

**COMMISSIONERS JOURNAL NO. 81 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 14, 2024**

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

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

**1
RESOLUTION NO. 24-911**

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD NOVEMBER 7, 2024:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the “Board”) met in regular session on November 7, 2024; and

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

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

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

**2
PUBLIC COMMENT**

**3
RESOLUTION NO. 24-912**

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR 1113 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR 1113:

It was moved by Mr. Benton, seconded by Mrs. Lewis, to approve Then and Now Certificates, payment of warrants in batch numbers CMAPR 1113, memo transfers in batch numbers MTAPR 1113 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
(P2400853) Beems BP	County Garage	10011106-5228	\$30,000.00
(P2400961) EPS	Land and Buildings	10011105-5320	\$10,915.00
(P2401309) Commissioners	CSEA	23711630-5380	\$9,985.00
(P2401309) Commissioners	CSEA	23711630-5335	\$7,980.00
(P2400968) OCDA	CSEA	23711630-5305	\$250.00
(P2400355) Delaware Co Fair	Ag Society Excise Tax	29911190-5380	\$14,283.85
(P2401899) Co Risk Sharing	Property CORSA	60111901-5370	\$100,000.00
(P2400349) Treasurer Stark Co	Court of Appeals	10029202-5301	\$14,457.01

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Account</u>	<u>Amount</u>
R2404886	CARDIOTRONIX LLC	ANNUAL REPAIR SVCS 11 24-11 25	10011303 - 5328	\$ 9,231.00
R2405167	ORANGE TOWNSHIP TRUSTEES	EMS 3 LEASE 12 20 24- 12 19 25	10011303 - 5335	\$ 8,640.00
R2405179	BRIGHTLY SOFTWARE INC	ENERGY MANAGER SOFTWARE	10011105 - 5320	\$ 7,503.24
R2405185	COMMISSIONERS	REIMBURSE FAIRGROUNDS PROPERTY PREMIUM	29911190 - 5370	\$ 10,716.15
R2405196	PATH MASTER INC	PRIORITY VEHICLE KITS - EMS	42311453 - 5450	\$ 27,216.00

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

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RESOLUTION NO. 24-913

IN THE MATTER OF EXTENDING THE FILING DATES FOR THE FILING OF PLANS, REPORTS, AND SCHEDULES FOR VARIOUS PENDING DRAINAGE IMPROVEMENT PROJECTS:

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

WHEREAS, on June 10, 2021, the Delaware County Board of Commissioners (the “Board”) adopted Resolution No. 21-520, granting the prayer of the petition for the Zerbe-O’Keefe #265 Watershed Drainage Improvement Project, directing the Delaware County Engineer to proceed with preparation of plans, reports, and schedules for the Zerbe-O’Keefe #265 Watershed Drainage Improvement Project, and fixing June 10, 2023, as the date by which the Delaware County Engineer shall file the plans, reports, and schedules; and

WHEREAS, on September 2, 2021, the Board adopted Resolution No. 21-827, granting the prayer of the petition for the Slate Lick Lateral Watershed Drainage Improvement Project, directing the Delaware County Engineer to proceed with preparation of plans, reports, and schedules for the Slate Lick Lateral Watershed Drainage Improvement Project, and fixing September 2, 2023, as the date by which the Delaware County Engineer shall file the plans, reports, and schedules; and

WHEREAS, on September 30, 2021, the Board adopted Resolution No. 21-916, granting the prayer of the petition for the Chancel Gate Watershed Drainage Improvement Project, directing the Delaware County Engineer to proceed with preparation of plans, reports, and schedules for the Chancel Gate Watershed Drainage Improvement Project, and fixing September 30, 2023, as the date by which the Delaware County Engineer shall file the plans, reports, and schedules; and

WHEREAS, on October 12, 2023 the Board adopted Resolution No. 23-860, extending the filing dates for the filing of plans, reports, and schedules for various pending drainage improvement projects, including, but not limited, to the Zerbe-O’Keefe #265 Watershed Drainage Improvement Project, the Slate Lick Lateral Watershed Drainage Improvement Project, and the Chancel Gate Watershed Drainage Improvement Project; and

WHEREAS, additional time is required to allow for field survey, design, and engineer review for the Zerbe-O’Keefe #265 Watershed Drainage Improvement Project, the Slate Lick Lateral Watershed Drainage Improvement Project, and the Chancel Gate Watershed Drainage Improvement Project;

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

Section 1. The Board hereby extends the date by which the Delaware County Engineer shall file the plans, reports, and schedules for the Zerbe-O’Keefe #265 Watershed Drainage Improvement Project to December 10, 2025.

Section 2. The Board hereby extends the date by which the Delaware County Engineer shall file the plans, reports, and schedules for the Slate Lick Lateral Watershed Drainage Improvement Project to December 10, 2025.

Section 3. The Board hereby extends the date by which the Delaware County Engineer shall file the plans, reports, and schedules for the Chancel Gate Watershed Drainage Improvement Project to December 10, 2025.

Section 4. Upon filing the plans, reports, and schedules in accordance with this Resolution, the Clerk of the Board will prepare a resolution to fix a date not fewer than twenty-five nor more than ninety days thereafter when a final hearing on the report shall be held and will give proper notification to property owners in the affected watershed of the date and time of the hearing.

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

5

RESOLUTION NO. 24-914

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Emergency Management Agency is requesting that Alex McCarthy attend the 2025 NACO Conference in Washington DC February 27-March 4, 2025; at the cost of \$2,835.00.

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

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RESOLUTION NO. 24-915

IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, MICHAEL R. SHADE, ATTORNEY-AT-LAW, REQUESTING ANNEXATION OF 175.80 ACRES OF LAND IN DELAWARE TOWNSHIP AND 175.0 ACRES OF LAND IN TROY TOWNSHIP, FOR A TOTAL OF 350.80 ACRES OF LAND TO THE CITY OF DELAWARE:

It was moved by Mrs. Lewis, seconded by Mr. Benton, to acknowledge that on November 5, 2024, the Clerk to the Board of Commissioners received a petition requesting annexation of 175.80 acres of land from Delaware Township and 175.0 acres of land from Troy Township, for a total of 350.80 acres of land to the City of Delaware.

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

7
RESOLUTION NO. 24-916

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

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

WHEREAS, the Delaware County Commissioners passed Resolution No. 21-449 on May 24, 2021, adopting a Delaware County Facilities Permit Policy (the "Policy"); and

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

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

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

NOW, THEREFORE, PURSUANT TO THE FOREGOING, BE IT HEREBY RESOLVED that the Delaware County Board of Commissioners hereby authorizes the use of two meeting rooms at the Byxbe Campus for meeting hosted by Ohio FCCLA Association on December 10, 2024; at no cost.

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

8
RESOLUTION NO. 24-917

IN THE MATTER OF APPROVING THE SECOND AMENDMENT TO THE SOFTWARE MAINTENANCE AGREEMENT BETWEEN COURTVIEW JUSTICE SOLUTIONS, INC., D/B/A EQUIVANT AND THE BOARD OF DELAWARE COUNTY COMMISSIONERS, ON BEHALF OF THE DELAWARE COUNTY COMMON PLEAS COURT, GENERAL DIVISION, THE DELAWARE COUNTY COMMON PLEAS COURT, DOMESTIC RELATIONS DIVISION, THE DELAWARE COUNTY COMMON PLEAS COURT, JUVENILE/PROBATE DIVISION, THE DELAWARE COUNTY CLERK OF COURTS, AND THE DELAWARE COUNTY PUBLIC DEFENDER FOR THE CASE MANAGEMENT SYSTEM USED BY EACH OF THESE ENTITIES:

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

WHEREAS, the Delaware County Common Pleas Court, General Division, the Delaware County Common Pleas Court, Domestic Relations Division, the Delaware County Common Pleas Court, Juvenile/Probate Division, the Delaware County Clerk of Courts, and the Delaware County Public Defender, and staff recommend approval of the second amendment to the Software Maintenance Agreement between Courtview Justice Solutions, Inc., D/B/A Equivant and the Board of Delaware County Commissioners, on behalf of the Delaware County Common Pleas Court, General Division, the Delaware County Common Pleas Court, Domestic Relations Division, the Delaware County Common Pleas Court, Juvenile/Probate Division, the Delaware County Clerk of Courts, and the Delaware County Public Defender for the Case Management System used by each of these entities;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the second amendment Software Maintenance Agreement between Courtview Justice Solutions, Inc., D/B/A Equivant and the Board of Delaware County Commissioners, on behalf of the Delaware County Common Pleas Court, General Division, the Delaware County Common Pleas Court, Domestic Relations Division, the Delaware County Common Pleas Court, Juvenile/Probate Division, the Delaware County Clerk of Courts, and

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the Delaware County Public Defender for the Case Management System used by each of these entities, as follows:

SECOND AMENDMENT TO THE SOFTWARE MAINTENANCE AGREEMENT

This Second Amendment ("Second Amendment") to the Software Maintenance Agreement ("Agreement") is entered into on January 1, 2025 ("Amendment Effective Date") by and between CourtView Justice Solutions Inc. d/b/a equivalent, a Delaware corporation, with offices at 2014 Champions Gateway, Suite 301, Canton, OH 44708 ("equivalent"), and the Board of Commissioners, Delaware County, Ohio with offices at 91 North Sandusky Street, Delaware, Ohio, 43015, on behalf of the following (Individually "Party" collectively "Parties"):

- Delaware County Common Pleas Court, General Division, with offices located at 117 North Union Street, 500 Level, Delaware, Ohio 43015
- Delaware County Common Pleas Court, Domestic Relations Division, with offices located at 117 North Union Street, 400 Level, Delaware, Ohio, 43015
- Delaware County Juvenile and Probate Court, with offices located at 145 North Union Street, Ground Floor, Delaware Ohio 43015
- Delaware County Clerk of Courts, with offices located at 117 North Union Street, 300 Level, Delaware, Ohio 43015
- Delaware County Public Defender's Office, with offices located at 10 Court Street, Delaware County, Ohio, 43015

Whereas, the Parties entered into a Software Maintenance Agreement ("Agreement") on December 19, 2022 that expired on December 31, 2023.

Whereas, the Parties entered into the First Amendment ("First Amendment") to the Software Maintenance Agreement on November 27, 2023, that expires on December 31, 2024

Whereas, Pursuant to Section 2 of the Agreement the agreement may be renewed for additional one (1) year periods subject to the same terms and conditions as provided in the Agreement and upon any such terms and conditions as may be specifically agreed upon, added and/or amended in writing by the Parties; and

Whereas, the Parties now desire to renew and amend the Agreement.

Now therefore, the Parties agree to renew and amend the Agreement as follows:

1. **RENEWAL.** The Agreement is renewed for one (1) year subject to the same terms and conditions as provided in the Agreement, the First Amendment, and those contained in this Second Amendment. Such renewal shall begin on January 1, 2025, and continue through December 31, 2025 ("Subsequent Term").
2. **SCOPE OF SERVICES.** For the Subsequent Term, equivalent shall provide those services listed in the Agreement.
3. **SCHEDULE 1.** For this Second Amendment, Schedule 1 of the Agreement and First Amendment shall be deleted in their entireties and replaced with the new Schedule 1 attached to this Second Amendment. New Schedule 1 attached to this Second Amendment is made a part of this Amendment and by this reference incorporated herein.
4. **SECOND AMENDMENT MAXIMUM.** The maximum amount payable pursuant to this Second Amendment is one hundred four thousand, four hundred and forty four dollars (\$104,444.00).
5. **EQUIVANT'S ADDRESS.** Throughout the Agreement, equivalent's address should be changed to the following:

CourtView Justice Solutions Inc., d/b/a equivalent
2014 Champions Gateway
Suite 301
Canton, OH 44708
6. **OTHER TERMS OF AGREEMENT UNCHANGED.** All terms and conditions of the Agreement and First Amendment not changed by this Second Amendment remain the same, unchanged, and in full force and effect.
7. **CONFLICTS.** In the event of a conflict between the terms of the Agreement, the First Amendment, and this Second Amendment, the terms of this Second Amendment shall prevail.
8. **COUNTERPARTS.** This Second Amendment may be executed in counterparts.
9. **SIGNATURES.** Any person executing this Second Amendment in a representative capacity hereby warrants that he/she has the authority to sign this Second Amendment or has been duly authorized by his/her principal to execute this Second Amendment on such principal's behalf and is authorized to bind such principal.

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**SCHEDULE 1
SOFTWARE MAINTENANCE FEE SCHEDULE**

Software	Licenses	January 1, 2025 to December 31, 2025
Common Pleas Court and Clerk of Courts		
CourtView Case Management	35	\$35,944.00
eAccess single portal included with CMS	1	\$0.00
eAccess additional portal	1	\$1,824.00
JusticeFiling	1	\$2,888.00
ePayment -Web Deployment	1	\$110.00
CourtView Dashboards	5	\$559.00
Ohio Tax Lien	1	\$0.00
Ingegration for eFiling	1	\$2,596.00
Subtotal Common Pleas Court / Clerk of Courts		<u>\$43,921.00</u>
Public Defender's Office		
CourtView Case Management	2	\$1,520.00
Subtotal Public Defender's		<u>\$1,520.00</u>
Juvenile and Probate Courts		
CourtView Case Management	50	\$44,481.00
Banked CourtView CMS	5	\$1,335.00
CourtView Dashboards	55	\$6,104.00
CourtView Ohio DPS eCitation Interface	1	\$7,083.00
Subtotal Juvenile & Probate Courts		<u>\$59,003.00</u>
Total Delaware County		<u>\$104,444.00</u>

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

**9
RESOLUTION NO. 24-918**

IN THE MATTER OF AWARDING COMMUNITY ENHANCEMENT GRANTS:

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

WHEREAS, the Delaware County Board of Commissioners (the "Board") solicited applications for funding through the Delaware County 2024 Community Enhancement Grant Program (the "Program"); and

WHEREAS, various organizations have submitted applications for Program funding from Delaware County; and

WHEREAS, the County Administrator, in consultation with other Board staff, has reviewed the applications and recommends that the Board award grants pursuant to the Program;

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

Section 1. The Board hereby approves the Program Guidelines, Terms and Conditions and form Grant Agreement, which are attached hereto and, by this reference, incorporated herein.

Section 2. The Board hereby awards Delaware County 2024 Community Enhancement Grants as follows:

Boardman Arts Park, Inc.	\$25,000
Central Ohio Symphony	\$7,500

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Delaware County Cultural Arts Center (Arts Castle)	\$11,160
Delaware County Historical Society	\$9,947.50
HelpLine of Delaware and Morrow Counties	\$5,000
Main Street Delaware	\$20,000
Recreation Unlimited Farm and Fun, Inc.	\$14,114.94
Strand Theatre and Cultural Arts Association	\$25,000
Stratford Ecological Center	\$25,161
Turning Point	\$26,183
Westerville Area Resource Ministry	\$10,000
Women’s City Foundation	\$25,000

Section 3. The grant awards made herein shall be subject to the Program Guidelines, Terms and Conditions, and Grant Agreement, and each award is contingent upon the awardee returning an executed Grant Agreement, with any supplemental documentation required by the Delaware County Auditor, no later than the deadline set by the County Administrator.

Section 4. The County Administrator is hereby authorized to notify each awardee of its grant award, to execute all Grant Agreements in substantially the same form as approved herein, and to approve purchase orders necessary to effectuate the awards made herein.

Section 5. This Resolution shall be effective immediately upon adoption.

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

**10
RESOLUTION NO. 24-919**

IN THE MATTER OF AWARDING A COMMUNITY ENHANCEMENT GRANT:

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

WHEREAS, the Delaware County Board of Commissioners (the “Board”) solicited applications for funding through the Delaware County 2024 Community Enhancement Grant Program (the “Program”); and

WHEREAS, various organizations have submitted applications for Program funding from Delaware County; and

WHEREAS, the County Administrator, in consultation with other Board staff, has reviewed the applications and recommends that the Board award a grant pursuant to the Program;

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

Section 1. The Board hereby approves the Program Guidelines, Terms and Conditions and form Grant Agreement, which are attached hereto and, by this reference, incorporated herein.

Section 2. The Board hereby awards a Delaware County 2024 Community Enhancement Grants to Del-Mor Dwellings Corp. in the amount of \$30,000.

Section 3. The grant award made herein shall be subject to the Program Guidelines, Terms and Conditions, and Grant Agreement, and is contingent upon the awardee returning an executed Grant Agreement, with any supplemental documentation required by the Delaware County Auditor, no later than the deadline set by the County Administrator.

Section 4. The County Administrator is hereby authorized to notify the awardee of its grant award, to execute a Grant Agreement in substantially the same form as approved herein, and to approve purchase orders necessary to effectuate the award made herein.

Section 5. This Resolution shall be effective immediately upon adoption.

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

**11
RESOLUTION NO. 24-920**

IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS:

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

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Supplemental Appropriation		
10011102-5602	Commissioners General/Community Enhancements	234,066.44

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

**12
RESOLUTION NO. 24-921**

IN THE MATTER OF APPROVING A SERVICES AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND MAXIMUS US SERVICES, INC., FOR A COST ALLOCATION PLAN:

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

WHEREAS, the Fiscal Manager recommends approval of the agreement between the Delaware County Board of Commissioners and Maximus US Services, Inc., for a Cost Allocation Plan;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the agreement between the Delaware County Board of Commissioners and Maximus US Services, Inc., for a Cost Allocation Plan:

SERVICE AGREEMENT

This Service Agreement, (this "Agreement"), is entered into this January 1, 2025 (the "Effective Date"), by and between Maximus US Services, Inc., ("Contractor" or "Maximus"), and Delaware County Board of Commissioners, Ohio, ("Client"). In consideration of mutual promises and covenants, the parties agree as follows:

- 1. Scope of Services**
Contractor will perform in a professional manner the Services detailed in Exhibit A.
- 2. Term**
This Agreement commences on the Effective Date and remains in effect until March 31, 2028, unless earlier terminated in accordance with Section 4.
- 3. Compensation.**
Client will pay Contractor the fees for services rendered as set forth in Exhibit A, incorporated herein by reference as if fully set forth as part of this Agreement.
- 4. Termination.**
 - a. Termination for Cause. Upon material breach of the terms of this Agreement, the non-breaching party will provide written notice to the breaching party specifying the nature of the breach. The breaching party will have 30 days (or a longer period if the parties mutually agree) from the date of receipt to cure any of the default prior to the effective date of termination. Notice of default must be delivered by certified mail or overnight courier.
 - b. Termination for Convenience. Either party may terminate this Agreement without cause upon 60 days prior written notice to the other. In the event the Agreement is so terminated by Client, Client will reimburse Contractor for all reasonable costs incurred by Contractor due to such early termination.
 - c. Rights Upon Termination. Upon termination for whatever reason and regardless of the nature of the breach (if any), Client agrees to pay Contractor in full for all goods and/or services provided to Client under this Agreement, or any amendment thereto, as of the effective date of termination of the Agreement.
- 5. Invoicing and Payment.**
Client will pay Contractor a fee for Services rendered as set forth in Exhibit A. Unless stated otherwise in Exhibit A, Client will pay all invoices in full within thirty (30) days of the invoice date. Client agrees to at all times remain current on all amounts charged for the Services and acknowledges and agrees that any breach of the foregoing shall constitute a material breach under this Agreement entitling Contractor to pursue any and all remedies available at equity or at law including the suspension or termination of the Services provided hereunder.
- 6. Data Accuracy.**
Contractor will guide the Client to determine the data required. Client represents that all financial and statistical information provided to Contractor by Client, its employees and agents is accurate and complete to the best of its knowledge. Client further acknowledges and agrees that Contractor is entitled to rely upon the accuracy and completeness of the data to perform the Services. Client will provide all data in a timely manner sufficient to allow Contractor to provide the Services. Contractor has no liability to Client for Client's provision of incomplete, inaccurate or untimely data.

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- 7. Records and Inspections.**
Contractor will maintain full and accurate records with respect to all matters covered under this Agreement for 6 years after the completion of the Services. During such period, Client will have the right to examine and audit the records and to make transcripts therefrom. Client will provide 30 days' prior written notice of its intent to inspect or audit any such records and will conduct such inspection or audit only during Contractor's normal business hours and no more than once every six months. Any employee, Contractor, subcontractor or agent of Client granted access to such records will execute a non-disclosure agreement prior to being granted access.
- 8. Warranties.**
Contractor warrants that it will perform the services in a manner consistent with the standards typically practiced by similarly situated companies in the same industry. Contractor specifically disclaims and the Client waives, all other express or implied standard, guarantees and warranties, including but not limited to implied warranties of merchantability, or fitness for a particular purpose, custom or usage, or otherwise as to and good or services under this Agreement.
- 9. Client Representations & Warranties.**
Client represents and warrants to Contractor that its use of the Services shall comply with all applicable laws, statutes, ordinances, codes, rules, regulations, orders, judgments, decrees, standards, requirements or procedures enacted, adopted, applied, enforced or followed now or in the future by any federal or state governmental bodies or agencies. Client further represents and warrants to Contractor that it has obtained all necessary consents, rights and permissions to enter into this Agreement and use the Services in accordance with the terms of this Agreement.
- 10. Ownership of Intellectual Property.**
All work, reports, writings, ideas, designs, methods, computer software (both object and source code) and data recorded in any form that exist and are owned by Maximus prior to this Agreement, or that are created, developed, written, conceived or made by Maximus or any third party (whether solely or jointly with others) as a result of, or relating specifically to this Agreement, or in the performance of the Services under this Agreement (collectively or separately, "Intellectual Property") are and shall be the exclusive property of Maximus and ownership shall vest in Maximus immediately upon creation. Nothing herein shall be deemed to grant Client any rights to the Intellectual Property except as explicitly stated in this Agreement.
- 11. Compatible Platforms/Hardware.**
To the extent applicable to the Services that will be provided by Contractor, notwithstanding any initial set-up and/or implementation services provided by Maximus at the commencement of the Term, Client is responsible for obtaining, installing and maintaining an appropriate operating environment, including all connectivity and equipment as well as the necessary hardware, operating system software and other items required to access and use the Services (the "Operating Environment"). Maximus will not be responsible for any incompatibility between the Service and Client's Operating Environment or for Client's use of any third-party software, hardware, browsers or other products not specifically recommended or approved by Maximus for Client's use with the Services. Maximus will make written compatibility recommendations available to Client at Client's request, but, for clarity, Client is ultimately responsible for the compatibility and operation of its Operating Environment.
- 12. Copyright for Contractor's Proprietary Software.**
To the extent that the Services provided by Contractor are generated by Contractor's proprietary software, nothing contained herein is intended nor will it be construed to require Contractor to provide such software to Client. Client agrees that it has no claims of ownership, including copyright, patents or other intellectual property rights to Contractor's software. Nothing in this Agreement will be construed to grant Client any rights to Contractor's materials created prior to the execution of this Agreement. All of the deliverables prepared by Contractor for Client included in the Services are specifically set out in Exhibit A.
- 13. Contractor Liability if Audited.**
Contractor will, upon notice of audit, make work papers and other records available to the auditors. Contractor's sole responsibility under an audit will be to provide reasonable assistance to Client through the audit and to make changes to the work product required as a result of the audit. Contractor will not be liable for any audit disallowances or any missed or lost revenue associated with, or related to, the Services, regardless of cause.
- 14. Insurance; Indemnification.**
Contractor shall maintain customary general liability insurance in the amounts of \$1,000,000 per occurrence / \$2,000,000 annual aggregate, workers' compensation insurance including employer's liability in the amount of \$1,000,000, automobile liability insurance in the amount of \$1,000,000, and professional liability insurance in the amount of \$1,000,000. Contractor shall name Client as an additional insured on the general liability and automobile liability insurance.

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To the extent allowed by law, Contractor shall defend, indemnify and hold harmless the Client from and against any and all third-party claims and resulting proven direct damages, liabilities and costs (including reasonable attorneys’ fees) to the extent proximately caused by the negligent actions or willful misconduct of Contractor, its employees or agents. Contractor shall not be responsible for any damages, liabilities or costs resulting from the negligence or willful misconduct of the Client, its employees, consultants, or agents or any third party.

15. Limitation of Liability.

Client agrees that Contractor’s total liability to Client for any and all damages whatsoever arising out of, or in any way related to, this Agreement from any cause, including but not limited to negligence, errors, omissions, strict liability, breach of contract or breach of warranty will not, in the aggregate, exceed USD \$37,500. This limitation shall not include direct damages proximately caused by Contractor resulting in: (i) personal injury; (ii) personal property damage; or (iii) U.S. copyright infringement.

In no event will either party be liable for indirect, special, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought even if the other party has been advised of the likelihood of such damages, and notwithstanding any failure of essential purpose of any limited remedy.

Any claim relating to this Agreement must be made in writing and presented to the other party within one (1) year after the date on which Contractor completes performance of the services specified in this Agreement.

16. Notices.

Any notices, bills, invoices, or reports required by this Agreement will be sufficient if sent by the parties in the United States mail, postage paid, to the address noted below:

For Maximus:	For Delaware County Board of Commissioners:
Thomas Hollett	Karen First
Manager	Fiscal Manager
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236	91 N. Sandusky Street, Delaware, OH 43015

Phone: 804.323.3535	Phone: 740.833.2116
Fax: 703.251.8240	Fax:
Email: tomhollett@maximus.com	Email: kfirst@co.delaware.oh.us

Any notice sent by certified mail will be deemed to have been given five (5) days after the date on which it is mailed. All other notices will be deemed given when received. No objection may be made to the manner of delivery of any notice actually received in writing by an authorized agent of a party.

17. Changes.

The terms and scope of Services of this Agreement may be changed only by written agreement signed by both parties.

18. Miscellaneous.

- a. There are no third-party beneficiaries to this Agreement and nothing in this Agreement will be construed to provide any rights or benefits to any third-party.
- b. If Contractor is requested by Client to produce deliverables, documents, records, working papers, or personnel for testimony or interviews with respect to this Agreement or any services provided hereunder for any third party matter, litigation or otherwise, then Client and Contractor will execute a change order or new services agreement for the sole purpose of setting forth any payment and the terms associated with Contractor’s response and related to the reasonable fees of Contractor in responding. The foregoing does not:
 - (1) diminish or negate Contractor’s obligation to negotiate and defend all cost allocation plans and State mandated cost claims as specifically provided for under this Agreement; or
 - (2) apply in the event Contractor is compelled by subpoena from a third party to provide Contractor deliverables, documents, records, working papers, or personnel for testimony or interviews.
- c. The parties intend that Contractor, in performing the Services specified in this Agreement will act as an independent contractor and will have full control of the work and the manner in which it is performed. Contractor and Contractor's employees are not to be considered agents or employees of Client for any purpose. Contractor hereby certifies that it has five or more employees and that none of the employees are, by virtue of this Agreement, public employees

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for purposes of Chapter 145 of the Ohio Revised Code.

- d. In the event that any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason, this Agreement will continue in full force and effect without said provision, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby, and this Agreement will be interpreted to reflect the original intent of the parties insofar as possible.
The titles of the sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only and will be disregarded in construing or interpreting any of the provisions of this Agreement.
- e. This Agreement and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof will have any validity or bind any of the parties hereto. This shall include any purchase order submitted or provided by Client, whether prior to or upon execution of this Agreement, which shall be for Client’s internal purposes only. Contractor rejects, and in the future is deemed to have rejected, any purchase order’s terms to the extent they add to or conflict in any way with this Agreement or the applicable Scope of Services, and such additional or conflict terms will have no effect.
- f. Neither party will be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, earthquakes, acts of God, war, governmental action, labor conditions, material shortages or any other cause which is beyond the reasonable control of such party.
- g. Each individual signing this Agreement certifies that (i) he or she is authorized to sign this Agreement on behalf of his or her respective organization, (ii) such organization has obtained all necessary approvals to enter into this Agreement, including but not limited to the approval of its governing board, and (iii) when executed, this Agreement is a valid and enforceable obligation of such organization.
- h. Waiver by either party of a breach of any provision of this Agreement or the failure by either party to exercise any right hereunder will not operate or be construed as a waiver of any subsequent breach of that provision or as a waiver of that right.
- i. 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 only be filed in and heard before the courts of Delaware County, Ohio.

**EXHIBIT A
Scope of Services & Compensation
OH CO Delaware CAP 24-26
SCOPE OF SERVICES:**

Contractor represents that it has, or will secure at its own expense, all personnel required in the performance of Services under this Agreement. All of the Services required hereunder will be performed by Contractor or under its supervision, and all personnel engaged in the work will be fully qualified to perform the services described herein. Contractor reserves the right to subcontract for Services hereunder.

Description of Services:

- a) Development of a central services cost allocation plan, which identifies the various cost incurred by the client to support and administer programs that provide services directly to citizens. This plan will contain a determination of the allowable cost of providing each supporting services such as purchasing, legal counsel, disbursement processing, etc.
- b) Prepare indirect cost proposals for federal grants as necessary.
- c) Negotiation, of the completed cost allocation plan, with the representatives of the State or federal government, whichever is applicable.

COMPENSATION:

For Services provided as set forth above, in this Exhibit A, Client agrees to pay Contractor compensation in the amount of Thirty-Seven Thousand Five Hundred Dollars (\$37,500).

Contractor will render to Client one or more invoices for the fees specified herein, with payment due thirty (30) days after the invoice date.

The fee breakdown is as follows:

Fiscal Year 2024	\$12,500
Fiscal Year 2025	\$12,500
Fiscal Year 2026	\$12,500

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Vote on Motion

Mr. Benton Aye

Mrs. Lewis Aye

Mr. Merrell Aye

13

RESOLUTION NO. 24-922

IN THE MATTER OF APPROVING A TRANSFER OF APPROPRIATIONS, SUPPLEMENTAL APPROPRIATIONS, A REDUCTION IN APPROPRIATIONS AND A REVISED REVENUE ESTIMATE:

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

Transfer of Appropriations		
From:	To:	
10010101-5301	10010101-5201	18,000.00
Auditor/Contracted Prof. Services	Auditor/Gen Supplies & Equip <1,000	
10010102-5001	10010102-5370	5,000.00
Weights and Measures/Compensation	Weights and Measures/Insurance Premiums & Claims	
10011102-5201	10011102-5403	2,800.00
Commissioners General/ Gen Supplies & Equip <1,000	Commissioners General/Improvements Other Than Build	
10011139-5101	10011139-5001	800.00
Public Info/Community Relation/Health Insurance	Public Info/Community Relation/Compensation	
10011302-5101	10011302-5001	175.00
Employee Safety/Health Insurance	Employee Safety/Compensation	
10011302-5309	10011302-5001	175.00
Employee Safety/Travel Mileage Reimbursement	Employee Safety/Compensation	
10016101-5325	10016101-5001	150,000.00
Board of Elections/Maint Contracts & Agreements	Board of Elections/Compensation	
10012101-5101	10012101-5201	40,000.00
Prosecuting Attorney/Health Insurance	Prosecuting Attorney/Gen Supplies & Equip <1,000	
20110105-5301	20110105-5001	178,000.00
REA/Contracted Prof. Services	REA/Compensation	
20110105-5301	20110105-5201	15,000.00
REA/Contracted Prof. Services	REA/Gen Supplies & Equip <1,000	
20411305-5101	20411305-5001	500.00
Dog and Kennel/Health Insurance	Dog and Kennel/Compensation	
20411305-5328	20411305-5001	1,000.00
Dog and Kennel/Maint & Repair Services	Dog and Kennel/Compensation	
22411601-5355	22411601-5120	26,500.00
JFS Income Maintenance/Transportation Services	JFS Income Maintenance/County Share/OPERS	
22411605-5101	22411605-5001	20,000.00
JFS Administration/Health Insurance	JFS Administration/Compensation	
24820102-5101	24820102-5001	12,100.00
Northpointe Satellite Office/Health Insurance	Northpointe Satellite Office/Compensation	
61311923-5201	61311923-5001	1,000.00

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Self Insured Workers Comp/Gen Supplies & Equip <1,000	Self Insured Workers Comp/Compensation	
61311923-5301	61311923-5001	300.00
Self Insured Workers Comp/Contracted Prof. Services	Self Insured Workers Comp/Compensation	
61311923-5301	61311923-5120	500.00
Self Insured Workers Comp/Contracted Prof. Services	Self Insured Workers Comp/County Share/OPERS	
68011916-5301	68011916-5001	2,000.00
Solid Waste/Contracted Prof. Services	Solid Waste/Compensation	
68011916-5301	68011916-5120	300.00
Solid Waste/Contracted Prof. Services	Solid Waste/County Share/OPERS	
Supplemental Appropriations		
10011102-5319	Commissioners General/Reimbursement/Refunds	500,000.00
10011108-5001	Human Resources/Compensation	17,000.00
10012301-5120	Victims Assistance/County Share/OPERS	1,830.00
21411306-5410	911/Building and Improve >25,000	297,020.00
22411601-5001	JFS Income Maintenance/Compensation	157,000.00
60111901-5370	Property & Casualty Insurance/Insurance Premiums & Claims	100,000.00
70161603-5001	FCFC General/Compensation	21,000.00
70161603-5101	FCFC General/Health Insurance	10,000.00
Reduction in Appropriations		
22411604-5001	JFS Child Protection/Compensation	17,000.00
22411604-5101	JFS Child Protection/Health Insurance	140,000.00
Revenue Estimate Revision		
10011102-4720	Commissioners General/Other Reimbursements	500,000.00

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

**14
RESOLUTION NO. 24-923**

IN THE MATTER OF APPROVING THE SECOND AMENDMENT TO THE CONTRACT FOR THE PURCHASE OF PSYCHOLOGIST SERVICES BETWEEN DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES AND ALLISON HOULE, Ph.D.:

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

WHEREAS, the Director of Job & Family Services recommends approval of the second amendment to the contract with Allison Houle, Ph. D.;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the following contract amendment with Allison Houle, Ph. D., for psychologist services:

**Second Amendment
To
Contract for the Purchase of
Psychologist Services
Between
Delaware County Board of County Commissioners
and
Allison Houle, Ph.D.**

This Second Amendment of the Contract For The Provision of Psychologist Services is entered into this 14th day of November, 2024 by and between the Delaware County, Ohio Board of County Commissioners (hereinafter "Board"), whose address is 91 North Sandusky Street, Delaware, Ohio 43015, the Delaware County, Ohio Department of Job and Family Services, a Title IV-E Agency, (hereinafter "Agency") whose address is 145 North Union Street, 2nd Floor, Delaware, Ohio 43015, and Allison Houle, Ph.D. (hereinafter "Provider") whose address is 75 E. Wilson Bridge Road, Ste. C6, Worthington, Ohio 43085 (hereinafter collectively the "Parties.).

WHEREAS, the Parties entered into the Contract for Psychological Services on May 4, 2023.

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

NOW THEREFORE, the Parties agree as follows:

- 1. The Parties agree to amend the Agreement to add the following Provisions:**
 - A. The contract service period shall be extended for the service period January 1, 2025 through December 31, 2025.
 - B. The price per hour will increase from \$225.00 to \$250.00 to cover increased costs.
- 2. Signatures**
Any person executing this Second Amendment in a representative capacity hereby warrants that he/she has authority to sign this Second Amendment or has been duly authorized by his/her principal to execute this Second Amendment on such principal’s behalf.
- 3. Conflicts**
In the event of a conflict between the terms of the Contract, the First Amendment, and this Second Amendment, the terms of the Second Amendment shall prevail.
- 4. Terms of Agreement Unchanged**
All terms and conditions of the Contract, the First Amendment, not changed by this Second Amendment remain the same, unchanged, and in full force and effect.

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

**15
RESOLUTION NO. 24-924**

IN THE MATTER OF ADOPTING AMENDED WAGE BANDS FOR THE DELAWARE COUNTY COMPENSATION MANAGEMENT SYSTEM:

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

WHEREAS, on December 15, 1997, the Delaware County Board of Commissioners (the “Board”) adopted Resolution No. 97-1033, accepting, authorizing, and implementing the Delaware County Compensation Management System; and

WHEREAS, the Delaware County Compensation Management System has been regularly reviewed and updated, most recently pursuant to Resolution No. 23-468, adopted on June 1, 2023; and

WHEREAS, periodically amending the County’s Compensation Management System wage bands ensures competitive positioning with the labor market and economic conditions and aids in recruitment and retention of employees; and

WHEREAS, the County Administrator and Deputy County Administrators recommend adopting amended wage bands for the Delaware County Compensation Management System;

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

Section 1. The Board hereby approves the following wage bands for the Delaware County Compensation Management System:

	Min		Max	
A	Commensurate with Experience			
B	\$51.47	\$107,057.60	\$74.63	\$155,230.40
C	\$45.81	\$95,284.80	\$66.42	\$138,153.60
D	\$39.42	\$81,993.60	\$57.16	\$118,892.80
E	\$34.41	\$71,572.80	\$49.89	\$103,771.20
F	\$30.65	\$63,752.00	\$44.44	\$92,435.20
G	\$26.88	\$55,910.40	\$38.98	\$81,078.40
H	\$24.37	\$50,689.60	\$35.34	\$73,507.20
I	\$22.08	\$45,926.40	\$32.02	\$66,601.60
J	\$20.44	\$42,515.20	\$29.64	\$61,651.20
K	\$18.59	\$38,667.20	\$26.96	\$56,076.80
L	\$16.90	\$35,152.00	\$24.51	\$50,980.80

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Section 2. The Board hereby directs the County Administrator and Deputy County Administrators to consult with the Director of Finance, Human Resources Manager, individual department directors, and participating elected officials, to determine the employees that are affected by the amended wage bands approved herein.

Section 3. The Board hereby authorizes the County Administrator to approve and execute all necessary personnel actions to implement associated pay adjustments for the employees affected by the amended wage bands approved herein.

Section 4. The wage bands approved herein shall supersede the current Delaware County Compensation Management System wage bands, effective December 21, 2024.

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

16

RESOLUTION NO. 24-925

IN THE MATTER OF APPROVING COMPENSATION ADJUSTMENTS FOR CERTAIN EMPLOYEES UNDER THE DIRECTION OF THE BOARD OF COMMISSIONERS:

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

WHEREAS, the County Administrator and the Deputy County Administrators recommend compensation adjustments for certain non-union and Job and Family Services (JFS) union county employees, consisting of a cost-of-living adjustment of up to two and one half percent (2.50%) and an additional merit-based adjustment of up to one and three-quarters percent (1.75%) (collectively, the "Compensation Adjustments"); and

WHEREAS, in order to equitably and expediently approve the compensation adjustments, the Board of Commissioners (the "Board") desires a policy clearly expressing the eligibility criteria, and the County Administrator and Deputy County Administrators recommend adopting the Merit Pay Increase and Year End Cost of Living Adjustment Procedure attached hereto (the "Procedure");

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

Section 1. The Board hereby approves the Compensation Adjustments, effective the pay period commencing December 21, 2024, and approves the Procedure to implement the Compensation Adjustments, subject to the following conditions:

- a. Except as otherwise provided herein or by separate resolution of the Board, the Compensation Adjustments shall be awarded to all non-union employees and the JFS union employees under the direction of the Board and compensated under the County's Compensation Management System, excluding newly hired probationary employees;
- b. Newly hired probationary employees shall not be eligible for the Compensation Adjustments approved herein. Newly hire probationary employees shall receive an increase of 1.625% beginning December 21, 2024. Upon the probationary employee's 2025 one-year anniversary date and upon successful completion of their probationary period or review period, the employee shall receive an increase of 1.625%;
- c. In the event an employee's salary exceeds the Board's established wage bands as a result of the Compensation Adjustments, each pay increase shall be considered a lump sum, one-time payment of the employee's merit score percentage and shall not increase the employee's base rate of pay. The established wage bands shall in all other respects remain in full force and effect.
- d. This Resolution shall not apply to those employees of the Board who are in a collective bargaining unit that negotiated a specific wage adjustment for 2025.

Section 2. The County Administrator shall consult with the Deputy County Administrators and the individual department directors and supervisors to determine the Compensation Adjustments for each of the eligible employees in accordance with the Procedure.

Section 3. The County Administrator and/or the Deputy County Administrators are hereby authorized to execute the forms and/or electronic processes necessary for the Compensation Adjustments in accordance with the Procedure.

Section 4. The Board hereby encourages all county appointing authorities to institute compensation adjustments in substantial conformance with this Resolution for the non-union employees under their respective direction and control, and the Board directs the Clerk of the Board to distribute copies of this Resolution, including the Procedure, to all county offices.

Section 5. This Resolution shall take effect immediately upon adoption.

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Merit Pay Increase and Year End Cost of Living Adjustment Procedure

Purpose

Each year, the Board of Commissioners and County leadership will determine the pool of funding available for merit pay increases and year end cost of living adjustments (COLA) for non-bargaining unit employees and bargaining unit employees that have not bargained yearly increases and have agreed to follow the Board’s Compensation Management System.

The objectives of the Compensation Management System and the financial resources available will be considered in determining the pool of funds available for the merit pay increases and year end COLA decision-making process.

Merit pay is used to reward successful employee performance. Larger merit increases will be awarded to employees who consistently exceed performance standards.

Year end COLA for the 2025 payroll calendar year begin at a base increase of 2.50%. Employees whose performance has been rated at 3.00 (Meets Expectations) or above 3.00 will receive an additional merit pay increase based upon the merit score range / merit rate increase table within this document.

Merit increases will be factored on the employee’s base wage and will not include any supplemental wage(s), if any.

Eligibility

The year-end merit increase provided to all non-union, non-probationary employees and union employees that have agreed to follow the County’s Compensation Management System will be provided in the first full pay period of 2025. Probationary employees will receive an adjustment of 1.625% commencing in the first full pay period of 2025. Upon the probationary employee’s one year anniversary and successful completion of the employee’s probationary period, the employee will receive an adjustment of 1.625%.

Performance Reviews

Employee performance is to be formally reviewed and completed each year. The focus of the review is to discuss the employee’s overall performance and progress toward the employee’s goal achievement for the rating period. The evaluation will review standards and competencies for the employee’s position and the supervisor will communicate the amount of the employee’s merit based upon the score range and rate increase included within this document. The employee, together with their supervisor will establish goals for the next rating period.

Merit Increase Percentages

The amount of the overall increase will be based upon a combination of the following:

- The employee’s overall performance as reported throughout the prior calendar year in the annual performance review,
- The year-end increase percentage available and the financial resources available in the County’s budget,
- Eligibility for a merit increase is at the discretion of the county administrator and department director working together with the employee’s supervisor.

The following chart outlines the merit score ranges and merit pay rate increase for payroll year 2025.

**Merit Score Ranges / Merit Pay Rate Increase
2025**

Score Range	Rate Increase
Below 3.00	2.50% (base COLA only)
3.00 – 3.25	3.25%
3.26 – 3.50	3.5%
3.51 – 3.75	3.75%
3.76 – 4.00	4.00%
Above 4.00	4.25%

Review of Merit Increases

Merit increases require the recommendation of the employee’s immediate supervisor and the department director and will follow the established wage increase process. Employees will be formally notified of their merit increase as soon as possible after all employee merit increases for the year have been signed by the department director and the County Administrator.

An employee whose pay is at the maximum of the salary range may not be granted an increase that would cause the base salary to exceed the maximum of the range for that position. Therefore, the employee will receive a lump sum bonus equal to the percentage they would have received if their wage rate was not at or exceeding the maximum wage band for their position.

Vote on Motion

Mrs. Lewis Aye

Mr. Merrell Aye

Mr. Benton Aye

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17

RESOLUTION NO. 24-926

IN THE MATTER OF APPROVING A SERVICE AGREEMENT WITH FIRST ARRIVING DBA FIRST ARRIVING, LLC AND FIRST ARRIVING IO, INC., FOR DASHBOARD EQUIPMENT AND LICENSES:

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

WHEREAS, the Delaware County Director of Emergency Communications recommends approval of a services agreement with First Arriving, LLC, DBA First Arriving, for Dashboard Equipment and Licenses;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners hereby approves the following agreement with First Arriving, LLC, DBA First Arriving, for Dashboard Equipment and Licenses:

Master Services & Service Level Agreements

1) CONTRACT STRUCTURE & ORDER-OF-PRECEDENCE

This First Arriving Master Service Agreement (“Agreement”) is entered into between First Arriving (dba as First Arriving, LLC and First Arriving IO, Inc.) (“FA”) and the customer (“Customer”) identified on the first order document signed by both Parties referencing this Agreement (“Order Form”), effective as of the effective date identified in that Order Form (“Effective Date”). Capitalized terms in this Agreement are defined in Section 16 (Definitions) and elsewhere in this Agreement. This Agreement and all Order Forms govern Customer’s access to and use of FA’s Service, and the SOW governs any Professional Services FA provides to Customer. “Customer” and “FA” also include such Party’s respective Affiliates, and Customer and FA may be referred to in this Agreement individually as a “Party” and collectively as the “Parties.” In the event of any conflicts between this Agreement, any Order Form, and/or any SOW, the following order-of-precedence applies: SOW take precedence and prevail over Order Forms solely with respect to the subject matter of SOW; and Order Forms and SOW take precedence and prevail over this Agreement solely with respect to their respective subject matter.

THIS IS A LEGAL AND ENFORCEABLE CONTRACT BETWEEN FA AND CUSTOMER. CUSTOMER IS RESPONSIBLE FOR CAREFULLY READING ALL TERMS AND CONDITIONS OF THIS AGREEMENT BEFORE SIGNING AN ORDER FORM, CLICKING “ACCEPT,” OR ACCESSING OR USING ANY FA SERVICE. BY SIGNING AN ORDER FORM, OR ACCESSING OR USING ANY FA SERVICE, CUSTOMER CONFIRMS THAT CUSTOMER HAS ACCESSED ONLINE AND/OR BEEN PROVIDED A COPY OF THIS AGREEMENT, AND HAS READ AND ACCEPTS THIS AGREEMENT IN ITS ENTIRETY. NOTWITHSTANDING ANY DIFFERENT OR ADDITIONAL TERMS CUSTOMER MAY REFERENCE OR PROVIDE, FA’S OFFER OR ACCEPTANCE TO ENTER INTO AN AGREEMENT WITH CUSTOMER WITH RESPECT TO ANY FA SERVICE IS EXPRESSLY LIMITED TO THE TERMS OF THIS AGREEMENT AND CONDITIONED ON CUSTOMER’S CONSENT TO THIS AGREEMENT.

2) OWNERSHIP OF SERVICE & CUSTOMER DATA

2.1 Ownership of the Service. The Service is the property of FA, and is protected by copyright, patent, trade secret and other intellectual property laws. FA and its licensors retain any and all rights, title and interest in and to the Service (including, without limitation, all Intellectual Property Rights), including all copies, modifications, extensions and derivative works thereof. Customer’s right to use the Service is limited to the rights expressly granted in this Agreement and the applicable Order Form(s). All rights not expressly granted to Customer are reserved and retained by FA and its licensors.

2.2 Ownership of Customer Data. As between Customer and FA, (a) all Customer Data is the property of Customer, and (b) Customer retains any and all rights, title and interest in and to the Customer Data, including all copies, modifications, extensions and derivative works thereof. FA retains no right or interest in any Customer Data.

3) GRANT OF RIGHTS

Subject to the terms and conditions of this Agreement, FA hereby grants to Customer the non-exclusive, non-transferable (except as specified in Section 16.2 (Assignment)), worldwide, royalty-free right to access and use the Service during the Service Term in accordance with the terms of this Agreement and all applicable Order Form(s) and SOW (e.g., any transaction volume terms and limitations to particular Customer legal entities, business units, projects, brands, products and/or services set forth therein).

4) USE OF SERVICE

4.1 Customer Responsible for User Accounts. Customer is responsible for all activity occurring under Customer’s User accounts, and must comply with all applicable laws and regulations in connection with using the Service. Customer also must (a) notify FA promptly upon becoming aware of any unauthorized use of any Customer password or account (or any other breach of security of the

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Service), and (b) notify FA promptly upon becoming aware of, and stop, any unauthorized copying, distribution or other misuse of any aspect of the Service. FA will promptly notify the customer of any breach or unauthorized access of the service.

4.2 Use Restrictions. During the term of this Agreement or any Order Form or SOW, Customer must not, without FA's prior written consent, cause or permit the: (a) use, copying, modification, rental, lease, sublease, sublicense, transfer or other commercial exploitation of, or other third party access to, any element of the Service, except to the extent expressly permitted by this Agreement; provided however, that Customer may allow its own customers to access the functionality or output of the Service, via interfaces, portal applications and the like, solely for Customer's internal business purposes in accordance with the applicable Order Form; (b) creation of any modifications or derivative works of the Service; (c) reverse engineering of the Service; (d) gaining of unauthorized access to the Service or its related systems or networks (for example, by impersonation of another user of the Service or provision of false identity information); (e) interference with or disruption of the integrity or performance of the Service or the data contained therein (for example, via unauthorized benchmark testing or penetration testing); (f) sending, storing or use of any Customer Data in connection with the Service for which Customer lacks sufficient ownership or other rights; (g) sending of spam or otherwise duplicative or unsolicited messages in violation of applicable law; (h) sending or storing of infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material in connection with the Service (including, without limitation, any material violative of third party privacy rights); or (i) intentionally sending or storing of any material containing any viruses, worms, trojan horses or other malicious or harmful computer code, files, scripts, agents or programs in connection with the Service. This provision includes sharing login access to FA Technology or FA supplied content contained therein.

4.3 You and Your Authorized Users will need to set up an account and maintain Internet access to use the Service. You and Your Authorized Users will need Internet access and may need to create or log into an account to use the Service and FA reserves the right to require that. You agree that you and Your Authorized Users will not share any user ID or passwords. You agree you will not allow anyone else to access your account (except as expressly allowed by these Terms) or do anything else that might jeopardize the security of your account. You will be solely responsible for arranging and paying any cost for Internet or other network access, equipment, software, services and other resources required for you to access and/or use the service, including, without limitation, Internet service provider fees, telecommunications fees, and the costs of any equipment and third-party software (including, without limitation, encryption and other security technology). FA will not be responsible for the support of your access and will not be responsible for the reliability, security or performance of any access if documented technical requirements are not met.

5) PRIVACY, SECURITY, CONTINUITY & SUPPORT

5.1 Compliance with Privacy Laws. FA will use Customer Data in connection with the Service only as permitted by Privacy Laws and this Agreement; provided, however, that if compliance with any Privacy Laws would materially change FA's costs or risks in providing the Service (including, without limitation, by requiring that any FA data centers be located outside the U.S., or requiring FA to operate in violation of any U.S. laws), each Party will have the right to terminate this Agreement (including all Order Forms and SOW) under Sections 6.2 and 6.5 upon at least thirty (30) days prior written notice to the other Party, unless Customer and FA agree in writing within such 30-day period that FA may continue to provide the Service to Customer without complying with the Privacy Laws giving rise to such material change. In the event of a termination under this section, Customer's sole right, and FA's sole obligation, will be for FA to promptly refund to Customer on a pro rata basis any Service Edition Fees prepaid under applicable Order Forms that are unused as of the termination effective date.

5.2 Security of the Service. FA's data security program for the Service will: (a) include industry standard reasonable security measures to protect against unauthorized access to any Customer Data residing in the Service; (b) comply with PCI DSS; and (c) comply with all laws and regulations surrounding the Service. FA will not be responsible or liable for any deletion, correction, damage, destruction or loss of Customer Data that does not arise from a breach by FA of its obligations under this Agreement, except for FA's gross negligence or willful misconduct.

5.3 Financial Account Data. For customers using FA's eCommerce functions and financial services, all customer credit card data will process using the Authorize.net virtual terminal. Customer will be provided access to the Authorize.net account and can export customer data at customer's discretion. FA encourages Customer to back-up its Customer Data by exporting it regularly. FA agrees to comply with all applicable local, state and federal laws and regulations with respect to any and all credit card processing and invoicing services provided to Customer's users during the term of the Agreement in accordance with any SOW and/or Order Form.

5.4 Business Continuity & Disaster Recovery. FA will maintain and implement throughout the term of this Agreement business continuity and disaster recovery plans to help ensure availability of the Customer Data following any significant interruption or failure of critical business processes or systems affecting the Service. FA will provide Customer with copies of its business continuity and disaster recovery plans within 30 days of Customer's written request.

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5.5 Support & Service Level Agreement. FA will provide technical support for the Service in accordance with Exhibit A to this Agreement (Support and Service Level Agreement) as long as Customer is entitled to receive support under the applicable Order Form and this Agreement.

6) TERM & TERMINATION

6.1 Term of Agreement. This Agreement will begin on the Effective Date and continue in effect until all Order Forms and SOW expire or are terminated in accordance with Section 6.5. The agreement for Dashboard and Website Customers shall automatically renew annually with (30) days notice.

6.2 Effect of Expiration or Termination of Agreement. Sections 1, 2, 4.2, 6.3, 6.5, 8, 9, 10, 11.3, 12, 13, 14, 15, and 16 of this Agreement will survive any expiration or termination of this Agreement. The applicable Order Forms and SOW may identify additional terms that will survive any expiration or termination of this Agreement. Regardless of the basis for expiration or termination of this Agreement, FA will not be obligated to retain any Customer Data for longer than ninety (90) days after any such expiration or termination.

6.3 Term of Order Forms. The term of particular Order Forms will be set forth therein, starting on the Effective Date specified therein and continuing for the initial term specified therein (“Initial Service Term”).

6.4 Terminations of Agreement or SOW. Either Party may terminate any Order Forms and/or SOW in accordance with their respective terms. If not specified in the applicable Order Form or SOW, then subject to the exclusive remedy provisions in this Agreement: either Party may terminate any Order Forms or SOW for cause upon written notice if the other Party fails to cure any material breach thereof within thirty (30) days after receiving reasonably detailed written notice from the other Party alleging the breach. In the event the software does not function as represented, Customer has the option to cancel the contract after the first year. Customer must notify FA of the intent to cancel at least thirty (30) days prior to the end of the contract term.

6.5 Effect of Termination of Order Forms or SOW. If an Order Form or SOW is terminated in accordance with Section 6.5, all terms of such Order Form or SOW that reasonably should survive such termination will survive, including, without limitation, Customer’s payment obligations if FA terminates for cause.

7) ORDER PROCESS

Customer orders the FA Service via one or more Order Forms, and Customer may also order FA’s Professional Services via one or more SOW.

7.1 Purchase Orders. If Customer requires that a purchase order (“PO”) be issued before making payment under an Order Form or SOW, Customer must provide to FA such valid PO conforming to the applicable Order Form or SOW in time for Customer to meet its payment obligations. Any conflicting terms and conditions of any PO are superseded by the rights or obligations of the Parties outlined in this Agreement or any SOW or Order Form, regardless of any failure to object to such terms and conditions.

7.2. Modification of Fees Upon Renewal. FA reserves the right to modify the Fees for its Service under any future Order Forms, effective upon commencement of any renewal Term for the Service on the relevant Order Form(s), by notifying Customer in writing at least thirty (30) days before the end of the then-current Service Term.

8) FEES & PAYMENT

8.1 Payment Details. Customer must pay all fees and charges in accordance with this Agreement and each mutually executed Order Form and SOW (“Fees”). Except to the extent otherwise expressly stated in this Agreement or in an Order Form or SOW, or as provided by law:

1. All obligations to pay Fees are non-cancelable and all payments are non-refundable;
2. Customer must make all payments without setoffs, withholdings or deductions of any kind;
3. Customer must pay all Fees due under all Order Forms and SOW within thirty (30) days after Customer receives each invoice (invoices are deemed received when FA emails them to Customer’s designated billing contact); and
4. All payments must be in U.S. dollars.

Except to the extent otherwise expressly stated therein, if an applicable Order Form or SOW provides for payment via credit card or electronic money transfer (e.g., ACH), FA is permitted to process such payment on the date of FA’s invoice.

8.2 Taxes. FA’s Fees are exclusive of all taxes, levies, or duties imposed by taxing authorities in connection with any Order Forms or SOW. Customer is responsible for paying all such taxes, levies, or duties, excluding only taxes based solely on FA’s income. If FA has the legal obligation to pay or collect taxes for which Customer is responsible, the appropriate amount will be invoiced to and paid by Customer unless Customer provides FA a valid tax exemption certificate authorized by the appropriate taxing authority.

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8.3 Customer Contact Information. Customer agrees to provide FA accurate billing and other contact information for each Order Form and SOW at all times during the Service Term, including the name of Customer's applicable legal entity, and the street address, e-mail address, name and telephone number of an authorized billing contact. Customer shall provide this information within thirty (30) days after any changes, via email to FA's Accounts Receivable team for billing contact information. Customer shall also maintain, at all times during the Service Term, at least one Admin who is a current employee and is authorized to administer Customer's use of the Service.

~~8.4 Consequences of Non Payment. If Customer fails to make any payments required under any Order Forms or SOW, then in addition to any other rights FA may have under this Agreement or applicable law:~~

~~1. Customer will owe FA an interest penalty of one and one-half percent (1.5%) per month on any outstanding balance under each delinquent invoice, or the maximum permitted by law (whichever is less);~~

~~2. FA will be entitled to recover its reasonable attorneys' fees, and other reasonable costs to collect such amounts; and~~

~~3. FA reserves the right to temporarily suspend Customer's access to the Service if Customer's account remains delinquent for thirty (30) days after receipt of a delinquency notice from FA (which may be provided via email to Customer's billing contact). Customer will continue to incur and owe all applicable Fees irrespective of any such Service suspension due to Customer's delinquency.~~

8.5 Renewal Pricing for Dashboards License pricing shall be a fixed price for one (1) year unless otherwise outlined in the customer's specific agreement terms. Prices will escalate by 3% per year starting at renewal date, and only one price escalation shall be allowed within a twelve (12) month period.

9) THIRD PARTY INTERACTIONS

To the extent use of the Service requires use of any third party products or services (e.g., Oracle Java, Adobe Acrobat, Amazon Web Services and/or a Web browser), such products and services may require Customer to agree to separate terms. Similarly, in connection with using the Service, Customer may enter into correspondence with, purchase products and/or services from, and/or participate in promotions of third parties. Any such third party activities, products and services, and any terms associated therewith, are solely between Customer and the relevant third parties. FA does not support, or endorse or make any representations or warranties regarding, any such third party products or services, and in no event will FA have any liability whatsoever in connection therewith.

10) SERVICE AND PROFESSIONAL SERVICES

If Customer wishes to purchase any training, implementation or other professional services from FA relating to the Service ("Professional Services"), the Parties will mutually execute one or more separate SOW containing the relevant terms and conditions. Except to the extent expressly set forth to the contrary in any applicable SOW, the following provisions will apply to all SOW:

1. As between Customer and FA, Customer will retain all ownership rights in and to all copyrightable works owned by Customer including without limitation, inventions, software, trade secrets, work product, methodologies, techniques, tools, algorithms, materials, products, ideas, designs, and know-how (including all copies, enhancements, modifications, revisions, and derivative works of any of the foregoing), that existed prior to the Effective Date of any SOW or Order Form or are acquired by Customer from a third party thereafter or developed independently and outside the scope of this Agreement (and associated intellectual property rights) ("Pre-existing Customer Intellectual Property") and any software, design, content, methodologies, techniques, processes, inventions, materials or other deliverables developed in whole or in part by FA, or otherwise provided to Customer, in connection with this Agreement or any applicable SOW or Order Form ("FA Deliverables"), other than FA Independent Intellectual Property as defined below, shall be the property of Customer. Therefore, as between FA and Customer, Customer will at all times be and remain the sole and exclusive owner of any Pre-Existing Customer Intellectual Property and FA Deliverables. Customer grants FA a non-exclusive, non-transferable, worldwide, royalty-free license solely to use such Pre-Existing Customer Intellectual Property in connection with providing the Service during the term of this Agreement or any applicable SOW or Order Form and otherwise performing its obligations under this Agreement.

2. All software and services owned and developed by FA, methodologies, techniques, software libraries, tools, algorithms, materials, products, ideas, designs, and know-how (including all copies, enhancements, modifications, revisions, and derivative works of any of the foregoing), that existed prior to the Effective Date of any SOW or Order Form or are acquired by FA from a third party thereafter or developed independently and outside the scope of this Agreement (and associated intellectual property rights) ("Pre-existing FA Intellectual Property") and any software, design, content, methodologies, techniques, processes, inventions, materials or other deliverables

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independently developed in whole by FA (“FA Independent Intellectual Property”), and provided to Customer, in connection with this Agreement or any applicable SOW or Order Form, other than the FA Deliverables shall be the property of FA. As between FA and Customer, FA will at all times be and remain the sole and exclusive owner of any Pre-Existing FA Intellectual Property and FA Independent Intellectual Property.; and

3. Subject to the terms of this Agreement, FA grants Customer a non-exclusive, non-transferable, worldwide, royalty-free license to reproduce, perform, display, create derivative works of, and otherwise use internally the Pre-Existing and Independent FA Intellectual Property in connection with the Service during the Term of this Agreement. Nothing in this Agreement will prohibit, restrict or limit (i) FA from performing similar Professional Services for any third party, or (ii) Customer from hiring any third party to perform similar Professional Services (though Customer is not permitted to give any direct competitor of FA access to the Service or any Pre-Existing and Independent FA Intellectual Property without FA’s prior written consent).

11) WARRANTIES & DISCLAIMERS

11.1 Mutual Warranties. Each Party represents and warrants to the other that it has the legal power and authority to enter into this Agreement, and that this Agreement has been duly authorized, executed and delivered and constitutes a valid and binding agreement enforceable against such Party in accordance with its terms.

11.2 Additional FA Commitments. FA further represents and warrants that:

1. It will use commercially reasonable technical means to screen for and detect disabling devices, viruses, trojan horses, trap doors, back doors, Easter eggs, time bombs, cancelbots and other computer programming routines designed to damage, detrimentally interfere with, surreptitiously intercept or expropriate any other software or data;

2. It will make commercially reasonable efforts to notify Customer, at least thirty (30) days in advance via FA’s Normal Communication Channels, of any scheduled changes FA believes are likely to have a material, adverse impact on Customer’s use of the Service (“Material Changes”). (As a multi-Tenant SaaS vendor, FA reserves the right to make enhancements and other changes to the Service, including occasional depreciation and removal of certain features and functionality.)

If FA breaches any warranties in this Section 11.2, Customer’s exclusive remedy and FA’s sole obligation will be for FA to make commercially reasonable efforts to correct the non-conformity or, if FA is unable to correct the non-conformity within sixty (60) days after receipt of Customer’s written notice, for Customer to terminate the applicable Order Form(s) and receive a refund, on a pro rata basis, of any Service Edition Fees prepaid under such Order Form(s) that are unused as of the termination effective date.

11.3 Warranty Disclaimers. EXCEPT TO THE EXTENT EXPRESSLY STATED IN THIS AGREEMENT: (A) FA AND ITS LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, STATUTORY OR IMPLIED (IN FACT OR BY OPERATION OF LAW), REGARDING THE SERVICE, PROFESSIONAL SERVICES, OR ANY MATTER WHATSOEVER; AND (B) FA AND ITS LICENSORS DO NOT WARRANT THAT THE SERVICE OR ANY PROFESSIONAL SERVICES ARE OR WILL BE ERROR-FREE, MEET CUSTOMER’S REQUIREMENTS, OR BE TIMELY OR SECURE. FA AND ITS LICENSORS EXPRESSLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO THE SERVICE AND ANY PROFESSIONAL SERVICES, AND CUSTOMER HAS NO RIGHT TO MAKE OR PASS ON TO ANY THIRD PARTY ANY REPRESENTATION OR WARRANTY BY FA.

THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET OR ELECTRONIC COMMUNICATIONS. FA IS NOT RESPONSIBLE FOR DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE, LOSS OR LIABILITY RESULTING FROM SUCH PROBLEMS NOT CAUSED BY FA.

Customer agrees that ITS SUBSCRIPTION TO THE SERVICE AND FEES DUE OR PAID UNDER THIS AGREEMENT ARE neither contingent on the delivery of any future functionality or features, nor BASED on any oral or written comments regarding ANY future functionality or features.

~~12) INDEMNIFICATION~~

~~12.1 Each party shall defend, indemnify and hold the other party, its officers, directors, agents, affiliates and employees harmless from any loss, liability, claim, suit or expense (including, without limitation, reasonable attorney’s fees and costs) on account of any third party claim arising from the indemnifying party’s (i) breach of this Agreement, (ii) infringement of a third party right, (iii) negligent or willful act or omission, or (iv) violation of any law, statute, ordinance, rule or regulation throughout the world, in each case as relating to or arising from the performance of the Services and/or this Agreement.~~

~~FA will have no obligation or liability and Customer will indemnify and hold harmless FA for any third~~

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~~party claim under this section to the extent arising from: (i) the combination, operation or use of the Service with any product, training content, device, software or service not supplied by FA to the extent the combination creates the infringement; (ii) the unauthorized alteration or modification by Customer of the Service, (iii) FA's compliance with Customer's designs, specifications, requests, or instructions in providing Professional Services to the extent the Claim is based on such compliance, (iv) Customer's content or training curriculum, or (v) arising from the Customer's use of the LMS to deliver or track training or use FA content for its organization's training or that of its customers. THE FOREGOING ARE THE DEFENDING/INDEMNIFYING PARTY'S SOLE OBLIGATIONS, AND THE OTHER PARTY'S EXCLUSIVE REMEDIES, IN CONNECTION WITH THIS AGREEMENT WITH RESPECT TO INDEMNIFICATION AND THE MATTERS ADDRESSED IN THIS SECTION 13.~~

13) LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW:

13.1 The FA LMS and any content contained therein including but not limited to videos, policies and training courses whether created by FA or shared by customers serve as examples of best practices and should not in any way replace, interfere, or override individual agency of companies protocol, standard operating procedure, tactics or policies. The LMS and any content is provided "as is, as available" basis without warranty of any kind, expressed, implied or statutory, and any and all warranties of merchantability, fitness for a particular purpose or non-infringement of third parties' rights are specifically disclaimed. Although FA has made best efforts to provide accurate training information on the site, FA makes no guarantee or warranty express or implied, as to the reliability, accuracy, timeliness or completeness of that information and assumes no liability for errors or omissions therein.

13.2 EXCEPT FOR SUMS DUE FA UNDER APPLICABLE ORDER FORMS AND SOW, AND EXCEPT WITH RESPECT TO CUSTOMER'S OBLIGATIONS AND CUSTOMER'S LIABILITY UNDER SECTIONS 4.2 (USE RESTRICTIONS) ~~AND 12 (INDEMNIFICATION)~~, NEITHER PARTY'S TOTAL AGGREGATE LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT WILL EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM CUSTOMER IN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY;

13.3 EXCEPT WITH RESPECT TO CUSTOMER'S OBLIGATIONS AND CUSTOMER'S LIABILITY UNDER SECTIONS 4.2 (USE RESTRICTIONS) ~~AND 12 (INDEMNIFICATION)~~, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES, OWNERS, OFFICERS, DIRECTORS, EMPLOYEES OR LICENSORS BE LIABLE OR OTHERWISE OBLIGATED TO THE OTHER PARTY OR ANYONE ELSE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE, PROFITS, USE, DATA OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, REGARDLESS OF CAUSE, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS PREVIOUSLY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND

13.4 THE TERMS OF THIS SECTION 13 APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER THE ASSERTED LIABILITY OR DAMAGES ARE BASED ON CONTRACT (INCLUDING, BUT NOT LIMITED TO, BREACH OF WARRANTY), TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL OR EQUITABLE THEORY. THE PROVISIONS OF THIS SECTION 13 ALLOCATE RISKS UNDER THIS AGREEMENT BETWEEN CUSTOMER AND FA, AND THE FEES CHARGED FOR THE SERVICE REFLECT THIS ALLOCATION OF RISKS AND THESE LIMITATIONS OF LIABILITY.

14) CONFIDENTIALITY

14.1 Definition. As used in this Agreement, "Confidential Information" means information and materials provided by the disclosing Party ("Discloser") to the Party receiving such information or materials ("Recipient") that (a) are identified as confidential at the time of disclosure, or (b) a reasonable person in the relevant industries should understand to be confidential based on the nature of the information and materials and all other relevant factors. For the avoidance of doubt, Customer's Confidential Information includes, without limitation, all Customer Data, all Customer non-public business information, and Customer's Intellectual Property, and FA's Confidential Information includes, without limitation, all pricing terms offered to Customer under any Order Form, FA's non-public business plans, all non-public aspects of the FA Technology, and the results of any evaluation of the Service performed by or on behalf of Customer for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.

14.2 Purpose. Recipient must not use any of Discloser's Confidential Information for any purpose other than carrying out Recipient's obligations or exercising its rights under this Agreement (the "Purpose").

14.3 Permitted Disclosures and Obligations. Recipient also must not disclose to any third party any Confidential Information, other than to Recipient's Affiliates, contractors, consultants, and employees who (a) need to know such information in order to fulfill the Purpose, and (b) are bound by

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confidentiality obligations substantially similar to Recipient's under this Agreement (each Party is fully responsible for its respective Affiliates', contractors', consultants' and employees' compliance with this Agreement). Recipient must treat all Discloser Confidential Information with the same degree of care Recipient gives to its own Confidential Information, but not less than reasonable care. Further, neither Party may disclose publicly the existence or nature of any negotiations, discussions or consultations in progress between the Parties without the prior written consent of the other Party. Recipient and its Affiliates, contractors, consultants, and employees who receive Confidential Information hereunder must: (i) not use any such Confidential Information to compete with Discloser or in any other way except as reasonably necessary for the Purpose; (ii) not reverse engineer, disassemble or decompile any prototypes, software or other tangible objects received from Discloser under this Agreement that embody Confidential Information; (iii) promptly notify Discloser of any unauthorized use or disclosure of its Confidential Information of which Recipient becomes aware; and (iv) reasonably assist Discloser in remedying any such unauthorized use or disclosure.

14.4 Exclusions. Recipient's obligations under Section 14 will not apply to any Discloser Confidential Information that Recipient can prove with sufficient documentary evidence: (a) is or becomes part of in the public domain through no fault of Recipient; (b) is rightfully in Recipient's possession free of any confidentiality obligation; (c) was independently developed by Recipient without use of any Discloser Confidential Information; or (d) is communicated by Discloser to an unaffiliated third party free of any confidentiality obligation. A disclosure by Recipient of any Confidential Information (i) in response to a valid order or other legal process issued by a court or other governmental body having jurisdiction, (ii) as otherwise required by law, or (iii) necessary to establish the rights of either Party under this Agreement will not be a breach of this Agreement if, to the extent legally permitted, Recipient gives Discloser prompt notice and reasonable cooperation so Discloser may seek to prevent or limit such disclosure.

14.5 Ownership and Destruction of Confidential Information. As between Discloser and Recipient, all Discloser Confidential Information is the property of Discloser, and no license or other rights are granted or implied hereby. All materials provided to Recipient by Discloser, whether or not they contain or disclose Confidential Information, are Discloser's property. Promptly after any request by Discloser, Recipient will (a) destroy or return to Discloser all Confidential Information and materials in Recipient's possession or control, and (b) upon written request by Discloser, confirm such return/destruction in writing; provided, however, that the Recipient may retain electronic copies of any computer records or electronic files containing any Discloser Confidential Information that have been created pursuant to Recipient's standard, commercially reasonable archiving and backup practices, as long as Recipient continues to comply with this Agreement with respect to such electronic backup copies for so long as such Confidential Information is retained.

14.6 Export. Exchange of Confidential Information under this Agreement is subject to all applicable export laws and regulations. Except to the extent permitted by a separate agreement, the Parties will not disclose any information requiring an authorization to be exported.

14.7 Confidentiality Period. Recipient's obligations with respect to Discloser's Confidential Information under Section 14 will remain in effect for the term of this Agreement and for three (3) years after any expiration or termination of this Agreement.

15) GENERAL

15.1 Governing Law. This Agreement is governed by ~~Delaware~~ Ohio law and controlling United States federal law, without regard to conflicts of law provisions of any jurisdiction. Any disputes, actions, claims or causes of action arising out of or relating to this Agreement or the Service will be subject to the exclusive jurisdiction of the ~~state and federal~~ courts located in ~~Delaware~~ Delaware County, Ohio. The Service is a service, not a good, and is not subject to the Uniform Commercial Code, the Uniform Computer Information Transactions Act, or the United Nations Convention on the International Sale of Goods.

15.2 Assignment. Neither Party may assign, sublicense or otherwise transfer (by operation of law or otherwise) this Agreement, or any of a Party's rights or obligations under this Agreement, to any third party without the other Party's prior written consent, which consent must not be unreasonably withheld, delayed or conditioned; provided, however, that upon written notice to the other Party, either Party may assign or otherwise transfer this Agreement, along with all associated Order Forms and SOW (and all its rights and obligations thereunder), (a) to a successor-in-interest in connection with a merger, acquisition, reorganization, a sale of most or all of its assets, or other change of control, or (b) to its Affiliate. In the event of such a permitted transfer by Customer, the rights granted under this Agreement shall continue to be subject to the same usage limitations that applied under applicable Order Forms prior to the transfer (e.g., any transaction volume terms and limitations to particular Customer legal entities, business units, projects, brands, products and/or services set forth therein). Any purported assignment or other transfer in violation of this section is void. Subject to the terms of this section, this Agreement will bind and inure to the benefit of the Parties and their respective permitted successors and transferees.

Notwithstanding anything to the contrary in this section, in the event of any permitted transfer by Customer under this section to a direct competitor of FA, FA will have the right to terminate this

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Agreement (including all associated Order Forms and SOW) for cause under Section 6.5. In the event of such a termination, FA will promptly refund to Customer, on a pro rata basis, all Fees prepaid by Customer under all Order Forms and SOW then in effect that are unused as of the termination effective date.

15.3 Force Majeure. If either Party is prevented from performing, or is unable to perform, any of its obligations under this Agreement (other than payment obligations) due to any cause beyond its reasonable control, e.g., war, riots, labor unrest, fire, earthquake, flood, hurricane, other natural disasters and acts of God, Internet service failures or delays, and denial of service attacks (collectively, "Force Majeure"), the affected Party's performance will be excused for the resulting period of delay or inability to perform.

15.4 Marketing. Upon Customer's prior written consent, which may be withheld or revoked at any time in Customer's sole discretion, FA is may identify Customer as a FA customer on FA's website and marketing materials. Within thirty (30) days after Customer goes live on the Service, (a) Customer and FA will issue a mutually agreed joint public announcement, and (b) Customer may consider serving as a reference for FA in Customer's sole discretion. Customer further agrees that "Powered by FA" or a similar FA mark may appear in invoices, quotes, hosted payment pages, hosted checkout pages, and similar outputs generated through Customer's use of the Service.

15.5 Independent Contractors. The Parties are independent contracting parties. Neither Party has, or will hold itself out as having, any right or authority to incur any obligation on behalf of the other Party. The Parties' relationship in connection with this Agreement will not be construed as a joint venture, partnership, franchise, employment, or agency relationship, or as imposing any liability upon either Party that otherwise might result from such a relationship.

15.6 Notices. All legal notices (e.g., notice of termination of this Agreement or an Order Form based on an alleged material breach) required under this Agreement must be delivered to the other Party in writing (a) in person, (b) by nationally recognized overnight delivery service, or (c) by certified U.S. mail (requiring signature) to the other Party's corporate headquarters, Attention: Legal Department. With respect to all other notices, Customer may email FA's primary assigned contact and FA may email Customer's billing contact identified on the applicable Order Form(s) or SOW. Either Party may change its notice address by giving written notice to the other Party.

15.7 Anti-Corruption. Customer acknowledges it has not received or been offered any illegal or otherwise improper bribe, kickback, payment, gift or other thing of value by any FA employee, representative or agent in connection with this Agreement. Customer will use reasonable efforts to promptly notify FA if Customer becomes aware of any circumstances that are contrary to this acknowledgment.

15.9 Execution. This Agreement may be signed electronically and in counterparts, in which case each signed copy will be deemed an original as though both signatures appeared on the same document.

15.10 Entire Agreement. This Agreement, together with any applicable Order Forms and SOW (including any other terms referenced in any of those documents), comprises the entire agreement between Customer and FA regarding the subject matter of this Agreement, supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the Parties regarding such subject matter, and may only be modified by a document signed by authorized representatives of both Parties.

16) DEFINITIONS

As used in this Agreement:

"Affiliate" means a company, corporation, individual, partnership or other legal entity that directly or indirectly controls, is controlled by, or is under common control with a Party to this Agreement. For purposes of this definition, "control" means direct or indirect ownership or control of more than fifty percent (50%) of the voting interests of the subject entity;

"Content" means the audio and visual information, documentation, software, products and services contained in or made available via the Service, other than Customer Data and Customer Confidential Information;

"Customer Data" means any data, information or material received by the Service from Customer or Customer's Users in the course of accessing or using the Service;

"Intellectual Property Rights" means rights under any copyright, patent, trademark, trade secret and other intellectual property laws worldwide;

"Normal Communication Channels" means the online channels through which FA normally communicates important information to its customers, e.g., FA's online Knowledge Center and community site, and/or the email address(es) provided by Customer. (Customer must opt-into FA's

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online community site to receive certain important information regarding such changes and to take other required action relating to use of the Service.);

“Privacy Laws” means all European Union member country and U.S. laws and regulations regarding data privacy and transmission of personal data that apply to FA’s provision of the Service to Customer (e.g., storing and processing Customer Data), including, without limitation, Articles 25(1) and 26(1) of EU Directive 95/46/EC of 24 October 1995;

“Service” means FA’s online subscription service (e.g., for subscription billing management and analytics), accessible via any Web site or IP address designated by FA, which FA provides to Customer under an Order Form. “Service” also includes all components of FA’s online LMS service, and all Content and FA Technology provided by FA in connection therewith;

“SOW” means Statement(s) of Work, Work Authorization(s) or other contract(s) under which FA provides its Professional Services, if any;

“User(s)” means Customer’s customers, employees, representatives, consultants, contractors and agents who have been authorized by Customer to use the Service; and

“FA Technology” means all of FA’s and its licensors’ proprietary technology that FA makes available to Customer as part of or in connection with the Service (including, without limitation, any and all software, hardware, products, processes, APIs, algorithms, user interfaces, trade secrets, know-how, techniques, designs and other tangible or intangible technical material or information).

Appendix A: Service Level Agreement

1. Response Times

For all support issues relating to the FA Dashboards & Websites, FA will make an industry standard and commercially reasonable effort to respond promptly (via FA’s Normal Support Channels), in any event within two (2) Business Days after receipt, unless otherwise specified in the Customer’s specific contract/package level

2. Uptime Commitment

The Uptime Percentage for the Service will be ninety-nine and five-tenths percent (99.5%) (the “Uptime Commitment”). Subject to the exclusions described in Subsection C below, “Uptime Percentage” is calculated by subtracting from 100% the percentage of 1-minute periods during any yearly billing cycle (i.e., 12 calendar months) in which Customer’s Production Tenant(s) is (are) Unavailable out of the total number of minutes in that quarterly billing cycle. “Unavailable” and “Unavailability” mean that, in any 1-minute period, all connection requests received by Customer’s Production Tenant(s) failed to process (each a “Failed Connection”); provided, however, that no Failed Connection will be counted as a part of more than one such 1-minute period (e.g. a Failed Connection will not be counted for the period 12:00:00-12:00:59 and the period 12:00:30-12:01:29). The Yearly Uptime Percentage will be measured based on the industry standard monitoring tools FA uses.

3. Exclusions from Uptime Percentage

Notwithstanding anything to the contrary in this exhibit, any Service Unavailability issues resulting from any of the following will be excluded from calculation of Quarterly Uptime Percentage:

- Regularly scheduled maintenance of the Service that does not exceed six (6) hours per 3-month period and is communicated by FA at least twenty-four (24) hours in advance via FA’s Normal Support Channels. (FA typically schedules such regularly scheduled maintenance once per month.);
- Any failures of the FA Standard and Custom Reporting Services that does not exceed six (6) hours per 3-month period and is communicated by FA at least twenty-four (24) hours in advance via FA’s Normal Support Channels.;
- QuickBooks, or a payment gateway; Amazon Web Services (AWS) or Google Enterprise – Any issues with a third party service to which Customer subscribes (e.g. third party integrations and data providers)
- Any problems not caused by FA that result from (a) computing or networking hardware, (b) other equipment or software under Customer’s control, (c) the Internet, or (d) other issues with electronic communications;
- FA’s suspension or termination of the Service in accordance with the Agreement and/or its associated Order Form;
- Exceeding FA’s published Concurrent Request Limits;
- Software that has been subject to unauthorized modification by Customer;
- Negligent or intentional misuse of the Service by Customer; or – “Beta” or “limited availability” products, features and functions identified as such by FA. Customer may elect to use certain billable FA Professional Services to resolve issues associated with the excluded areas listed in the Customer’s contract/agreement. Such Professional Services may require Customer to complete a network assessment, and/or give FA

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access to Customer’s network, in order to diagnose the issue.

International Users

The Service is controlled, operated and administered by First Arriving from our offices within the USA. If you access the Service from a location outside the USA, you are responsible for compliance with all local laws. You agree that you will not use the First Arriving Content accessed through First Arriving.com in any country or in any manner prohibited by any applicable laws, restrictions or regulations.

Changes to Terms

First Arriving reserves the right, in its sole discretion, to change the Terms under which firstarriving.com and related services is offered. The most current version of the Terms will supersede all previous versions. First Arriving encourages you to periodically review the Terms to stay informed of our updates.

Contact Us

First Arriving welcomes your questions or comments regarding the Terms:

First Arriving
9555 Kings Charter Drive
Suite K
Ashland, VA 23005
Email Address:
getstarted@firstarriving.com
Telephone number:
+1 (240) 667-7755

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

**18
RESOLUTION NO. 24-927**

IN THE MATTER OF ACCEPTING A GRANT AWARD FROM THE OHIO ATTORNEY GENERAL – VICTIMS OF CRIME ACT THE COURT APPOINTED SPECIAL ADVOCATE PROGRAM FOR DELAWARE COUNTY JUVENILE AND PROBATE COURT AND APPROVING SUPPLEMENTAL APPROPRIATIONS:

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

Grant #	VOCA – Court Appointed Special Advocate
Source:	Ohio Attorney General – Victims of Crime Act
Grant Period:	10/01/2024 – 09/30/2025

Grant (VOCA) Amount:	\$104,496.14
Grant (SVAA) Amount:	\$1,918.00
Local Cash Match:	\$0.00
Local In-Kind Match:	<u>\$26,124.03</u>
Total Grant Amount:	\$132,538.17

CASA provides a voice for the child victim. Victims, especially children, are often ignored, and can fall through the cracks during their involvement in the child welfare and judicial system. CASA advocates are the eyes and ears of the court, and fight for the best interests of the child victims. Research shows that the children served by a CASA are placed in safe and permanent home sooner, are less likely to spend time in long-term foster care, receive a higher number of court-ordered services, and are more likely to be adopted. The one common factor most likely to predict the success of at-risk children in the presence of at least one consistent, concerned adult in their life. In Delaware and Union counties, this consistent, concerned adult can be a trained and knowledgeable CASA volunteer advocate. Almost all CASA cases have one consistent advocate throughout the life of the case. Volunteers are asked to advocate for the child through the entire time the child is in the child welfare system, from a preliminary shelter care hearing to permanence, whether that is reunification, legal custody to a relative, or adoption. The average length of a child welfare case is 18 months, and Delaware County volunteers average a service time of 36 months. This consistency is only possible through continued training and support by CASA staff. In this grant cycle the expected outcome measurements include: 20 new volunteers serving Delaware and Union Counties, 100% of CASA volunteers participate in monthly in-service trainings, 5 CASA Volunteers will be serving the aging out population as a Fostering Futures CASA/Mentor, 90% of children will be safe while under court jurisdiction, 80% of children will live in a permanent, safe family home when their case is closed.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio, to accept a grant award from the Ohio Attorney General – Victims of Crime Act the Court Appointed Special Advocate Program for Delaware County Juvenile and Probate Court and approving the following supplemental appropriations:

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Supplemental Appropriation		
27426314-5001	Crime Victims CASA/Compensation	55,000.00
27426314-5101	Crime Victims CASA/Health Insurance	23,000.00

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

**OTHER BUSINESS ITEM #1
RESOLUTION NO. 24-928**

**IN THE MATTER OF RANKING THE PROPOSALS SUBMITTED FOR STRATEGIC
BROADBAND NETWORK ENGINEERING AND DEPLOYMENT:**

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

WHEREAS, pursuant to Resolution No. 24-526, the Delaware County Board of Commissioners (the “Board”) requested proposals for strategic broadband network engineering and deployment; and

WHEREAS, the Board received proposals from four respondents, which were submitted to an evaluation committee to evaluate and rank the proposals in accordance with the request for proposals; and

WHEREAS, the evaluation committee has determined that all proposals received were responsive to the request for proposals and has completed its ranking of the responsive proposals, with the proposals respondents’ proposals ranked in the following order: 1 – Consolidated Cooperative; 2 – Brightspeed; 3 – Altafiber; 4 – Spectrum; and

WHEREAS, the Deputy County Administrator recommends that the Board adopt the committee’s ranking and authorize negotiations with Consolidated Cooperative and Brightspeed;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the ranking of the proposals submitted for strategic broadband network engineering and deployment as follows: 1 – Consolidated Cooperative; 2 – Brightspeed; 3 – Altafiber; 4 – Spectrum;

BE IT FURTHER RESOLVED that the Board hereby directs the County Administrator to conduct contract negotiations with Consolidated Cooperative and Brightspeed, with negotiations proceeding to the next ranked respondent in the order approved herein if negotiations shall be unsuccessful.

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

**OTHER BUSINESS ITEM #2
RESOLUTION NO. 24-929**

**IN THE MATTER OF APPROVING THE OHIO DEPARTMENT OF HEALTH TUBERCULOSIS
FUNDING AGREEMENT BETWEEN THE OHIO DEPARTMENT OF HEALTH (“ODH”) AND
THE DELAWARE COUNTY BOARD OF COMMISSIONERS FOR TUBERCULOSIS PROGRAM
FUNDING:**

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

**OHIO DEPARTMENT OF HEALTH
TUBERCULOSIS FUNDING AGREEMENT**

This **Tuberculosis Funding** Agreement (“Agreement”) is between:

Ohio Department of Health (“ODH”)
Bureau of Infectious Diseases, TB Program
Shelby Hale, TB Controller & TB Program Manager (“ODH Agreement Manager”)
246 N. High Street, Columbus, Ohio 43215
614-980-4314
Shelby.Hale@odh.ohio.gov

and

Delaware County Board of Commissioners
Jeff Benton, Barb Lewis, Gary Merrell
County Commissioner
91 North Sandusky St. Delaware, OH 43015
(740) 833-2100
jbenton@co.delaware.oh.us
blewis@co.delaware.oh.us
gmerrell@co.delaware.oh.us
OAKS ID Number-Address Code 56163

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For the purpose of this Agreement, the term “Party” or “Parties” may be used to refer to either ODH and/or Recipient/County Commissioner individually or collectively. This Agreement must be signed by Recipient and returned along with required attachments to ODH, at Procurement@odh.ohio.gov and Shelby Hale (Shelby.Hale@odh.ohio.gov) within fourteen (14) days. A copy of the fully executed Agreement will be returned to Recipient.

1. **PURPOSE & OBJECTIVE.** All Ohio counties will be eligible to receive funds to offset the cost of public health activities associated with Tuberculosis ("TB") cases that complete an approved course of treatment. The provision of such funds and services will benefit the citizens of Ohio in a manner consistent with the overall mission of the Ohio Department of Health to protect and improve the health of all Ohioans. Eligibility criteria are based upon standards of care set forth in the American Thoracic Society ("ATS"), Centers for Disease Control and Prevention ("CDC") and Infectious Disease Society of America ("IDSA") guidance documents, and are referenced in Ohio Revised Code ("O.R.C.") 339.71 through 339.89 and Ohio Administrative Code ("O.A.C.") 3701-15-01 through 3701-15-03. CDC considers this project to be (1) increasing Human Resource Development ("HRD") for the prevention and control of TB through education and training activities, and; (2) increasing the capacity for appropriate medical evaluation and management of persons with TB disease and infection through medical consultation, for which disclosure of protected health information by covered entities is authorized by section 164.512(b) of Health Insurance Portability and Accountability Act ("HIPAA").
2. **REQUIRED QUALIFICATIONS.** Recipient must be an office of an Ohio County Commissioner.
3. **AGREEMENT TERM.** Subject to §8 and other terms and conditions specified in this Agreement:
 - 3.1. “Agreement Beginning Date” shall be defined as the date indicated here, or the date of Agreement execution by both Parties, whichever is later: 7/1/2024
 - 3.2. “Agreement Ending Date” shall be defined as the date indicated here, the date of Agreement termination or the date to which the Agreement has been extended: 12/31/2024
 - 3.3. “Agreement Period” shall be defined as the time between the “Agreement Beginning Date” and “Agreement Ending Date” unless prior to the expiration date, the Agreement is renewed, terminated, or cancelled in accordance with the Agreement Terms and Conditions. Any reference to the Agreement Period shall include any renewal terms.

4. **AGREEMENT FUNDING.**

4.1. “Agreement Funding Source” shall be defined as:

Center for Disease Control and Prevention (CDC) – Tuberculosis Elimination and Laboratory Cooperative Agreement

4.2. Federal Award Identification Number (FAIN):

NU52PS910184

4.3. CFDA Number:

93.116

4.4. Ohio Statute Authorizing Administration of the Program:

**Ohio Revised Code (“O.R.C.”)
3701.04(A)(4) & 3701.146**

5. **ATTACHMENTS & ACKNOWLEDGEMENTS.** Attachments specified in this Agreement are made a part hereof, and are incorporated as terms and conditions of this Agreement. PLEASE READ CAREFULLY AND INITIAL EACH PARAGRAPH BELOW:

Recipient affirms that they have read and understand and agree to be bound by the Scope of Activities, Deliverables & Subsidy terms in §7 below, and by the Agreement Terms and Conditions in §8 below:

If Recipient is not currently a registered vendor with the State of Ohio, Recipient must register online using the OAKS Supplier Self-Registration module at www.supplier.obm.ohio.gov;

Recipient must complete and submit with this Agreement an Affirmation and Disclosure Form attached and marked Attachment A;

Recipient certifies its non-profit status and authority to do business in Ohio;

Recipient must submit with this Agreement verification of any required licenses, registrations or other qualifications required by this Agreement;

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Recipient certifies it is not debarred from consideration for any state or federal government contracts and it is not subject to any unresolved finding for recovery; and

Effective March 28, 2019, if the Agreement Funding Source identified in §4.1. of this Agreement is one of the following listed funding sources, Recipient must certify that it does not perform nontherapeutic abortions; promote nontherapeutic abortions; contract with any entity that performs or promotes nontherapeutic abortions; nor will Recipient become nor is Recipient currently affiliated with any entity that performs or promotes nontherapeutic abortions as defined in O.R.C. §9.04:

- Violence Against Women Act;
- Breast and Cervical Cancer Mortality Prevention Act;
- Infertility prevention project;
- Minority HIV/AIDS initiative; or
- State of Ohio funds, including infant mortality reduction or infant vitality initiatives.

6. FEDERAL NOTICE OF AWARD RESTRICTIONS, DISCLAIMERS, EXCEPTIONS and/or MATERIAL BREACH. In the event of a conflict of terms, the terms and conditions of this Agreement shall take precedence over any conflicting terms in attachments.

6.1. Federal Notice of Award restrictions:

6.1.1. Audit Requirements: If 45 CFR 75 Subpart F applies, subrecipients receiving CDC funds under this Agreement must meet applicable audit requirements set forth in 45 CFR 75.

6.1.2. Required Disclosures for Federal Awardee Performance and Integrity Information System (FAPIIS): Consistent with 45 CFR 75.113, applicants and recipients must disclose in a timely manner, in writing to the CDC, with a copy to the HHS Office of Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Subrecipients must disclose, in a timely manner in writing to the prime recipient (pass through entity) and the HHS OIG, all related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the CDC and to the HHS OIG at the following addresses:

CDC, Office of Grants Services
RYAN SPRINGER, MBA
Grants Management Specialist | Branch I, IDSB
Office of Grants Services (OGS)
Centers for Disease Control and Prevention (CDC)
Office: (678) 475-4693
Email: RSpringer@cdc.gov

AND

U.S. Department of Health and Human Services
Office of the Inspector General
ATTN: Mandatory Grant Disclosures, Intake Coordinator
330 Independence Avenue, SW
Cohen Building, Room 5527 Washington, DC 20201
Fax: (202)-205-0604 (Include "Mandatory Grant Disclosures" in subject line) or
Email: MandatoryGranteeDisclosures@oig.hhs.gov

This mandatory disclosure requirement must be included in all subawards and contracts under this award. Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371

Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 and 376, and 31U.S.C. 3321).

CDC is required to report any termination of a federal award prior to the end of the period of performance due to material failure to comply with the terms and conditions of this award in the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS). (45 CFR 75.372(b)) CDC must also notify the recipient if the federal award is terminated for failure to comply with the federal statutes, regulations, or terms and conditions of the federal award. (45 CFR 75.373(b))

7. SCOPE OF ACTIVITIES, DELIVERABLES & SUBSIDY.

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	Scope of Activities and/or Deliverables (Due Date and Subsidy only noted if Applicable or Required)	Due Date	Subsidy
	During the Agreement Period, County Commissioner and ODH agree that County Commissioner shall complete the following activities and ODH will disburse amounts as indicated:		
7.1.	<p>Offices of County Commissioners will support public health activities associated with reporting, investigation and case management of tuberculosis patients that completed treatment between 1/1/2022-12/31/2022. The following criteria must be met and documented in ODRS to receive payment:</p> <ol style="list-style-type: none"> 1. Anti-TB drug regimen must meet American Thoracic Society (ATS)/Centers for Disease Control and Prevention (CDC)/Infectious Disease Society of America (IDSA) treatment guidelines and be appropriate for susceptibility pattern, severity of disease and underlying comorbidities. 2. Directly observed therapy (DOT) must be performed and documented according to dosing and intervals that are consistent with ATS/CDC/IDSA guidelines. 3. Treatment completion dates and doses for the anti-TB drug regimen must be documented. 4. HIV status must be documented as negative, positive, or refused. 5. For pulmonary TB cases, sputum specimens must be collected to document whether culture conversion occurred within 60 days of treatment initiation. 6. For culture positive cases, one specimen must be submitted to the Ohio Department of Health Laboratory for genotyping/whole-genome sequencing. 7. All high-priority contacts must be entered into the disease surveillance system. High priority contacts are defined as household contacts, contacts under age 5 years, contacts with medical risk or immunocompromised, or anyone with total duration of known contact greater than or equal to 8 hours. 8. Cases must receive 80% of their care in the county for that county to claim eligibility. 	12/31/2024	
7.2.	<p>County Commissioners shall submit an invoice related to the costs of the work associated with this Agreement. Mandatory requirements on invoice:</p> <ol style="list-style-type: none"> 1. Time period when work was performed (1/1/2023-12/31/2023). 2. List of ODRS numbers for all eligible cases that met criteria. 3. Total number of eligible cases. 4. Description of services provided (e.g. TB control staff salaries, travel, medical consultation, education). Invoice example is attached to the Agreement. 	12/31/2024	\$3,880.00 per TB case meeting treatment standards
TOTAL AGREEMENT AMOUNT			Not to Exceed \$ 3,880.00]

8. AGREEMENT TERMS AND CONDITIONS.

- 8.1. Mutual Promises & Covenants. In consideration of the mutual promises expressed in this Agreement and intending to be legally bound, Recipient agrees to perform, and ODH agrees to pay Recipient, in accordance with §7 and the terms of this Agreement.
- 8.2. Scope of Activities, Deliverables, and Subsidy. Recipient shall provide work, services, products and deliverables in the time and manner and for the Subsidy specified in §7 and any attachment specified or incorporated into this Agreement. In consideration, ODH agrees to pay the Subsidy as set forth in §7. If at any time during the term of this Agreement, ODH determines that Recipient is not using the funds allocated in accordance with the terms of this Agreement or if data, including reports, are not entered in a timely manner, ODH may withhold future payments.
 - 8.2.1. Total Agreement Amount. The Total Agreement Amount, as indicated in §7, includes the cost for all services, travel, or any other expenses that Recipient may incur as a result of Recipient’s performance of this Agreement. Recipient shall not submit claims for expenses.
 - 8.2.2. The Office of County Commissioner shall monitor the work under this Agreement.
 - 8.2.3. The Office of County Commissioner waives the interest provisions of O.R.C. 126.30.
 - 8.2.4. Subject to the provisions of O.R.C. 126.07 and O.R.C. 131.33, which shall at all times govern this Agreement, ODH represents that it intends to maintain this Agreement for the full Agreement Period set forth in this Agreement and has no reason to believe that it will not have sufficient funds to enable it to make all payments due. ODH further represents that it will use best efforts to obtain the appropriation of any necessary funds

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during the Agreement Period.

- 8.2.5. Funds Availability. Recipient understands and agrees that this Agreement is contingent upon the availability of lawful appropriations by the Ohio General Assembly and/or if applicable another Agreement Funding Source. The Funding Source will subsidize multiple Recipients under this program. Invoices will be paid out on a first-come-first-served basis. If the Funding Source is depleted or the Ohio General Assembly discontinues funding ODH for the activity specified in this Agreement, this Agreement is terminated as of the date funding expires without further obligation of ODH, State of Ohio, or any other Agreement Funding Source. If ODH has knowledge of insufficient funds to make future payments under this Agreement, ODH will notify Recipient.
- 8.2.6. ODH will not pay the Subsidy to Recipient for any work performed prior to receipt of written notification from the ODH Agreement Manager that the requirements of O.R.C. 126.07 and, if applicable, O.R.C. 127.16 have been met. ODH will not pay the Subsidy to Recipient for any work performed after the Agreement Ending Date, as applicable.
- 8.2.7. Invoices. Recipient shall invoice ODH in accordance with §7 for work or services Recipient provides. An itemized statement listing the services provided, the dates services were provided, and the amount of payment due shall accompany the invoice. Invoices shall be sent to ODH, ATTN: Accounts Payable, P.O. Box 118, Columbus, Ohio 43216-0118. ODH will make payment to Recipient within thirty (30) days of receipt of a valid invoice for the amount of payment due pursuant to Ohio Administrative Code 126-3-01. ODH shall return any invalid or incomplete invoice to Recipient within fifteen (15) days after ODH receives the invoice. An explanation will accompany the invoice that states the reason for return and any information needed to correct the invoice. Final invoices for services provided under this Agreement shall be submitted by Recipient no later than thirty (30) days after the end of the Agreement Period.
- 8.2.7.1. Electronic Commerce Program. The State of Ohio is an active participant in the E-Commerce to include Electronic Data Interchange (EDI). This program will benefit both the State and the Recipient by reducing time delays in receiving invoices and making payments that are associated with the existing manual processes. The Recipient is encouraged to move toward compliance with electronic commerce technologies, as this will be the preferred method of doing business with the State of Ohio. Information regarding E-Commerce is available on the Office of Budget and Management's website at www.supplier.obm.ohio.gov.
- 8.2.8. Recipient shall furnish its own support staff and services as necessary for the satisfactory performance of this Agreement. Unless otherwise specified in this Agreement, ODH will not provide any staff, services, or material to Recipient for the purpose of assisting Recipient's performance.
- 8.2.9. ODH may, from time to time as it deems appropriate, communicate specific instructions and requests to Recipient concerning the performance of the work described in this Agreement. Upon such notice and within ten (10) days after receipt of instructions, Recipient shall comply with such instructions and fulfill such requests to the satisfaction of ODH. It is expressly understood by the Parties that these instructions and requests are for the sole purpose of ensuring satisfactory completion of the work described in this Agreement and are not intended to amend or alter this Agreement or any part thereof. The Agreement Manager will communicate all such instructions and requests to Recipient.
- 8.2.10. If the Agreement Funding Source identified in §4.1. of this Agreement is one of the following listed funding sources, Recipient certifies that Recipient does not perform nontherapeutic abortions; promote nontherapeutic abortions; contract with any entity that performs or promotes nontherapeutic abortions; is or will become affiliated with any entity that performs or promotes nontherapeutic abortions as defined in O.R.C. §9.04:
- 8.2.10.1. Violence Against Women Act;
 - 8.2.10.2. Breast and Cervical Cancer Mortality Prevention Act;
 - 8.2.10.3. Infertility prevention project;
 - 8.2.10.4. Minority HIV/AIDS initiative; and/or
 - 8.2.10.5. State of Ohio funds, including infant mortality reduction or infant vitality initiatives.
- Any failure by Recipient to comply with this section shall be treated as a material breach of this Agreement.
- 8.3. Agreement Period; Extension. This Agreement shall be effective on the Agreement Beginning Date and shall remain in effect until the Agreement Ending Date. Upon written mutual consent of both

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parties, this Agreement may be renewed or extended past the Agreement Ending Date, subject to the same terms and conditions of this Agreement and subject to any federal and state directives, regulations, laws, Request for Quote or Request for Proposals relating to the subject matter of this Agreement.

- 8.4. Suspension and Termination. ODH may suspend or terminate this Agreement for any reason thirty (30) days after delivery of written notice to Recipient. ODH may suspend or terminate this Agreement immediately after delivery of written notice to Recipient if ODH (i) discovers any illegal conduct on the part of Recipient; (ii) discovers any violation of this Agreement regarding Conflict of Interest and Ethics Laws; (iii) discovers any violation regarding a Drug Free Workplace; (iv) discovers any violation of the funding restriction specified in §8.2.10; (v) is subject to a loss of funding as specified in §8.2.5; (vi) discovers that Recipient or any of its subcontractors has performed any services under this Agreement in violation of §8.12 regarding Prohibition of the Expenditure of Public Funds for Offshore Services; or (vii) discovers or is notified that a petition in bankruptcy or similar proceeding has been filed by or against Recipient. If at any time during the Agreement Period a bankruptcy or similar proceeding has been filed by or against Recipient, Recipient shall immediately notify ODH of the filing.
- 8.4.1. Recipient to Cease Work and Other Agreement Activities. Recipient, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this Agreement, suspend or terminate any subcontracts relating to such suspended or terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report, as of the date of receipt of notice of suspension or termination describing the status of all work under this Agreement, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODH may require. Any unused subsidies must be returned to ODH upon termination.
- 8.4.2. Determining Subsidy after Agreement Suspension or Termination. In the event of suspension or termination under this Agreement, with the exception of termination for violation of §8.2.10 and §8.12, Recipient shall be entitled to the Subsidy, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination or suspension, which shall be calculated by ODH based on the Subsidy set forth in §7 and §8.2, less any funds previously paid by or on behalf of ODH. ODH shall not be liable for any further claims, and the claims submitted by Recipient shall not exceed the total amount of Subsidy allowed by this Agreement.
- 8.5. Breach or Default.
- 8.5.1. Material Breach. Upon a Material Breach of the Agreement, as designated in §8.2.10 and §8.12, ODH may unilaterally terminate this Agreement without payment of the Subsidy to Recipient as a material breach is understood by the Parties to be so significant that it has destroyed the value of the Agreement and, due to the nature of the services that Recipient offers the State of Ohio, a Material Breach would undermine the sole purpose of the Agreement.
- 8.5.2. Upon breach or default by Recipient of any of the provisions, obligations or duties provided for in this Agreement, ODH may exercise all administrative, contractual, equitable or legal remedies available, without limitation. The waiver of any occurrence of breach or default is not a waiver of subsequent occurrences, and ODH retains the right to exercise all remedies provided for in this Agreement.
- 8.5.3. If ODH or Recipient fail to perform an obligation or obligations under this Agreement and thereafter such failure is waived by the other party; such waiver shall be limited to the particular failure so waived and shall not be deemed to waive other failures hereunder. Waiver by ODH shall not be effective unless it is in writing and signed by the Director of Health or his or her designee, except that Agreement Manager may agree in writing to non-substantial changes to §7, such as changes in form, format, deadlines, or other minimal changes that do not diminish the value of the specified work or deliverable.
- 8.6. Independent Contractor. It is fully understood and agreed that Recipient is an independent contractor and is not an agent, servant, or employee of the State of Ohio or the Ohio Department of Health (for purposes of O.R.C. Chapter 145) solely on the basis of this Agreement. No agency, employment, joint venture or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Agreement. Inasmuch as ODH is interested in Recipient's services, ODH does not control the manner in which Recipient performs this Agreement. ODH is not liable for the workers' compensation or unemployment compensation payments required by O.R.C. Chapters 4123 and 4141, respectively. In addition, Recipient assumes responsibility for tax liabilities that result from the subsidy paid to Recipient by ODH. ODH will report any payment made under this Agreement to the Internal Revenue Service on Form 1099. Additionally, no provision contained in this Agreement shall be construed as entitling Recipient to participate in hospital plans, medical plans, sick leave benefits, vacation, and other benefits available to employees of ODH or to become a member of the Public Employees Retirement System (O.R.C. Chapter 145).
- 8.7. Conflict of Interest and Ethics Laws.

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- 8.7.1. Neither Recipient nor any officer, member or employee of Recipient shall, prior to the completion of such work and payment for such work, acquire any interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of such work.
- 8.7.2. Recipient hereby covenants that neither Recipient, nor any officer, member, or employee of Recipient, have any interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities under this Agreement.
- 8.7.3. Recipient shall not promise or give to any ODH employee anything of value that is of such a character as to manifest a substantial and improper influence upon the employee with respect to his or her duties. Recipient shall not solicit an ODH employee to violate any ODH rule or policy relating to the conduct of contracting Parties or to violate O.R.C. 102.03 to 102.04 or O.R.C. 2921.42.
- 8.7.4. Recipient hereby covenants that Recipient and any officer, member or employee of Recipient are in compliance with O.R.C. 102.04 and that if Recipient is required to file a statement pursuant to O.R.C. 102.04(D)(2), such statement has been filed with the ODH General Counsel in addition to any other required filings.
- 8.7.5. Recipient hereby certifies compliance with the executive agency lobbying requirements of O.R.C. 121.60 to 121.69.
- 8.7.6. Recipient hereby certifies and affirms that, as applicable to Recipient, no party listed in Division (I) or (J) of O.R.C. 3517.13 or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions in excess of \$1,000.00 (One Thousand Dollars) to the Governor or to his campaign committees. If it is determined that Recipient's certification of this requirement is false or misleading, notwithstanding any criminal or civil liabilities imposed by law, Recipient shall return to ODH all monies paid to Recipient under this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.
- 8.8. Nondiscrimination and Equal Employment Opportunity.
- 8.8.1. In carrying out this Agreement, Recipient will not discriminate against any employee or applicant for employment because of race, color, religion, gender, age, disability or military status as defined in section 4112.01 of the Revised Code, national origin or ancestry. Recipient shall comply with all applicable State of Ohio and Federal laws relating to nondiscrimination and equal employment opportunity as those laws may be amended from time to time, including but not limited to the following:
- 8.8.1.1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin;
- 8.8.1.2. Title VII of the Civil Rights Act of 1991 (P.L. 102-166) which prohibits discrimination on the basis of race, color or religion, national origin and sexual orientation in employment;
- 8.8.1.3. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (“LEP”), which requires reasonable steps to ensure that LEP persons have meaningful access to programs (see www.lep.gov), and Health and Human Services (“HHS”) implementing regulations at 45 CFR part 80;
- 8.8.1.4. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex, and HHS implementing regulations at 45 CFR part 86;
- 8.8.1.5. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps in the provision of benefits or services as well as employment, and the HHS implementing regulations are codified at 45 CFR parts 84 and 85;
- 8.8.1.6. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age and the HHS implementing regulations codified at 45 CFR part 91;
- 8.8.1.7. Intentionally omitted; and
- 8.8.1.8. Prohibitions against retaliation against individuals for taking action or participating in an action to secure rights provided in State and Federal laws relating to nondiscrimination.
- 8.9. “Sweatshop Free” Certification. Recipient hereby certifies that all facilities used for the production of supplies or performance of services offered in this Agreement is in compliance with applicable domestic labor, employment, health and safety, environmental and building laws. This certification applies to any and all suppliers and/or subcontractors used by Recipient in furnishing the supplies

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or services pursuant to this Agreement. If it is determined that Recipient's certification of this requirement is false or misleading, then Recipient understands that it shall be grounds for the termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

- 8.10. Records, Documents and Information. All records, documents, writings or other information produced or used by Recipient in the performance of this Agreement shall be treated according to the following terms:
- 8.10.1. All ODH information which, under the laws of the State of Ohio, is classified as public or private will be treated as such by Recipient. Where there is a question as to whether information is public or private, ODH shall make the final determination. Recipient shall not use any information, systems, or records made available to it for any purpose other than to fulfill the contractual duties specified herein. Recipient agrees to be bound by the same standards of confidentiality that apply to the employees of ODH and the State of Ohio. If at any time during the Agreement period a proceeding has been filed by or against Recipient which would compel disclosure of private information under this Agreement, Recipient shall immediately notify ODH of the filing. The terms of this section shall be included in any subcontracts executed by Recipient for work under this Agreement.
- 8.10.2. All proprietary information of Recipient shall be held to be strictly confidential by ODH in accordance with Section 149.43 of the Ohio Revised Code. Proprietary information is information which, if made public, would put Recipient at a disadvantage in the market place and trade of which Recipient is a part. Recipient is responsible for notifying ODH of the nature of the information prior to its release to ODH. ODH reserves the right to require reasonable evidence of Recipient's assertion of the proprietary nature of any information to be provided.
- 8.10.3. All records relating to costs, work performed and supporting documentation for invoices submitted to ODH by Recipient shall be retained and made available by Recipient for audit by the State of Ohio (including, but not limited to, ODH, the Auditor of the State of Ohio, the Ohio Inspector General or duly authorized law enforcement officials) and agencies of the United States government for a minimum of three years after payment for work performed under this Agreement. If an audit, litigation, or other action is initiated during this time period, Recipient shall retain such records until the action is concluded and all issues resolved or the three years end, whichever is later.
- 8.11. Disclosure of Personal Health Information. Recipient hereby agrees that the information provided or made available by ODH shall not be used or disclosed other than as permitted or required by this Agreement or as required by law. Recipient will establish and maintain appropriate safeguards to prevent any use or disclosure of the information, other than as provided for by this Agreement. Recipient shall comply with 45 C.F.R.164.504(e)(2)(ii) and the Federal Information Security Management Act (P.L. 107-347) ("FISMA" as applicable to CDC grants). Recipient shall immediately report to ODH any discovery of use or disclosure of information not provided for or allowed by the Agreement. Recipient hereby agrees that anytime information is provided or made available to any subcontractor or agent, Recipient must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions, and restrictions on the use and disclosure of information as contained in this Agreement. Recipient must obtain ODH approval prior to entering into such agreements. Further, Recipient agrees to make available and provide right of access to an individual of their protected health information when that protected health information is obtained in the performance of Recipient's obligations under this Agreement.
- 8.12. Prohibition of the Expenditure of Public Funds for Offshore Services. No State of Ohio Cabinet, Agency, Board or Commission will enter into any contract to purchase services provided outside the United States or that allows State of Ohio data to be sent, taken, accessed, tested, maintained, backed-up, stored, or made available remotely outside (located) of the United States, unless a duly signed waiver from the State has been attained. Notwithstanding any other terms of this Agreement, the State reserves the right to recover any funds paid for services the Recipient performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided to the State in the Agreement. Further, no State agency, board, commission, State educational institution, or pension fund will make any purchase from or investment in any Russian institution or company. Notwithstanding any other terms of this Agreement, the State reserves the right to recover any funds paid to Recipient for purchases or investments in a Russian institution or company in violation of this paragraph. The provisions of this paragraph will expire when the applicable Executive Order is no longer effective. The Recipient must complete the Contractor/Subcontractor Affirmation and Disclosure Form affirming the Recipient understands and will meet the requirements of the above prohibition. The Affirmation and Disclosure Form is attached hereto as Attachment A. During the performance of this Agreement, if the Recipient changes the locations(s) disclosed on the Affirmation and Disclosure Form, Recipient must complete and submit a revised Affirmation and Disclosure Form reflecting such changes.
- 8.12.1. Termination, Sanction, Damages. If Recipient or any of its subcontractors perform services under this Agreement outside of the United States or State of Ohio data is sent, taken, accessed, tested, maintained, backed-up, stored, or made available remotely outside the United States, the performance of such services shall be treated as a material breach of the

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Agreement. ODH is not obligated to pay and shall not pay for such services. If Recipient or any of its subcontractors perform any such services, Recipient shall immediately return to ODH all funds paid for those services. ODH may also recover from Recipient all costs associated with any corrective action ODH may undertake, including but not limited to an audit or a risk analysis, as a result of Recipient performing services outside the United States.

- 8.12.2. ODH may, at any time after the breach, terminate the Agreement, upon written notice to Recipient. ODH may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Agreement and costs associated with the acquisition of substitute services from a third party.
- 8.12.3. If ODH determines that actual and direct damages are uncertain or difficult to ascertain, ODH in its sole discretion may recover a payment of liquidated damages in the amount of 1% of the value of the Agreement.
- 8.12.4. ODH, in its sole discretion, may provide written notice to Recipient of a breach and permit Recipient to cure the breach. Such cure period shall be no longer than fourteen (14) calendar days. During the cure period, ODH may buy substitute services from a third party and recover from Recipient any costs associated with acquiring those substitute services.
- 8.12.5. Notwithstanding ODH permitting a period of time to cure the breach or Recipient's cure of the breach, ODH does not waive any of its rights and remedies provided ODH in this Agreement, including but not limited to recovery of funds paid for services Recipient performed outside of the United States, costs associated with corrective action, or liquidated damages.
- 8.13. Assignment. Recipient will not assign any of its rights nor delegate any of its duties and responsibilities under this Agreement without prior written consent of ODH. Any assignment or delegation not consented to may be deemed void by the ODH.
- 8.14. Drug Free Workplace. Recipient shall comply with all applicable state and federal rules, regulations and statutes pertaining to a drug free workplace. Recipient shall make a good faith effort to ensure that all employees of Recipient do not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way while working on state, county, or municipal property.
- 8.15. Security & Safety Rules. When using or possessing ODH data or accessing State of Ohio networks and systems, the Contractor, its employees, subcontractors and agents must comply with all applicable state rules, policies, and regulations regarding state-provided IT resources, data security and integrity, including the "Supplier" security terms and conditions set forth by the Ohio Department of Administrative Services found at: <https://das.ohio.gov/technology-and-strategy/information-security-privacy/information-security-governance>.

When on any property owned or controlled by the State of Ohio, the Contractor must comply with all security and safety rules, regulations, and policies applicable to people on those premises.

- 8.16. Trafficking Victims Act. In carrying out this Agreement, Recipient, its employees, subcontractors and their employees shall comply with Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 USC 7104); and is now located at 2 CFR Part 175 during the term of this Agreement. Recipient must include this provision in its contracts and subcontracts under this Agreement. Recipient must inform ODH immediately of any information regarding violation of the foregoing. Recipient understands that its failure to comply with this provision may subject ODH to loss of federal funds. Recipient agrees to compensate ODH for any such funds lost due to its failure to comply with this condition, or the failure of its subcontractors to comply with this condition.
- 8.17. Compliance.
 - 8.17.1. Recipient affirmatively represents and warrants to ODH that it is not subject to a finding for recovery under O.R.C. 9.24 or that it has taken the appropriate remedial steps required under O.R.C. 9.24 or otherwise qualifies under that section. Recipient further affirmatively represents and warrants to ODH that it is not debarred or suspended from entering into state of Ohio contracts pursuant to O.R.C. 125.25 and is not subject to exclusion, disqualification or ineligibility as defined in 2 C.F.R.180.110. Recipient agrees that if this representation and warranty is deemed false, the Agreement will be void *ab initio* as between the Parties to this Agreement, and any funds paid by ODH hereunder shall be immediately repaid to ODH, or an action for recovery may be immediately commenced by ODH for the recovery of said funds.
 - 8.17.2. Recipient certifies that Recipient is not federally debarred from participating in government contracts funded by federal money as described in 2 C.F.R. 180.220. If at any time during the contractual period Recipient is federally debarred from participating in government contracts funded by federal money, for whatever reason, Recipient shall immediately notify ODH of the debarment.
 - 8.17.3. Recipient certifies that all approvals, licenses, registrations or other qualifications necessary to conduct business where the services are performed have been obtained and are operative. If at any time during the contractual period Recipient becomes disqualified from conducting business in Ohio, for whatever reason, Recipient shall immediately notify ODH of the

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disqualification.

- 8.17.4. Recipient certifies that it is in compliance and will remain in compliance throughout the duration of this Agreement with all other applicable federal and state laws, regulations, rules and Executive Orders and will require the same certification from its subgrantees or subcontractors.
- 8.18. Limitation of Liability. Both Parties agree to accept and be responsible for the actions or omissions of its agents, officers, and employees arising out of this Agreement, and nothing in this Agreement shall be interpreted or construed to place any responsibility for professional acts or omissions onto ODH. ODH's liability for damages, whether in contract or in tort, shall not exceed the amount of direct damages incurred by Recipient, and is the Recipient's sole and exclusive remedy for ODH's failure to perform its obligations under this Agreement. In no event shall ODH be liable for any indirect or consequential damages, including loss of profit, even if ODH knew or should have known of the possibility of such damages. Neither Party is responsible to the other Party for nonperformance or delay in performance of the terms of this Agreement due to acts of God, wars, riots, strikes, or other causes beyond the control of the Parties.
- 6.13. Insurance. Until all obligations under this Contract are satisfied, and without limiting Contractor's indemnification obligations herein, Contractor shall procure and maintain, for the duration of the Contract, the insurance policies set forth below. Contractor shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the services hereunder by the Contractor, its agents, representatives, or employees. Contractor shall also procure and maintain insurance for claims arising out of their services including, but not limited to, loss, damage, theft or other misuse of data, infringement of intellectual property, invasion of privacy and breach of data. All commercial insurance required shall be provided by insurers with a rating of not less than A-VII from A.M. Best or a comparable rating agency. Coverage shall be at least as broad as:
- 6.13.1. Commercial General Liability (CGL): written on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. The defense costs shall be outside the policy limit. The State of Ohio, its officers, officials and employees are to be covered as additional insureds on the commercial general liability policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations.
 - 6.13.2. Automobile Liability insurance covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with a limit no less than \$1,000,000 per accident for bodily injury and property damage.
 - 6.13.3. Workers' Compensation insurance as required by the State of Ohio, or the state in which the work will be performed, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease. If Contractor is a sole proprietor, partnership or has no statutory requirement for workers' compensation, Contractor must provide a letter stating that it is exempt and agreeing to hold State of Ohio harmless from loss or liability for such.
 - 6.13.4. In lieu of providing the policies of insurance in the amounts specified in this section, Contractor instead may elect to self-insure such risk in accordance with the laws of this state, based upon a good-faith analysis of the potential liability as it relates to the work to be performed under this Contract, provided that contractor is one of the following:
 - a. A "state institution of higher education" as defined in O.R.C. 3345.12(A)(1), a community college established under O.R.C. Chapter 3354, a state community college established under O.R.C. Chapter 3358, a university branch established under O.R.C. Chapter 3355, or technical college established under O.R.C. Chapter 3357;
 - b. A "state agency", which means a department, bureau, board, commission, office, agency, institution or other organized body or instrumentality established by the constitution and laws of the state of Ohio for the exercise of any function of state government; or
 - c. A "political subdivision" of this state, which means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state.
- 8.19. Rights in Deliverables, Data and Copyrights. Any intellectual property or copyrightable materials

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produced specifically for and as a deliverable under the terms of this Agreement, including any documents, data, photographs and negatives, electronic reports, records, software, source code, or other media, shall become the property of ODH, which shall have an unrestricted right to reproduce, distribute, modify, maintain, and use the Deliverables. This section does not apply to any preexisting materials owned by Recipient. Recipient shall not obtain copyright, patent, or other proprietary protection for the Work or Deliverables under this Agreement. ODH grants Recipient an unlimited license to use work and materials produced by Recipient under this Agreement, including the right to publish the results of any work performed under this Agreement. In the event that the Agreement Funding Source is federal funding, in whole or in part, such license is subject to the royalty-free, non-exclusive and irrevocable license to such material retained by the United States government. Further, the work must state: "This publication was made possible by Grant or Cooperative Agreement Number funded by Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of Centers for Disease Control and Prevention or the Ohio Department of Health." Recipient shall not include in any Deliverable or Work any copyrighted matter, unless the copyright owner gives prior written approval to use such copyrighted matter.

- 8.20. Attachments. Attachments and documents referenced in this Agreement are made a part hereof, and are incorporated as terms and conditions of this Agreement. In the event of a conflict of terms, the terms and conditions of this Agreement shall take precedence over any conflicting terms.
- 8.21. Construction. This Agreement is governed, construed and enforced in accordance with the laws of the State of Ohio. Further, the Ohio courts shall have jurisdiction over the subject matter and the Parties hereto in connection with disputes concerning validity and enforcement of this Agreement. In the event that any terms of this Agreement or applicable statutes conflict, then statutes and regulations take precedence.
- 8.22. Severability. If any portion of this Agreement is found to be unenforceable by operation of statute or by administrative or judicial decision, the enforceability of the balance of this Agreement shall not be affected thereby, provided that the absence of the unenforceable provision does not render impossible the performance of the remainder of this Agreement.
- 8.23. Amendments. This writing constitutes the entire agreement between the Parties with respect to all matters herein. This Agreement may be amended only by a writing signed by both Parties. However, it is agreed by the Parties that any amendments to laws or regulations cited herein will result in the correlative modification of this Agreement, without the necessity for executing written amendments. Any written amendments to this Agreement shall be prospective in nature. When a new or different term or condition is added, additional consideration is not necessary to bind the Parties.
- 8.24. Headings. The headings in this Contract are for convenience only and will not affect the interpretation of any of the Agreement terms and conditions.
- 8.25. Survival. All sections herein relating to payment, confidentiality, liability, record retention, audit, conflicts of interest and ethics, publicity, warranties and limitations on damages shall survive the termination of this Agreement.
- 8.26. Notices.
- 8.26.1. Form of Notice. All notices, requests, claims, demands and other communications between the Parties shall be in writing.
- 8.26.2. Method of Notice. All notices shall be given (i) by delivery in person (ii) by a nationally recognized next day courier service, (iii) by first class, registered or certified mail, postage prepaid, or (iv) by electronic mail to the address of the Party specified in this Agreement as "ODH Agreement Manager" or "Recipient's Authorized Representative" or such other address as either Party may specify in writing. The Parties acknowledge that change in authorized representatives and their addresses are not substantive and a change shall be recognized with proper Notice.
- 8.26.3. Receipt of Notice. All notices shall be effective upon (i) receipt by the party to which notice is given, or (ii) on the fifth (5th) day following mailing, whichever occurs first.

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

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ADMINISTRATOR REPORTS

CA Davies – Budget Hearings have been completed and the recommendations will follow soon.

DCA Huston and Attorney Hochstettler – gave update that the abandoned cemetery in Brown Township has been located.

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COMMISSIONERS' COMMITTEES REPORTS

Commissioner Lewis – presented two awards alongside Commissioner Merrell at the Veteran's Day breakfast. She also attended the Veteran's Day ceremony held at the Historic Courthouse.

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Commissioner Benton – attended the DKMM Budget Meeting, voted for new Ag Society Officials, attended the OCCO Reception held at the Statehouse and attended the Sunbury Chamber Event.

Commissioner Merrell – Read aloud a letter to a Veterans from Olentangy Middle School student.

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RESOLUTION NO. 24-930

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

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

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

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 Employment and Compensation of a Public Employee or a Public Official and for Pending or Imminent Litigation.

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

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RESOLUTION NO. 24-931

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

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

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

There being no further business, the meeting adjourned.

Jeff Benton

Barb Lewis

Gary Merrell