congratulated the new State School Superintendent Mr. Craft. Attended the DKMM meeting where the budget was passed. Attended a tour of the Intel property with Commissioner Merrell.

Mr. Benton – Attended the TID meeting on 12-13-2023. Attended the Shawnee Hills luncheon on 12-13-2023, Gave reminder of Land Bank meeting on 12-18-2023.

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15

RESOLUTION NO. 23-1084

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

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

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

WHEREAS, pursuant to section 121.22(G)(8) of the Revised Code, a public body may hold an executive session to consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, provided that both of the following conditions apply:

(1) The information is directly related to a request for economic development assistance that is to be provided or administered under any provision of Chapter 715., 725., 1724., or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project; and

(2) A unanimous quorum of the public body determines, by a roll call vote, that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project;

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

Section 1. The Board hereby adjourns into executive session for consideration of the appointment of a public employee or public official.

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

RESOLUTION NO. 23-1085

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

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

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

There being no further business, the meeting adjourned.

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

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

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