

COMMISSIONERS JOURNAL NO. 82 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD AUGUST 11, 2025

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

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

- 10:00A.M. Public Hearing for Consideration of the Re-Estimate of the Construction Cost for the Webster-Arnold #355 Watershed Drainage Improvement Project
- 1:30P.M. Viewing for Consideration of the Drainage Improvement Petition for the Warren #129 Watershed

1  
RESOLUTION NO. 25-596

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS  
FROM REGULAR MEETING HELD AUGUST 4, 2025:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the “Board”) met in regular session on August 4, 2025; 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 MotionMrs. Lewis AbsentMr. Merrell AyeMr. Benton Aye

2  
PUBLIC COMMENT

3  
RESOLUTION NO. 25-597

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES,  
AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0808 AND MEMO TRANSFERS  
IN BATCH NUMBERS MTAPR0808:

It was moved by Mr. Merrell, seconded by Mr. Benton, to approve Then and Now Certificates, payment of warrants in batch numbers CMAPR0808, memo transfers in batch numbers MTAPR0808, and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO’ Increase			
(P2500998) DCTB	JFS Income Maintenance	22411601-5355	\$50,000.00
(P2500051) PNC	Land and Buildings	10011105-5200	\$20,000.00

PR Number	Vendor Name	Line Description	Account	Amount
R2503236	DELAWARE COUNTY TRANSIT	Transportation Services SFY26	22411601 - 5355	\$ 150,000.00
R2503809	TYLER TECHNOLOGIES INC	RMS-CAD MAINTENANCE - 911	21711326 - 5321	\$ 92,436.86
R2503809	TYLER TECHNOLOGIES INC	RMS-CAD MAINTENANCE - SHERIFF	10031301 - 5321	\$ 73,459.64
R2503809	TYLER TECHNOLOGIES INC	RMS-CAD MAINTENANCE - OTHER AGENCIES	10011102 - 5321	\$ 41,519.95
R2503939	RESILITE SPORTS PRODUCTS INC	WALL PADDING - TRAINING CENTER	42311453 - 5450	\$ 10,379.00
R2503950	GEOSYNTEC CONSULTANTS INC	PROFESSIONAL DESIGN SERVICES FOR INDUSTRIAL	66211900 - 5301	\$ 40,000.00
R2503963	IMET CORPORATION	ODOR AND GREASE CONTROL SUPPLIES	66211900 - 5201	\$ 14,921.00

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R2503963	IMET CORPORATION	LEASE OF IMET MODULES	66211900 - 5335	\$ 10,000.00
R2503963	IMET CORPORATION	SHIPPING	66211900 - 5331	\$ 1,300.00

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

4  
RESOLUTION NO. 25-598

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Auditor’s Office is requesting that Lance Gates attend the International Association of Assessing Officers Conference, in Orlando, FL on September 21-24, 2025, at the cost of \$5,180.00.

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

5  
RESOLUTION NO. 25-

IN THE MATTER OF REJECTING FOR CONSIDERATION THE AMENDMENT TO THE PETITION FOR THE WARREN #129 DRAINAGE IMPROVEMENT PETITION:

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

WHEREAS, on April 16, 2025, Richard R. Lehner, Earl E. Lehner, and others, filed a petition with the Clerk of the Board of Commissioners, pursuant to Chapter 6131 of the Revised Code, requesting certain improvements to the Warren #129 Watershed Drainage Improvement Petition (the “Petition”); and

WHEREAS, pursuant to section 6131.05 of the Revised Code, any benefiting owner may, not more than twenty-one days after the date of the view, file an amendment to a petition for a drainage improvement that expands the length of the proposed improvement, provided that such amendment does not expand the area to be benefited by the proposed improvement, and any amendment shall include the information required by section 6131.04 of the Revised Code along with the amendment; and

WHEREAS, Scott Svonovec and Regina Svonovec are benefiting owners who filed an amendment to the Petition pursuant to section 6131.05 of the Revised Code on July 14, 2025, prior to expiration of the amendment deadline; and

WHEREAS, the amendment filed does not contain the information required by section 6131.04 of the Revised Code;

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

Section 1. The amendment to the Petition filed by Scott Svonovec and Regina Svonovec on July 14, 2025 was timely filed but does not meet all the substantive requirements of section 6131.05 of the Revised Code and is, therefore, rejected for consideration.

Section 2. The Delaware County Engineer and Delaware Soil & Water Conservation District are hereby directed to not include consideration of the amendment to the Petition in the preliminary report on the proposed improvement.

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

6  
RESOLUTION NO. 25-600

IN THE MATTER OF APPOINTING A MEMBER TO THE JOB AND FAMILY SERVICES COMMUNITY PLANNING COMMITTEE:

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

WHEREAS, Section 329.06 of the Ohio Revised Code requires the establishment of a Job and Family Services Community Planning Committee (the “Community Planning Committee”) whose membership is a broad representation of the groups of individuals and public and private entities that have an interest in social services and workforce development services provided in the county; and

WHEREAS, the Community Planning Committee may consult with the Delaware County Board of Commissioners (the “Board of Commissioners”) and make recommendations regarding social services and workforce development services provided in the county with regard to state and local funds, establishment of

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goals to be achieved, evaluation of the outcomes of programs, and any other matter the Board of Commissioners considers relevant to the provision of social services and workforce development programs; and

WHEREAS, Rhianna Mattix, one of two members representing the Delaware-Morrow Mental Health and Recovery Services Board on the Community Planning Committee, has resigned her position, effective July 29, 2025; and

WHEREAS, upon the recommendation of the Delaware County Department of Job and Family Services, the Board of Commissioners desires to reclassify one of the two seats currently occupied by the Delaware-Morrow Mental Health and Recovery Services Board to allow for a new member to represent the interests of local townships; and

WHEREAS, on June 20, 2013, the Board of Commissioners adopted Resolution No. 13-645, adopting a policy for the appointment of members to boards and commissions (the “Policy”), which requires posting of all available positions for at least fourteen (14) days and permits the Board of Commissioners to conduct interviews of any applicants; and

WHEREAS, the Board of Commissioners desires to approve an exception to the Policy in order to appoint a representative to the Community Planning Committee to represent the interests of local townships;

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

Section 1. The Board of Commissioners hereby approves an exception to the Policy for the appointment made herein by choosing to waive the requirement for posting the position and to proceed directly to appointment.

Section 2. The Board of Commissioners hereby approves the appointment of Teresa Watkins as a township representative to the Community Planning Committee to fill an unexpired term ending October 4, 2025.

Section 3. The appointment approved herein shall take effect immediately.

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

7  
**RESOLUTION NO. 25-601**

**IN THE MATTER OF RE-APPOINTING MEMBERS TO THE JOB AND FAMILY SERVICES  
COMMUNITY PLANNING COMMITTEE:**

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

WHEREAS, Section 329.06 of the Ohio Revised Code requires the establishment of a Job and Family Services Community Planning Committee (the “Community Planning Committee”) whose membership is a broad representation of the groups of individuals and public and private entities that have an interest in social services and workforce development services provided in the county; and

WHEREAS, the Community Planning Committee may consult with the Delaware County Board of Commissioners (the “Board of Commissioners”) and make recommendations regarding social services and workforce development services provided in the county with regard to state and local funds, establishment of goals to be achieved, evaluation of the outcomes of programs, and any other matter the Board of Commissioners considers relevant to the provision of social services and workforce development programs; and

WHEREAS, the terms of representatives of the Delaware County Probate/Juvenile Court, the Delaware County Board of Developmental Disabilities, the public at large and local townships will expire on October 4, 2025; and

WHEREAS, on June 20, 2013, the Board of Commissioners adopted Resolution No. 13-645, adopting a policy for the appointment of members to boards and commissions (the “Policy”), which requires posting of all available positions for at least fourteen (14) days and permits the Board of Commissioners to conduct interviews of any applicants; and

WHEREAS, the Board of Commissioners desires to approve an exception to the Policy in order to re-appoint representatives selected by the Delaware County Probate/Juvenile Court and the Delaware County Board of Developmental Disabilities and to re-appoint the public-at-large and township representatives;

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

Section 1. The Board of Commissioners hereby approves an exception to the Policy for the re-appointments made herein by choosing to waive the requirement for posting the positions and to proceed directly to re-appointment.

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Section 2. The Board of Commissioners hereby approves the re-appointment of the following members of the Community Planning Committee for the terms specified herein:

Appointee	Term Ends
Robert Rice (Probate/Juvenile Court)	October 4, 2028
Mike Dancho (Board of Developmental Disabilities)	October 4, 2028
Chris Baker (public-at-large)	October 4, 2028
Teresa Watkins (townships)	October 4, 2028

Section 3. The re-appointments approved herein shall take effect October 5, 2025.

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

8  
RESOLUTION NO. 25-602

IN THE MATTER OF APPOINTING AND RE-APPOINTING MEMBERS TO THE NORTHSTAR  
NEW COMMUNITY AUTHORITY BOARD OF TRUSTEES:

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

WHEREAS, on August 16, 2007, the Delaware County Board of Commissioners (the “Board of Commissioners”) adopted Resolution No. 07-985, establishing the Northstar New Community Authority (the “Community Authority”), pursuant to Chapter 349 of the Ohio Revised Code; and

WHEREAS, the Community Authority is governed by a seven (7) member Board of Trustees; and

WHEREAS, as the organizational board of commissioners, the Board of Commissioners shall make appointments to the Board of Trustees, pursuant to Resolution No. 07-985 and section 349.04 of the Ohio Revised Code; and

WHEREAS, the term for local government representative Erik McPeek will expire on August 15, 2025, and Mr. McPeek has expressed an interest in being re-appointed; and

WHEREAS, the term for citizen member Michael Ringle will expire on August 15, 2025; Mr. Ringle is not seeking re-appointment; and

WHEREAS, Patrick Paykoff has expressed an interest in being appointed to the Community Authority and has been determined to be eligible; and

WHEREAS, on June 20, 2013, the Board of Commissioners adopted Resolution No. 13-645, adopting a policy for the appointment of members to boards and commissions (the “Policy”), which requires posting of all available positions for at least fourteen (14) days and permits the Board of Commissioners to conduct interviews of any applicants; and

WHEREAS, the Board of Commissioners desires to approve an exception to the Policy in order to re-appoint a current member of the Community Authority and appoint a new member to the Community Authority;

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

Section 1. The Board hereby approves an exception to the Policy for the appointment and re-appointment made herein by choosing to waive the requirement for posting the position and to proceed directly to appointment.

Section 2. The Board of Commissioners hereby approves the appointment and re-appointment of the following members for the terms specified herein:

Position	Appointee	Term Ends
Local Government Representative	Erik McPeek	August 15, 2027
Citizen Member	Patrick Paykoff	August 15, 2027

Section 3. The appointment and re-appointment approved herein shall take effect August 16, 2025.

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

9  
RESOLUTION NO. 25-603

IN THE MATTER OF RE-APPOINTING MEMBERS TO THE DELAWARE COUNTY TRANSIT  
BOARD:

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

WHEREAS, on October 25, 1999, the Delaware County Board of Commissioners (the “Board of Commissioners”)

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created the Delaware County Transit Board (the “Transit Board”) and made the necessary appointments to the Transit Board, pursuant to section 306.01 and 306.02 of the Revised Code; and

WHEREAS, as necessary, the Board of Commissioners has made appointments to the Transit Board to fill vacancies in both unexpired and expired terms; and

WHEREAS, the terms of Bruce Luecke (DCT-3) and Sarah Huffman (DCT-4) will expire on October 24, 2025, and both members desire to be re-appointed; and

WHEREAS, on June 20, 2013, the Board of Commissioners adopted Resolution No. 13-645, adopting a policy for the appointment of members to boards and commissions (the “Policy”), which requires posting of all available positions for at least fourteen (14) days and permits the Board of Commissioners to conduct interviews of any applicants; and

WHEREAS, the Board of Commissioners desires to approve an exception to the Policy in order to re-appoint members to the Transit Board;

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

Section 1. The Board of Commissioners hereby approves an exception to the Policy for the re-appointments made herein by choosing to waive the requirement for posting the positions and to proceed directly to re-appointment.  
Section 2. The Board of Commissioners hereby approves the re-appointments of the following members for the terms specified herein.

Appointee	Term Ends
Bruce Luecke (DCT-3)	October 24, 2028
Sarah Huffman (DCT-4)	October 24, 2028

Section 3. The re-appointments approved herein shall take effect October 25, 2025.

Section 4. The Clerk to the Board of Commissioners is hereby directed to certify a copy of this Resolution to the Transit Board.

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

10  
RESOLUTION NO. 25-604

IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN THE CITY OF POWELL, THE DELAWARE COUNTY OFFICE OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT, AND DELAWARE COUNTY REGARDING THE USE OF FREQUENCIES FOR ACTIVATING TORNADO SIRENS:

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

AGREEMENT REGARDING THE USE OF FREQUENCIES  
FOR ACTIVATING TORNADO SIRENS

This agreement by and between the City of Powell, Ohio, Delaware County Office of Homeland Security and Emergency Management (“EMA”), and Delaware County, Ohio together “The Parties”, witnesseth:

By mutual agreement of the Parties and for good and valuable consideration, receipt of which is hereby acknowledged by all Parties, it is hereby agreed that:

- 1) The City of Powell, Ohio desires to utilize the signal generated by the Delaware County Early Warning System on frequency 154.355 MGH; or any successor, to activate its City of Powell Outdoor Warning Siren as an Early Warning System.
- 2) The County and EMA agree to allow the City of Powell to utilize the radio frequency set forth above to activate its tornado siren upon the terms set forth herein.
- 3) The City of Powell agrees to forever release and absolve Delaware County and EMA from any and all liability resulting from the operation or non-operation of the City’s Outdoor Warning Siren System for whatever reason and for whatever cause.
- 4) Delaware County and EMA have reviewed and approved the terms of this agreement.

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

11  
RESOLUTION NO. 25-605

IN THE MATTER OF APPROVING THE RECOMMENDATION BY THE DELAWARE COUNTY LOCAL EMERGENCY PLANNING COMMITTEE FOR THE APPOINTMENT OF REPRESENTATIVES FOR THE 2025-2027 TERM:

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

WHEREAS, in accordance with section 3750.03(B) of the Revised Code, the State Emergency Response Commission shall appoint the members of the Delaware County Local Emergency Planning Committee (“LEPC”) from a list of persons submitted by the Delaware County Board of Commissioners (the “Board”); and

WHEREAS, the LEPC recommends the Board submit the following list of persons to be nominated as representatives to the LEPC, subject to appointment by the State Emergency Response Commission, for the period of 8/13/2025 through 8/11/2027:

Representatives:			
Name	Title	Employer	Sector
Adam Howard	Deputy Health Commissioner	DPHD	Health
Alex McCarthy	Director	DCOHSEM	Emergency Mgt
Annie Lockwood	Clinical Lead Nurse	OHLC FSED	Hospital
Barb Lewis	Commissioner	Delaware County	Elected Official
Charles Miley	Trustee	Brown Township	Elected Official
Christopher Kovach	Fire Chief	BST&G Fire District	Fire
Emily Hesselbein	Disaster Program Manager	American Red Cross	First Aid
Glenn Battishill	Senior Reporter	Delaware Gazette	Media
Grant Bias	Safety & Security Manager	Delaware Co. Transit	Transportation
Jane Hawes	Director of Communications	Delaware County BOC	Media
Jecy Weber	EM Specialist	DCOHSEM	Emergency Mgt
Jeff Kauffman	Compliance Manager	DelCo Water	Industry
Jon Todd	Safety Manager	Consolidated Coop.	Industry
Lee R. Bodnar	Administrator	Delaware Co. Engineer	Transportation
Matt Wall	Area Manager	Marathon Pipe Line	Industry
Michael Gregory	Emergency Prep Director	OSU MC	Hospital
Raquel Colon	Public Affairs Manager	NiSource	Industry
Rob Stambaugh	Assistant Chief	BST&G Fire District	Fire
Robert Curry	Lieutenant	OSP	Law
Russ Fling	Emergency Coordinator	ARES(Amateur Radio)	Community
Sandra Stults	Trustee	Scioto Township	Elected Official
Scott Stephens	Administrator	Soil and Water	Environmental
Scott Stewart	Deputy Director	DCOHSEM	Emergency Mgt
Scott Vance	Captain	DCSO	Law
Shaun Pursley	EHS Specialist	PPG	Industry
Timothy McQuone	Community Member	Retired	Community
Troy Morris	Chief	Tri-Township Fire	Fire
Yvonne Strassmann	EM Specialist	DCOHSEM	Emergency Mgt
Zach Wolfe	Lieutenant	DCEMS	First Aid

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby accepts the LEPC’s recommendation, approves the list of persons to be nominated as representatives to the LEPC, and authorizes submitting the list of persons to the State Emergency Response Commission for consideration of appointment to the LEPC.

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

12  
RESOLUTION NO. 25-606

IN THE MATTER OF ACCEPTING DONATIONS MADE TO THE DELAWARE COUNTY  
EMERGENCY MEDICAL SERVICES DEPARTMENT:

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

WHEREAS, pursuant to section 9.20 of the Revised Code, the Delaware County Board of Commissioners (the “Board”) may receive by gift, devise, or bequest moneys, lands, or other properties, for their benefit or the benefit of those under their charge; and

WHEREAS, the Delaware County Emergency Medical Services Department has received a donation of miscellaneous medical supplies from Brian Griffin, M.D., with a total estimated value of \$2,500; and

WHEREAS, the Board wishes to formally accept the donation and offer thanks to Brian Griffin, M.D., for his generous support of the Delaware County Emergency Medical Services Department;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners hereby accepts the donation to the Delaware County Emergency Medical Services Department of miscellaneous medical

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supplies from Brian Griffin, M.D., with a total estimated value of \$2,500, and thanks Dr. Griffin for his generous support of the Delaware County Emergency Medical Services Department.

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

13  
RESOLUTION NO. 25 -607

IN THE MATTER OF DECLARING COUNTY PERSONAL PROPERTY NOT NEEDED FOR PUBLIC USE AND AUTHORIZING THE SALE OF THE PERSONAL PROPERTY TO DEPUTY MATT FLETCHER ON THE OCCASION OF HIS RETIREMENT:

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

WHEREAS, Delaware County Sheriff’s Deputy Matt Fletcher retired from the Sheriff’s Office in good standing with the office; and

WHEREAS, Deputy Fletcher’s assigned duty firearm, Sig Sauer Caliber 9mm, Model P320 – Serial #58H330621 (the “Firearm”) is no longer needed for public use; and

WHEREAS, Delaware County wishes to permit Deputy Fletcher to purchase the Firearm for One Dollar (\$1.00), pursuant to section 307.12(B)(1) of the Revised Code;

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

Section 1. The Firearm is no longer needed for public use and authorizes the sale of the Firearm to Deputy Matt Fletcher for One Dollar (\$1.00).

Section 2. The sale of the Firearm shall be conditioned upon Deputy Fletcher accepting the Firearm “as is” and accepting sole responsibility for the care and maintenance of the Firearm. The sale of the Firearm is further conditioned upon the deputy executing and submitting an Acknowledgement and Release from Liability.

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

14  
RESOLUTION NO. 25-608

IN THE MATTER OF DONATING PERSONAL PROPERTY NOT NEEDED FOR PUBLIC USE TO THE DELAWARE MUNICIPAL COURT:

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

WHEREAS, Delaware County currently owns certain personal property, specifically ten (10) Taser X 26P (“Property”), that are no longer needed for use by Delaware County; and

WHEREAS, pursuant to section 307.12(D) of the Revised Code, the Board of County Commissioners (the “Board”) may sell or donate county personal property to any political subdivision of the state without advertisement or public notification, regardless of the property’s value; and

WHEREAS, the Delaware Municipal Court has expressed a need for and can utilize the Property for the Court’s Bailiffs and Probation Officers;

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

Section 1. The Board hereby approves the donation of the Property to the Delaware Municipal Court.

Section 2. Pursuant to section 307.12(D) of the Revised Code, the Board makes no determination of the value of the Property, and the Property shall be donated upon the condition that the Property is accepted “as is.”

Section 3. The President of the Board is hereby authorized to execute any documents necessary to complete the donation of the Property approved herein.

Section 4. The Clerk of the Board shall provide a certified copy of this Resolution to the Delaware Municipal Court and the City of Delaware.

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

15  
RESOLUTION NO. 25-609

IN THE MATTER OF APPROVING MASTER SERVICES AGREEMENT BETWEEN THE DELAWARE COUNTY SHERIFF’S OFFICE, THE DELAWARE COUNTY BOARD OF

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**COMMISSIONERS, AND 4SIGHT LABS, INC. FOR INMATE ADVANCED BIOMETRIC MONITORING:**

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

WHEREAS, the Sheriff and Sheriff's Office Staff recommend approval of a Master Services Agreement between the Delaware County Sheriff's Office and the Delaware County Board of Commissioners and 4Sight Labs Inc. for inmate advanced biometric monitoring;

NOW, THEREFORE BE IT RESOLVED that the Delaware County Board of Commissioners approves the following Master Services Agreement between the Delaware County Sheriff's Office, the Delaware County Board of Commissioners and 4Sight Labs Inc. for inmate advanced biometric monitoring.

**MASTER SERVICES AGREEMENT**

This Master Services Agreement ("MSA") is entered into effective as of 06/24/2025, ("Effective Date"), and made by and between 4Sight Labs, Inc., ("4Sight"), whose principal place of business is located at 633 Alvarado Street, San Francisco, CA 94114 and the Delaware County Sheriff's Office, OH ("Company" or "Customer"), whose principal place of business is located at 1776 State Route 521, Delaware, Ohio 43015, and Delaware County Board of Commissioners, Delaware County, Ohio ("Board"), whose principal place of business is located at 91 North Sandusky Street, Delaware, Ohio 43015 (Company and Board collectively known as "County"). 4Sight, Company, and Board shall be collectively referred to as the "Parties" or individually as a "Party". The County has elected to purchase services from 4Sight, described in an Ordering Document (defined below) referencing this MSA, County agrees by executing such Ordering Document, County agrees to the terms and conditions of this MSA as well as any related exhibits or schedules.

**Section 1. DEFINITIONS.** In addition to those definitions contained in any applicable Ordering Document, the following terms shall have the meanings set forth below:

- 1.1 **"Affiliate"** means, with respect to any entity, any other entity that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such entity.
- 1.2 **"Monitoring Package"** which includes but is not limited to bands, sensors, charging docks and related supplies described in the applicable Ordering Document.
- 1.3 **"Monitored Individual"** means the individual whom is banded with monitoring device under the care and supervision of Company.
- 1.4 **"Documentation"** means in digital, printed, or other form, the technical, user and reference manuals, notes, instructions and summaries, technical release notes, specification and any other supporting documentation related to the Licensed Software.
- 1.5 **"Licensed Software"** means the control station, software and related service and support described in the Ordering Document. Licensed Software shall include Documentation.
- 1.6 **"Ordering Document"** means a mutually agreed upon document containing mutual collaboration, and other information applicable to the Services (defined below), attached hereto and incorporated herein by reference.

**Section 2. SERVICES.**

2.1 **Description of Services.** 4Sight will provide the Monitoring Package and Licensed Software (collectively herein after the "Services") as described herein and as set forth in each Ordering Document attached hereto and as the Parties may agree on additional Ordering Documents and 4Sight shall provide Company with such Services, if applicable, as set forth in such additional Ordering Document. Each party hereby agrees that by referencing this MSA each Ordering Document will be understood as implicitly incorporating by reference the terms herein, including definitions, even if the Ordering Document does not expressly do so.

2.2 **License Grant.** Subject to the terms of this MSA, during the Term, 4Sight grants the Company a nonexclusive, non-assignable license to use the Services at its facilities. Company may not (a) use the Licensed Software for any purpose, at any location or in any manner not specifically authorized by this MSA, (b) create or recreate the source code for the Licensed Software, or re-engineer, reverse engineer, decompile, copy or disassemble the Services, (c) modify, adapt, translate or create derivative works based upon the Services, (d) refer to or otherwise use the Services as part of any effort to develop a program having any functional attributes, visual expressions or other features similar to those of the Services to compete with 4Sight, or (e) remove, erase or tamper with any copyright or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in the Services or Documentation or fail to preserve all copyright and other proprietary notices. No right or license shall be implied other than the rights and licenses expressly granted in this MSA. 4Sight shall retain all ownership rights, title, and interest in the Services, subject only to the rights and licenses granted herein. Company may make copies of the Documentation for use and distribution in accordance with the terms of this MSA.

2.3 **Subcontractors.** 4Sight may engage subcontractors to assist with the performance of the Services. 4Sight shall require all subcontractors to agree to all terms and conditions of this MSA. 4Sight shall be



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responsible for ensuring subcontractor compliance with the terms of this MSA.

2.4 Acceptable Use. Company and its users may use the Services only in accordance with the Documentation. Each time material modifications are made to the Services, 4Sight will make available to Company electronic updates to the Documentation. If Company continues to use the Services and makes no objections to the changes in the Documentation within ten (10) business days of posting all changes and updates shall be deemed accepted. Company is responsible for all negligent acts and omissions of its users in connection with the Services who do not comply with the terms set forth in said Documentation. During the Term, 4Sight will provide Support Services for the Licensed Software. 4Sight may in its sole discretion discontinue, modify, or replace the Licensed Software.

2.5 Responsibilities. 4Sight will provide, configure, and maintain LoRaWAN Gateways. Maintenance obligations shall include the replacement of gateways in the event of software or hardware failure. The Company shall bear the responsibility for providing and maintaining network connectivity, whether via WiFi, hardwired LAN, or Power over Ethernet (PoE), to the LoRaWAN Gateways, as well as any and all necessary cabling associated therewith.

2.6 Shipping- 4Sight shall ship all required product, equipment, and accessories to Company FOB destination via common carrier. Title and risk of loss pass to Company upon Company's receipt and acceptance. 4Sight certifies that it will comply with all requirements of the shipment of goods in this industry as required by Chapter 1302 of the Ohio Revised Code. Company is responsible for any shipping charges in the Ordering Document. If the Ordering Document includes future deliveries of hardware, 4Sight will ship hardware to Company's designated address on the Ordering Document. Any goods which are not rejected as defective or non-functional within ten (10) days of delivery shall be deemed accepted.

### **Section 3. COMPENSATION.**

#### **3.1 Payment.**

Company shall pay 4Sight fees as per the Ordering Document for Services. After the Initial Term, 4Sight may increase the Total Annual Fees, no more than once every twelve (12) months, based upon the percentage increase in the Consumer Price Index for all Urban Consumers, U.S. City Average, All Items ("CPI"), as published by the United States Department of Labor, Bureau of Labor Statistics. The percentage increase in the CPI shall be measured over the period since the commencement of the Agreement (in the case of the first increase) or since the effective date of the last price increase (in the case of any subsequent price increase). In no event shall the increase in any, one-year exceed five percent (5%). 4Sight shall notify Company in writing of any price increase at least ninety (90) days prior to the effective date of the increase.

3.2 Invoices. Unless otherwise set forth in the applicable Ordering Document, the associated payment shall be made within thirty (30) days after Company's receipt of invoice accompanied by all supporting documentation.

### **Section 4. RELATIONSHIP BETWEEN THE PARTIES.**

4.1 4Sight is a non-exclusive independent contractor. Nothing in this MSA shall be construed to create a partnership, joint venture or other similar relationship between the Parties. 4Sight shall be solely responsible for all tax returns and payments required to be filed with or made to any federal, state or local tax authority with respect to 4Sight's performance of Services and receipt of payments under this MSA.

4.2 County is a public employer as defined by Section 145.01(D) of the Ohio Revised Code. Company has classified 4Sight as an independent contractor, and as a result, will not make any contributions to the Ohio Public Employees Retirement System ("OPERS") for or on behalf of 4Sight or any of its officers, officials, employees, representatives, agents, and/or volunteers for services and/or deliverables rendered and/or received under or pursuant to this MSA. 4Sight acknowledges and agrees that the County, in accordance with R.C. 140.038(A), has informed it of such classification and that no contributions will be made. If 4Sight has less than five (5) employees, 4Sight, in support of being so informed, agrees to and shall complete and have each of its employees complete an OPERS Independent Contractor Acknowledgement Form. If 4Sight has five (5) or more employees, 4Sight, by its signature of authorized representative below, hereby certifies such a fact in lieu of completing the form:

4.3 During the Term of this MSA and for a period of one (1) year following its termination or expiration, County represents and warrants that it will not hire, employ or contract directly or indirectly any employee of 4Sight, who became known to Company in connection with the performance of this MSA without the prior written approval of 4Sight; provided however, this provision shall not prohibit the hiring of any person that responds to general solicitations not specifically directed at employees of 4Sight.

### **Section 5. CONFIDENTIAL INFORMATION.**

5.1 Definition. "**Confidential Information**" means any information disclosed by either Party to the other, whether disclosed verbally, in writing, or by inspection of tangible objects, that reasonably discloses or otherwise contains proprietary or protected information including but not limited to trade secrets, financial, technical, non-technical business plans, or other protected information such as Personally Identifiable Information or Protected Health Information. Confidential Information includes, but is not limited to, all product designs, capabilities, specifications, drawings, program code, work designs, models, technology, know-how, documentation, components, software (in various stages of development), test and development boards, hardware reference code and platforms, architectures, financial and pricing information, business and marketing plans, actual and potential customers and suppliers, the Services, marketing plans, data, and other

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terms relating to the Services, including other similar information that is proprietary to either Party. Confidential Information shall not include any information that: (a) was in lawful possession prior to the disclosure, as clearly and convincingly corroborated by written records, and had not been obtained by either directly or indirectly from either Party; (b) is lawfully disclosed by a third party without actual, implied or intended restriction on disclosure through the chain of possession, or (c) is independently developed by a Party without use of or access to the corroborated by written records. Confidential Information, as clearly and convincingly corroborated by written records. Confidential Information obligations in accordance to Section 5 of this MSA shall survive any termination of this MSA for five (5) year after the effective date of termination.

5.2 Requirements. The Parties agree that it shall not use or disclose in any way, other than as needed under this MSA, Confidential Information to any third parties. The Parties will disclose Confidential Information only to its Personnel having a need-to-know for the performance of the Services under this MSA. The foregoing prohibition on disclosure of Confidential Information shall not apply to the extent certain Confidential Information is required to be disclosed by either Party as a matter of law or by order of a court and/or to potential and actual acquirers, investors, underwriters and lenders, subject to non-use and non-disclosure requirements substantially the same as set forth herein. Upon termination of this MSA, a Party may deliver to the other Party instructions to destroy all materials, documents and other media (whether maintained electronically or otherwise) containing Confidential Information, together with all copies thereof in whatever form, and shall certify in writing the completion of such return or destruction, as the case may be. If it is infeasible to return or destroy Confidential Information, due to regulatory or compliance purposes, protections are extended to such Confidential Information, in accordance with the confidentiality provisions in this MSA.

5.3 Disclosure to Public and Non-public. Neither party shall use the other party's name or trademarks in any advertising, website, press release or other form of public disclosure without the prior written approval of the appropriate officer of the other party. Company agrees that 4Sight may make lawful references to Company in its marketing activities.

5.4 Ohio Public Records Law. 4Sight acknowledges that Company is a political subdivision of the State of Ohio and is required to comply with any and all valid requests for public records made under R.C. 149.43 et al. Any disclosure of Confidential Information that is legally compelled by Ohio's Public Records Law shall not be considered a breach of this Agreement. When Company receives a Public Records Request for Confidential Information, Company shall promptly notify 4Sight in writing of the requested disclosure. At 4Sight's own expense, 4Sight may oppose such disclosure by obtaining a protective order or other reliable assurance preventing or limiting such disclosure and/or ensuring that confidential treatment will be accorded to any Confidential Information that is disclosed. Such disclosure does not remove the Confidential Information so disclosed from the protection of this MSA. No further disclosure beyond the scope of such order is allowed.

**Section 6. INTELLECTUAL PROPERTY.** Each Party shall own and retain all rights, title and interest in and to its intellectual property, and nothing in this MSA or an Ordering Document shall be deemed to grant any license or rights to the other Party.

**Section 7. REPRESENTATIONS AND WARRANTIES**

7.1. 4Sight hereby represents and warrants that: (a) the Licensed Software will be performed in a competent and professional manner and the Licensed Software will meet the specifications in the applicable Documentation, (b) 4Sight possesses good title to the Licensed Software and any associated hardware and the right to license it free of encumbrances and (c) the Licensed Software is free of viruses and other harmful code. Customer shall notify 4Sight in writing of any breach of this warranty within thirty (30) days after completion of the Service.

7.2. 4Sight warrants that 4Sight-manufactured hardware is free from defects in design, workmanship, and materials for 1 year from the date of Company 's receipt. 4Sight warrants its 4Sight-manufactured accessories for 90-days from the date of Company 's receipt. Non-4Sight manufactured hardware are not covered by 4Sight' s warranty. Company should contact the manufacturer for support of non-4Sight manufactured hardware.

If 4Sight receives a valid warranty claim for 4Sight- manufactured hardware during the warranty term, 4Sight's sole responsibility is to repair or replace the hardware with the same or like hardware, at 4Sight's option and at no cost to Company. Replacement hardware will be new or like new and conform to all specification requirements of this Agreement and all applicable State, Federal, or local laws and regulations. 4Sight will warrant the replacement hardware for the longer of (a) the remaining warranty of the original hardware or (b) 90-days from the date of repair or replacement.

7.3 Company acknowledges that 4Sight does not represent, warrant, or otherwise promise that Company's use of the Services is a substitute for Company's or its users' existing protocols and compliance procedures.

7.4 Company acknowledges and agrees that (i) timely performance by 4Sight of its obligations under this MSA and any Ordering Document is subject to the timely provision of information and support by Company as outlined in this MSA; (ii) that the use of the Services pursuant to this MSA and Documentation are only a tool to facilitate the Company's provision of care and services to a Monitored Individual under its supervision and is only functional if the Company's users input information, appropriately maintain the Monitoring

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Package and apply the device in accordance with the training and Documentation; (iii) that the Services and license of the Licensed Software are only useful if such are used in strict accordance with the Documentation; (iv) that Company is solely responsible for all decisions, actions and omissions in any way related to Monitored Individual under its supervision, including but not limited to: proper assessment, monitoring, treatment and care; observation, qualification and actions of their respective employees, user or other persons; the acts and omissions of its employees, user or other persons; compliance with all applicable laws; any liability related to individual under Company's supervision, including but not limited to visitors, employees, vendors, agents or other persons in the facilities of the Company; and (v) Company represents and warrants that all persons given access to the Services shall be properly trained in the use and prohibited uses of the Services.

7.5 Minimal Requirements. Company shall provide, configure, and maintain all hardware, software, and other minimum requirements set forth in the applicable Ordering Document, including a stable Internet connection, necessary to use the Services. Company shall maintain, at Company's sole expense, such equipment and software as 4Sight may reasonably require for 4Sight to remotely access the equipment.

7.6 Third-Party Software. 4SIGHT MAKES NO WARRANTY WITH RESPECT TO ANY THIRD-PARTY SOFTWARE, AND WHATEVER WARRANTY MAY APPLY TO ANY THIRD-PARTY SOFTWARE PRODUCT, IF ANY, IS ONLY AS IS EXPRESSLY STATED BY THE THIRD-PARTY OWNER OR LICENSOR OF THE THIRD-PARTY SOFTWARE.

7.7 Exclusions. 4Sight's warranty obligations and other obligations under this MSA with respect to the Services are expressly conditioned upon Customer's proper use of the Services and do not include: (i) Problems that result from (a) accident, negligence, neglect, abuse, misuse, computer viruses or use other than ordinary use or use in violation of an applicable license; (b) abnormal electrical power, air conditioning, or humidity controls that cause a computer failure; and (c) modifications, repairs or attempted maintenance made to the Services by anyone other than a representative of 4Sight or its authorized agents; (ii) Problems relating to or caused by any hardware, network, software or hardware that was not supplied by 4Sight or hardware or software that does not meet the Minimum Requirements; (iii) Problems relating to or caused by changes in, or modifications to, the operating characteristics of any computer hardware or operating system for which the Services is procured; or (iv) hardware with altered, modified or removed serial numbers.

**Section 8. DISCLAIMER OF WARRANTIES.**

8.1 EXCEPT AS EXPRESSLY PROVIDED HEREIN, 4SIGHT PROVIDES ALL SERVICES, SOFTWARE, PLATFORM AND PRODUCTS "AS IS" WITH NO WARRANTY OF ANY KIND. 4SIGHT MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND 4SIGHT SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING FROM A COURSE OF PERFORMANCE OR TRADE USAGE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. NO ORAL OR WRITTEN INFORMATION OR COMMUNICATIONS GIVEN BY 4SIGHT, ITS EMPLOYEES, OR AGENTS WILL INCREASE THE SCOPE OF THE ABOVE WARRANTY OR CREATE ANY NEW OR ADDITIONAL WARRANTIES. COMPANY WILL NOT HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF 4SIGHT TO ANY THIRD PARTY. To the extent that 4Sight may not, as a matter of applicable law, disclaim an implied warranty, the scope and duration of such warranty will be limited to the minimum permitted under such law.

**Section 9. INSURANCE.** Each Party shall carry commercial general liability and automobile liability insurance and, if applicable, worker's compensation insurance as required by law, together with employer's liability insurance coverage and professional errors and omissions liability insurance coverage. All policies shall be written by reputable insurance companies with a best's policyholder rating of not less than A VII and licensed to do business in the State of Ohio. 4Sight's policies shall be in amounts sufficient to cover any and all obligations imposed on 4Sight by Section 10. Such insurance shall not be cancelled or materially reduced during the Term, and 4Sight shall name Delaware County, Ohio as additional insured on all policies named herein. Any and all subcontractors shall be required to comply with this Section.

**Section 10. INDEMNITY; LIMITATION OF LIABILITY.**

10.1 Indemnification of Company. 4Sight shall fully indemnify, defend and hold harmless Company, its affiliates, and their officers, directors, employees, agents, successors and assigns ("Company Indemnitees") from and against any and all third party claims, damages, liabilities, losses, and expenses (including any and all reasonable attorney fees, expenses and costs) incurred by or asserted against any Company Indemnitee due to any claim of infringement against any patent, copyright, license or other property right used within the scope of this Agreement.

10.2 Indemnification Procedures. If any claim or action is asserted that would entitle a Party to indemnification pursuant to this Section 10 (a "Proceeding"), the Party who seeks indemnification will give written notice thereof to the other Party (the "Indemnitor") promptly (and in any event within fifteen (15) calendar days after the service of the citation or summons); provided, however, that the failure of the Party seeking indemnification to give timely notice hereunder will not affect rights to indemnification hereunder, except to the extent that indemnitor demonstrates actual damage caused by such failure. indemnitor may elect to direct the defense or settlement of any such Proceeding by giving written notice to the Party seeking indemnification, which election will be effective immediately upon receipt by the Party seeking indemnification of such written notice of election. The indemnitor will have the right to employ counsel reasonably acceptable to the Party seeking indemnification to defend any such Proceeding, or to compromise,

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settle or otherwise dispose of the same, if the indemnitor deems it advisable to do so, all at the expense of the indemnitor; provided that the indemnitor will not settle, or consent to any entry of judgment in, any Proceeding without obtaining either: (a) an unconditional release of the Party seeking indemnification (and its Affiliates and each of their respective officers, directors, employees and agents) from all liability with respect to all claims underlying such Proceeding; or (b) the prior written consent of the Party seeking indemnification. The Parties will fully cooperate with each other in any such Proceeding and will make available to each other any books or records useful for the defense of any such Proceeding.

**10.3 LIMITS OF LIABILITY OF 4SIGHT.**

10.3.1 NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY (OR TO ANY PERSON OR ENTITY CLAIMING THROUGH THE OTHER PARTY) FOR LOST PROFITS OR FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THE MSA OR THE SUBJECT MATTER HEREOF, REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY OR OTHERWISE), AND REGARDLESS OF WHETHER OR NOT SUCH PARTY HAS BEEN INFORMED OF, OR OTHERWISE MIGHT HAVE ANTICIPATED, THE POSSIBILITY OF SUCH DAMAGES.

10.3.2 EACH PARTY'S AGGREGATE, MAXIMUM LIABILITY TO THE OTHER ARISING FROM OR RELATING TO THIS MSA, OUTSIDE OF ANY CONFIDENTIALITY OBLIGATIONS CONTAINED HEREIN, REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY OR OTHERWISE), WILL NOT EXCEED THE FEES ACTUALLY PAID TO 4SIGHT BY OR FROM COMPANY UNDER THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, THERE SHALL BE NO LIMITATION OF LIABILITY FOR ANY DIRECT LOSS TO THE COMPANY FOR BODILY INJURY, DEATH, OR DAMAGE TO PROPERTY OF THE COUNTY CAUSED BY THE NEGLIGENCE, INTENTIONAL OR WILLFULL MISCONDUCT, FRAUDULENT ACT, RECKLESSNESS, OR OTHER TORTIOUS CONDUCT OF 4SIGHT OR ITS EMPLOYEES, AGENTS, OR REPRESENTATIVES.

10.3.3 Without limiting any other provision of this MSA, 4Sight may immediately cease or refrain providing services provided for under this MSA in any geographic area if in 4Sight's individual determination, the implementation or provision of services is or might be in violation of applicable laws, rules, or regulations.

**Section 11. TERM AND TERMINATION.**

11.1 Term. This MSA shall be effective from Company's acceptance of this MSA and shall continue until the expiration or termination of all Ordering Documents ("Term").

11.2 Termination For Cause. This MSA may be terminated by either Party in the event the other Party materially breaches this MSA and fails to cure such breach within thirty (30) days of the receipt of notice of the alleged breach. In addition, 4Sight shall have the right to terminate this MSA upon ten (10) days prior written notice in the event that Company fails to pay 4Sight in accordance with Section 3 above or Company's use of the Service in any manner not otherwise permitted in this Agreement.

11.3 Termination for Convenience. 4Sight may terminate, this Agreement or Ordering Document in whole or in part, at any time upon thirty (30) days written notice, for any reason, when the 4Sight determines that such termination is in its best interests. Company may terminate, this Agreement or Ordering Document in whole or in part, at any time upon thirty (30) days written notice, for any reason, when Company determines that such termination is in its best interests. The Parties may agree to mutually terminate this Agreement upon any such terms they have negotiated in good-faith.

11.4 Immediate Termination. This MSA may be terminated immediately upon written notice by either party to the other party upon the occurrence of any of the following events: (a) the filing by or on behalf of either party of any voluntary or involuntary petition in bankruptcy, dissolution or liquidation; or (b) the assignment of fifty percent (50%) or more of the assets of either party for the benefit of its creditors.

11.5 Consequences of Termination. Upon termination of this MSA, Company agrees that it shall be responsible for payment of Services in accordance with Section 3 of this MSA subsequent to the effective date of termination if the related Services were rendered prior to the effective date of termination. Outstanding payment obligations in accordance to Sections 3 and Confidential Information obligations in accordance to Section 5 of this MSA shall survive any termination of this MSA.

**Section 12. GENERAL.**

12.1 Law. This MSA shall be governed by and construed in accordance with the laws of the State of Ohio. In the event any provision of this MSA is declared to be unenforceable the remaining provisions shall continue in full force and effect.

12.2 Entire Agreement. This MSA, and applicable Ordering Document incorporated by reference contain the full and complete understanding and agreement between the Parties relating to the subject matter hereof and supersede all prior and contemporary understandings and agreements, whether oral or written, relating such subject matter hereof. Paragraph titles or captions contained herein are inserted only as a matter of convenience and for reference.

12.3 Amendments/Changes. Any modification or amendment to this MSA shall be effective only if in

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writing and signed by both Parties. Any change to an Ordering Document shall be documented in a written amendment mutually agreed upon and executed by the Parties (an "Amendment").

12.4 Notice. All notices required or permitted under the MSA or Ordering Document shall be in writing and delivered by any method providing for proof of delivery. Any notice shall be deemed to have been given on the date of receipt. Notices to 4Sight and Company shall be delivered to the following addresses:

4Sight, Inc.	Company
633 Alvarado Street	Address
San Francisco, CA 94114	
Attn: John Defalco	
Email: john@4sightlabs.com	

12.5 Assignment. This MSA shall be binding upon and inure to the benefit of the Parties hereto, their heirs, legal representatives, successors and permitted assigns. Neither Party may assign its rights and obligations under this MSA without the prior written consent of the other Party. Notwithstanding the foregoing, this MSA may be assigned by either Party to an entity which is an affiliate or subsidiary who is a successor in interest in connection with a merger, acquisition or consolidation, or to the purchaser in connection with the sale of all or substantially all of its assets. Any assignment or transfer of this Agreement in violation of this provision shall be null and void and of no force or effect.

12.6 No Waiver. No Modification. The failure of either Party to enforce, at any time or for any period of time, the provisions hereof, or the failure of either Party to exercise any option herein, shall not be construed as a waiver of such provision or option and shall in no way affect that Party's right to enforce such provisions or exercise such option.

12.7 Severability. In the event any provision of this MSA is determined to be invalid or unenforceable by ruling of an arbitrator or court of competent jurisdiction, the remainder of this MSA (and each of the remaining terms and conditions contained herein) shall remain in full force and effect.

12.8 Force Majeure. Neither party shall be deemed to have breached this MSA if its delay or its failure to perform all or any part of its obligation hereunder result from flood, earthquake, fire, or other acts of God, or war, tropical weather event, blizzard, strikes, slowdowns, labor unrest, riot, civil commotion, the public enemy, power failure, computer processing or data transmission delays or difficulties, delays or difficulties in obtaining supplies, materials, or delays or difficulties relating to the performance of services provided by others, or other circumstances beyond reasonable control, or by reason of a judgment, ruling, or order of any court, agency, or competent jurisdiction, or change of law or regulation occurring subsequent to the signing of this MSA.

12.9 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. The Parties agree to accept and be bound by facsimile, email or PDF transmitted copies of this Agreement and its counterparts including facsimile, email or PDF signatures of the Parties.

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

12.11 Conflicts. If any term of this Agreement conflicts with the Ordering Document, this Agreement shall prevail.

Vote on Motion	Mr. Benton Aye	Mrs. Lewis Absent	Mr. Merrell Aye
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16  
RESOLUTION NO. 25-610

IN THE MATTER OF APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE  
DELAWARE-MORROW MENTAL HEALTH & RECOVERY SERVICES BOARD AND THE  
SHERIFF OF DELAWARE COUNTY, OHIO, FOR A MENTAL HEALTH CLINICIAN FY2026:

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

WHEREAS, the Sheriff and Sheriff’s Office Staff recommend a memorandum of understanding between the Delaware County Sheriff’s Office and the Delaware County Board of Commissioners and the Delaware-Morrow Mental Health & Recovery Services Board for a mental health clinician;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the following memorandum of understanding between the Delaware County Sheriff’s Office, the Delaware County Board of Commissioners and the Delaware-Morrow Mental Health & Recovery Services Board, for a Mental Health Clinician FY2026:

**Memorandum of Understanding**  
**Between the Delaware-Morrow Mental Health & Recovery Services Board and the Sheriff of Delaware County, Ohio, For a Mental Health Clinician FY2026**  
This Memorandum of Understanding ("MOU") is entered into between the Delaware- Morrow Mental Health

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& Recovery Services Board (the "Board") and the Sheriff of Delaware County, Ohio (the "Sheriff").

Whereas, the parties have entered into a Memorandum of Understanding for each fiscal year of the Board since March 10, 2014 for the securing and funding of a position for a full-time mental health professional to provide mental health services to persons incarcerated at the Delaware County Jail; and,

Whereas, the Board considers the services provided by this professional to continue being essential to the needs of the Sheriff and the Delaware County Jail population; and,

Whereas, the parties desire to execute this MOU for another, subsequent term of one (1) year during the Board's FY2026 upon the terms and conditions set forth herein.

Now Therefore, the parties agree:

1. Memorandum Term. This MOU shall be effective commensurate with the Board's FY2026, for a period of one (1) year commencing on July 1, 2025, and continuing to June 30, 2026. Attached hereto as Exhibit "A" and incorporated herein is a copy of the original Memorandum of Understanding, effective March 10, 2014, including the Proposal for a Mental Health Clinician for Delaware County Jail. Exhibit "A" sets forth the overall structure of this collaborative arrangement and services to be provided by the mental health professional position.

2. Financial Contributions. The Board is responsible for making payment to Maryhaven in the amount of up to \$113,557, to cover the professional and administrative costs for the mental health professional position to be staffed by Maryhaven during the term of this extension. The Sheriff agrees to reimburse the Board for 20% of this cost in the amount of up to \$22,711. Attached hereto as Exhibit "B" and incorporated herein is the Budget and Proposal for the mental health professional position for FY2026.

2. Obligations of the Parties. The parties agree to continue to provide the support and services as set forth in Exhibits "A" and "B" and such other services as they mutually agree will enhance the provision of mental health services at the Delaware County Jail.

3. All Other Terms Remain in Effect. Except as modified herein, all terms and conditions of the attached Exhibits "A" and "B" shall remain in full force during the period of this MOU.

Now, Therefore, the undersigned agree to this Memorandum of Understanding.

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

17  
RESOLUTION NO. 25-611

IN THE MATTER OF APPROVING THE USE OF A PROCUREMENT CARD FOR THE CLERK OF COURTS:

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

WHEREAS, pursuant to section 301.29 of the Revised Code, the Board of Commissioners of Delaware County, by Resolution No. 04-1193, dated September 30, 2004, adopted a policy for the use of County Procurement Cards; and

WHEREAS, the Board of Commissioners of Delaware County, by Resolution No. 11-1040, dated October 3, 2011, adopted amendments to the Policies and Procedures for the county procurement card program; and

WHEREAS, the Board of Commissioners has adopted the procurement card policy for the use of the card to pay for specific classes of work related expenses, without submitting a monthly estimate of the expenses, pursuant to section 301.29(F)(2) of the Revised Code;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, authorizes the use of the following procurement cards to the limits indicated and for specific work related expenses designated in the Procurement Card Policy without submitting a monthly estimate of expenses:

<b>New Card for Natalie A. Fravel:</b>	
Appointing Authority:	Clerk of Courts
Office/Department:	Clerk of Courts
Daily spending per card:	\$2,000
Monthly spending per card:	\$5,000
Single transaction limit:	\$2,000
Daily number of transactions per card:	10
Monthly number of transactions per card:	20
Department Coordinator:	Jennifer Tubaugh

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

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18  
RESOLUTION NO. 25-612

**IN THE MATTER OF APPROVING A PERPETUAL STANDARD HIGHWAY EASEMENT AND TEMPORARY EASEMENT TO THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION, FOR HIGHWAY PURPOSES RELATED TO IMPROVEMENTS TO US 36 (PROJECT DEL-36-00.00):**

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

WHEREAS, the Ohio Department of Transportation is making certain improvements to US Route 36 within Delaware County (Project DEL-36-00.00) and required a standard highway easement and temporary easement from the Delaware County Board of Commissioners to complete the project; and

WHEREAS, the Deputy County Administrator/General Counsel recommends that the easements be granted;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves granting the following easements to the State of Ohio, Department of Transportation, and authorizes the President of the Board to execute the easements on behalf of the Board:

ODOT RE 208  
Rev. 04/2022

E  
State

**EASEMENT**

Board of Commissioners of Delaware County, Ohio, the Grantor, in consideration of the sum of One Hundred Ninety-five and no/100 Dollars (\$195.00), to be paid by the State of Ohio, Department of Transportation, does convey to the State of Ohio for the use and benefit of the Department of Transportation, the Grantee, an easement, which is more particularly described in Exhibit A, attached, the following described real estate:

PARCEL(S): 094-SH

DEL-36-00.00

SEE EXHIBIT A ATTACHED

Delaware County Current Tax Parcel No. 400-100-01-113-001

Prior Instrument Reference: Official Record 91, Page 872, Delaware County Recorder's Office.

Grantor, for itself and its successors and assigns, covenants with the Grantee, its successors and assigns, that it is the true and lawful owner in fee simple of the property, and has the right and power to convey the property and that the property is free and clear from all liens and encumbrances, except: (a) easements, restrictions, conditions, and covenants of record; (b) all legal highways; (c) zoning and building laws, ordinances, rules, and regulations; and (d) any and all taxes and assessments not yet due and payable; and that Grantor will warrant and defend the property against all claims of all persons.

The property conveyed to Grantee is being acquired for one of the statutory purposes the Director of Transportation may acquire property under Title LV of the Revised Code, such as but not limited to those purposes enumerated in Sections 5501.31 and 5519.01 of the Revised Code.

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EXHIBIT A

Page 1 of 3  
Rev. 06/09

RX 270 SH

Ver. Date 08/08/24

PID 109070

**PARCEL 94-SH  
DEL-36-00.00  
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES  
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS**

An exclusive perpetual easement for public highway and road purposes, including, but not limited to any utility construction, relocation and/or utility maintenance work deemed appropriate by the State of Ohio, Department of Transportation, its successors and assigns forever.

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Situated in the State of Ohio, County of Delaware, Township of Scioto, located in Farm Lot 9 of Virginia Military Survey Number 4068, and being a part of the tract conveyed to Board of Commissioners of Delaware County in Official Record 91, Page 872, also being Parcel 94-SH on the right side of the existing centerline of right-of-way of United States Route 36 (Marysville Road) as shown on the Ohio Department of Transportation right-of-way plans for DEL-36-00.00, and being more particularly described as follows:

**Commencing** at the intersection of the said existing centerline of right-of-way of U.S. Route 36 and the existing centerline of right-of-way of County Road 161 (Russell Road) being North 07 degrees 47 minutes 29 seconds West 0.14 feet from a Monument Box Found, being centerline station 207+22.04;

Thence **South 71 degrees 33 minutes 19 seconds West**, along the said existing centerline of U.S. Route 36, a distance of **729.19 feet** to a point of deflection, being centerline station 199+92.85;

Thence **South 70 degrees 17 minutes 49 seconds West**, continuing along the said existing centerline of U.S. Route 36, a distance of **254.85 feet** to a point, being centerline station 197+38.00;

Thence **South 19 degrees 42 minutes 11 seconds East**, leaving the aforesaid existing centerline, a distance of **30.00 feet** to an Iron Pin Set in the existing southerly right-of-way line of said U.S.



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Route 36, being 30.00 feet right of centerline station 197+38.00, said Iron Pin Set also being the **Point of Beginning** for the herein described easement;

Thence leaving the aforesaid right-of-way line and through the said Board of Commissioners of Delaware County tract, the following four (4) courses:

**South 19 degrees 42 minutes 11 seconds East**, a distance of **2.00 feet** to an Iron Pin Set, being 32.00 feet right of centerline station 197+38.00;

**South 70 degrees 17 minutes 49 seconds West**, a distance of **28.00 feet** to an Iron Pin Set, being 32.00 feet right of centerline station 197+10.00;

**North 19 degrees 42 minutes 11 seconds West**, a distance of **2.00 feet** to an Iron Pin Set in the aforesaid southerly right-of-way line, being 30.00 feet right of centerline station 197+10.00;

**North 70 degrees 17 minutes 49 seconds East**, along the aforesaid southerly right-of-way line, a distance of **28.00 feet** to the **Point of Beginning, containing 0.001 acre (56 square feet), more or less**, all of which is located in Delaware County Auditor's Parcel 400-100-01-113-001;

Subject to any and all easements, rights-of-way, conditions and restrictions of record.

All Iron Pins Set are 3/4-inch by 30-inch reinforcing rod with a 2" aluminum cap stamped "ODOT R/W BRIAN D. SMART, PS NO. 7611".

The Gross Take in Delaware County Auditor's Parcel 400-100-01-113-001 is 0.001 acre.

The P.R.O. in the Take for Delaware County Auditor's Parcel 400-100-01-113-001 is 0.000 acre.

Bearings shown hereon are based upon the Ohio State Plane Coordinate System, North Zone, NAD83(2011) and are intended to be used only to determine angles.

All records referenced herein are to the Recorder's Office of Delaware County, Ohio.

All stations and offsets are referenced to the existing centerline of right-of-way of U.S. Route 36 as shown on the Ohio Department of Transportation right-of-way plans for DEL-36-0.00.

Address: 6457 Marysville Road, Ostrander, Ohio 43061

Ownership and recording information current as of the date of this description.

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This description was prepared by Smart Services, Inc. in August 2024 under the direct supervision of BRIAN D. SMART, PS NO. 7611 and is based upon actual field measurements performed by the same.

 , P.S.  
Reg. Professional Surveyor No. 7611

DATE 8/8/24



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TEMPORARY EASEMENT

Board of Commissioners of Delaware County, Ohio, the Grantor, in consideration of the sum of One Hundred Five and no/100 Dollars (\$105.00), to be paid by the State of Ohio, Department of Transportation, does grant, to the State of Ohio for the use and benefit of the Department of Transportation, the Grantee, the temporary easement(s) to exclusively occupy and use for the purposes mentioned in Exhibit A the following described real estate:

PARCEL(S): 094-T

DEL-36-00.00/PID 109070

SEE EXHIBIT A ATTACHED

Delaware County Current Tax Parcel No. 400-100-01-113-001

Prior Instrument Reference: Official Record 91, Page 872, Delaware County Recorder's Office.

To have and to hold the temporary easement(s), for the aforesaid purposes and for the anticipated period of time described below, unto the Grantee, its successors and assigns.

The duration of the temporary easement(s) granted to the Grantee is 24 months immediately following the date on which the work described above is first commenced by the Grantee, or its duly authorized employees, agents, and contractors.

The property conveyed to Grantee is being acquired for one of the statutory purposes for which the Director of Transportation may acquire property under Title LV of the Revised Code, such as but not limited to those purposes enumerated in Sections 5501.31 and 5519.01 of the Revised Code.

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Ver. Date 08/08/24

PID 109070

PARCEL 94-T  
DEL-36-0.00  
TEMPORARY EASEMENT FOR THE PURPOSE OF  
PERFORMING THE WORK NECESSARY TO  
CONSTRUCT DRIVE AND GRADING  
FOR 24 MONTHS FROM DATE OF ENTRY BY THE  
STATE OF OHIO, DEPARTMENT OF TRANSPORTATION

[Surveyor's description of the premises follows]

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Situated in the State of Ohio, County of Delaware, Township of Scioto, located in Farm Lot 9 of Virginia Military Survey Number 4068 and being a part of the tract conveyed to Board of Commissioners of Delaware County in Official Record 91, Page 872, also being Parcel 94-T on the right side of the existing centerline of right-of-way of United States Route 36 (Marysville Road) as shown on the Ohio Department of Transportation right-of-way plans for DEL-36-0.00, and being more particularly described as follows:

**Commencing** at the intersection of the existing southerly right-of-way line of said U.S. Route 36 and the westerly line of the tract conveyed to DEL-CO WATER COMPANY, INC. in Official Record 1252, Page 1963 and Deed Record 371, Page 150 being 30.00 feet right of centerline station 197+84.92, said intersection point being the **Point of Beginning** for the herein described easement;

Thence **South 08 degrees 00 minutes 38 seconds East**, along the westerly line of the said DEL-CO WATER COMPANY, INC. tract, a distance of **26.17 feet** to a point, being 55.62 feet right of centerline station 197+79.62;

Thence leaving the said westerly line and through the said Board of Commissioners of Delaware County tract, the following three (3) courses:

**North 80 degrees 07 minutes 31 seconds West**, a distance of **47.86 feet** to a point, being 32.00 feet right of centerline station 197+38.00;

**North 19 degrees 42 minutes 11 seconds West**, a distance of **2.00 feet** to a point in the said existing southerly right-of-way line of U.S. route 36, being 30.00 feet right of centerline station 197+38.00;

**North 70 degrees 17 minutes 49 seconds East**, along the said existing southerly right-of-way line, a distance of **46.93 feet** to the **Point of Beginning**, containing **0.015 acre**,

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**more or less**, all of which is located in Delaware County Auditor's Parcel 400-100-01-113-001.

Subject to any and all easements, rights-of-way, conditions and restrictions of record.

The Gross Take in Delaware County Auditor's Parcel 400-100-01-113-001 is 0.015 acre.

The P.R.O. in the Take for Delaware County Auditor's Parcel 400-100-01-113-001 is 0.000 acre.

Bearings shown hereon are based upon the Ohio State Plane Coordinate System, North Zone, NAD83(2011) and are intended to be used only to determine angles.

All records referenced herein are to the Recorder's Office of Delaware County, Ohio.

All stations and offsets are referenced to the existing centerline of right-of-way of U.S. Route 36 as shown on the Ohio Department of Transportation right-of-way plans for DEL-36-0.00.

Site Address: 6457 Marysville, Road Ostrander, Ohio 43061.

Ownership and recording information current as of the date of this description.

This description was prepared by Smart Services, Inc. in August 2024 under the direct supervision of BRIAN D. SMART, PS NO. 7611 and is based upon actual field measurements performed by the same.

 P.S.  
Reg. Professional Surveyor No. 7611

DATE 8/8/24



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

19  
RESOLUTION NO. 25-613

IN THE MATTER OF APPROVING THE INVITATION TO BID FOR DELAWARE COUNTY  
DOG SHELTER MODULAR OFFICE:

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

WHEREAS, the Director of Facilities recommends approval of the following Invitation to Bid for Delaware County Dog Shelter Modular Office;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Invitation to Bid and authorizes the Director of Facilities to issue the ITB in accordance with the following Public Notice:

PUBLIC NOTICE  
INVITATION TO BID

Bids shall be submitted electronically through the [www.bidexpress.com](http://www.bidexpress.com) web service until 10:00AM on September 24, 2025, at which time they will be publicly received and read aloud for the following project:

DELAWARE COUNTY  
DOG SHELTER  
MODULAR OFFICE  
4781 County Home Rd.  
Delaware, Ohio 43015

A Bid Guaranty must be submitted with each bid, pursuant to the requirements of O.R.C. 153.54.

All proposals shall be submitted electronically through the web service [www.bidexpress.com](http://www.bidexpress.com). Copies of the plans and specifications must be obtained from [www.bidexpress.com](http://www.bidexpress.com). All bidders must register and be a member of the web service to bid on the project.

Bids are to be submitted in accordance with the specifications and drawings prepared by: Dynotec, 2931 E.

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Dublin-Granville Rd., Columbus, Ohio 43231. Bids will be received for the following package:

General Contractor, estimated at \$96,115.00

Bid award shall be to the lowest and best bidder as determined by Delaware County. Delaware County reserves the right to reject any and all bids, in whole or in part, to waive any defect in any or all bids. Each bid shall contain the full name and address of the bidder and all interested parties. No bid shall be withdrawn for a period of sixty (60) days after being publicly opened and read.

This Notice is posted on the Internet and may be viewed on Delaware County’s web site at [www.co.delaware.oh.us](http://www.co.delaware.oh.us) under the heading “Public Notices and Bids.”

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

20  
RESOLUTION NO. 25-614

IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS FOR JOB AND FAMILY SERVICES:

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

Supplemental Appropriations

70161603-5001	FCFC General/Compensation	\$7,000.00
70161603-5101	FCFC General/Health Insurance	\$25,000

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

21  
RESOLUTION NO. 25-615

IN THE MATTER OF APPROVING THE FIRST AMENDMENT TO THE CONTRACT FOR THE PURCHASE OF SUPERVISED VISITATION SERVICES BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND BE SAFE VISITATIONS AND EXCHANGES, INC.:

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

WHEREAS, the Director of Job & Family Services recommends approval of the first contract amendment with Be Safe Visitation and Exchanges, Inc.;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the following first contract amendment with Be Safe Visitation and Exchanges, Inc., for Title IV-E Agencies and Providers for supervised visitation services:

First Amendment to Contract for the Purchase of  
Supervised Visitation Services  
Between  
Delaware County Board of County Commissioners and  
Be Safe Visitations & Exchanges, Inc.

This First Amendment of the Contract For The Provision of Supervised Visitation Services is entered into this 11<sup>th</sup> day of August, 2025 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, 2<sup>nd</sup> Floor, Delaware, Ohio 43015, and Be Safe Visitations & Exchanges, Inc. (hereinafter “Provider”) whose address is 663 Park Meadow Rd., Ste. C, Westerville, Ohio 43081 (hereinafter collectively the “Parties”).

WHEREAS, the Parties entered into the Contract for Supervised Visitation Services on September 1, 2024.

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 September 1, 2025 through August 31, 2026.
2. Signatures  
Any person executing this First Amendment in a representative capacity hereby warrants that he/she has authority to sign this First Amendment or has been duly authorized by his/her principal to execute this

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First Amendment on such principal’s behalf.

3. Conflicts
- In the event of a conflict between the terms of the Contract, and this First Amendment, the terms of the First Amendment shall prevail.
4. Terms of Agreement Unchanged
- All terms and conditions of the Contract, not changed by this First Amendment remain the same, unchanged, and in full force and effect.

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

22  
RESOLUTION NO. 25-616

IN THE MATTER OF APPROVING A TRANSFER OF FUNDS:

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

Transfer of Funds		
From:	To:	
10011102-5801	42311453-4601	
Commissioners General/Cash Transfer	Capital Acquisition & Project/Interfund Revenues	889,107.90

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

23  
RESOLUTION NO. 25-617

IN THE MATTER OF GRANTING A LICENSE FOR A TEMPORARY WORK AREA FOR  
CONSTRUCTION OF A CONCRETE CULVERT ON NORTH OLD STATE ROAD:

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

LICENSE NO. DACW69-3

DEPARTMENT OF THE ARMY LICENSE ALUM CREEK LAKE  
DELAWARE COUNTY, OHIO TRACT NOS. 834 and 836

THE SECRETARY OF THE ARMY, hereinafter referred to as the “Secretary”, under his general administrative powers, hereby grants to DELAWARE COUNTY BOARD OF COMMISSIONERS, duly organized and existing under and by the virtue of the laws of the State of Ohio, with its principal office at 91 North Sandusky Street, Delaware, Ohio 43015; hereinafter referred to as the “Grantee”, license for a temporary work area for the construction of a concrete culvert over, across, in and upon lands of the United States, as identified in orange on EXHIBIT A, attached hereto and made a part hereof, hereinafter referred to as the “Premises”. THIS LICENSE is granted subject to the following conditions:

1. TERM
- This License is granted for a term of Two (2) years, beginning July 15, 2024, and ending July 14, 2026, but revocable at will by the Secretary.
2. CONSIDERATION
- The consideration for this License shall be the construction, operation and maintenance of the temporary work area for the construction of a culvert for the benefit of the United States and use of the Premises in a manner not against the public interest and in accordance with the terms herein set forth.
3. NOTICES
- All correspondence and notices to be given pursuant to this License shall be addressed, if to the Grantee, to Delaware County Engineer’s Office, 1610 State Route 521, Delaware, Ohio 43015and if to the United States, to the Real Estate Contracting Officer, Attention: Chief, Real Estate Division, 502 Eighth Street, Huntington, West Virginia 25701-2018; or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.
4. AUTHORIZED REPRESENTATIVES

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Except as otherwise specifically provided, any reference herein to "Secretary", Real Estate Contracting Officer, or "said officer" shall include their duly authorized representatives. Any reference to "Grantee" shall include any duly authorized representatives.

**5. SUPERVISION BY THE REAL ESTATE CONTRACTING OFFICER**

The use and occupation of the Premises shall be subject to the general supervision and approval of the Real Estate Contracting Officer, Huntington District hereinafter referred to as said officer, and to such rules and regulations as may be prescribed from time to time by said officer.

**6. APPLICABLE LAWS AND REGULATIONS**

The Grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances, and regulations wherein the Premises are located.

**7. CONDITIONAL USE BY GRANTEE**

The exercise of the privileges herein granted shall be;

- a. without cost or expense to the United States;
- b. subject to the right of the United States to improve, use or maintain the Premises;
- c. subject to other outgrants of the United States on the Premises;
- d. personal to the Grantee, and this License, or any interest therein, may not be transferred or assigned.

**8. CONDITION OF PREMISES**

The Grantee acknowledges that it has inspected the Premises, knows its condition, and understands that the same is granted without any representations or warranties whatsoever and without any obligation on the part of the United States.

**9. COST OF UTILITIES**

The Grantee shall pay the cost, as determined by the officer having immediate supervision over the Premises, of producing and/or supplying any utilities and other services furnished by the Government or through Government-owned facilities for the use of the Grantee, including the Grantee's proportionate share of the cost of operation and maintenance of the Government-owned facilities by which such utilities or services are produced or supplied. The Government shall be under no obligation to furnish utilities or services. Payment shall be made in the manner prescribed by the officer having such jurisdiction.

**10. PROTECTION OF PROPERTY**

The Grantee shall keep the Premises in good order and in a clean, safe condition by and at the expense of the Grantee. The Grantee shall be responsible for any damage that may be caused to property of the United States by the activities of the Grantee under this License and shall exercise due diligence in the protection of all property located on the Premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the Grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefore by the Grantee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

**11. INDEMNITY**

The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Grantee, or for damages to the property or injuries to the person of the Grantee's officers, agents, or employees or others who may be on the Premises at their invitation or the invitation of any one of them, and the Grantee shall hold the United States harmless from any and all such claims not including damages due to the fault or negligence of the United States or its contractors to the extent allowed by law.

**12. RESTORATION**

On or before the expiration of this License or its termination by the Grantee, the Grantee shall vacate the Premises, remove the property of the Grantee, and restore the Premises to a condition satisfactory to said officer. If, however, this License is revoked, the Grantee shall vacate the Premises, remove said property and restore the Premises to the aforesaid condition within such time as the Real Estate Contracting Officer may designate. In either event, if the Grantee shall fail or neglect to remove said property and restore the Premises, then, at the option of said officer, the property shall either become the property of the United States without compensation therefore, or said officer may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work. The Grantee shall also pay the United States on demand any sum which may be expended by the United States after the expiration, revocation, or termination of this License in restoring the Premises.

**13. NON-DISCRIMINATION**

- a. The Grantee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin, or religion.
- b. The Grantee, by acceptance of this Easement, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C.



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§ 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directive 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the Grantee, its agents, successors, transferees, and assignees.

**14. TERMINATION**

This License may be terminated by the Grantee at any time by giving the Real Estate Contracting Officer at least ten (10) days' notice in writing provided that no refund by the United States of any consideration previously paid shall be made and provided further, that in the event that said notice is not given at least ten (10) days prior to the rental due date, the Grantee shall be required to pay the consideration for the period shown in the Condition on CONSIDERATION.

**15. ENVIRONMENTAL PROTECTION**

a. Within the limits of their respective legal powers, the parties to this License shall protect the Premises against pollution of its air, ground and water. The Grantee shall comply with any laws, regulations, conditions, or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the Premises is specifically prohibited. Such regulations, conditions, or instructions in effect or prescribed by said Environmental Protection Agency, or any Federal, state, interstate or local governmental agency are hereby made a condition of this License. The Grantee shall not discharge waste or effluent from the Premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The Grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from the Grantee's activities, the Grantee shall be liable to restore the damaged resources.

c. The Grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the Premises.

**16. HISTORIC PRESERVATION**

The Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the Premises, the Grantee shall immediately notify said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

**17. DISCLAIMER**

This License is effective only insofar as the rights of the United States in the Premises are concerned; and the Grantee shall obtain any permit or license which may be required by Federal, state, or local statute in connection with the use of the Premises. It is understood that the granting of this License does not preclude the necessity of obtaining a Department of the Army permit for activities which involve the discharge of dredge or fill material or the placement of fixed structures in the waters of the United States, pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 USC 403), and Section 404 of the Clean Waters Act (33 USC 1344).

**18. EXECUTIVE ORDER 13658**

Any reference in this section to "prime contractor" or "contractor" shall mean the Grantee and any reference to "contract" shall refer to the License.

a. The parties expressly stipulate this contract is subject to Executive Order 13658, the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions.

b. Minimum Wages.

(1) Each worker (as defined in 29 CFR 10.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the contractor and worker, shall be paid not less than the applicable minimum wage under Executive Order 13658.

(2) The minimum wage required to be paid to each worker performing work on or in connection with this contract between January 1, 2015, and December 31, 2015, shall be \$10.10 per hour. The minimum wage shall be adjusted each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all workers subject to the Executive Order beginning January 1 of the following year. If appropriate, the contracting officer, or other agency official overseeing this contract shall ensure the contractor is compensated only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on [www.wdol.gov](http://www.wdol.gov) (or any successor Web site). The applicable published minimum wage is incorporated by reference into this contract.

(3) The contractor shall pay unconditionally to each worker all wages due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 10.23), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Executive Order may



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not be of any duration longer than semi-monthly.

(4) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage requirements. In the event of any violation of the minimum wage obligation of this clause, the contractor and any subcontractor(s) responsible therefore shall be liable for the unpaid wages.

(5) If the commensurate wage rate paid to a worker on a covered contract whose wages are calculated pursuant to a special certificate issued under 29 U.S.C. 214(c), whether hourly or piece rate, is less than the Executive Order minimum wage, the contractor must pay the Executive Order minimum wage rate to achieve compliance with the Order. If the commensurate wage due under the certificate is greater than the Executive Order minimum wage, the contractor must pay the 14(c) worker the greater commensurate wage.

c. Withholding. The agency head shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by Executive Order 13658.

d. Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to pay any worker all or part of the wages due under Executive Order 13658 or 29 CFR part 10, or a failure to comply with any other term or condition of Executive Order 13658 or 29 CFR part 10, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 10.52.

e. The contractor may not discharge any part of its minimum wage obligation under Executive Order 13658 by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Act, the cash equivalent thereof.

f. Nothing herein shall relieve the contractor of any other obligation under Federal, State, or local law, or under contract, for the payment of a higher wage to any worker, nor shall a lower prevailing wage under any such Federal, State, or local law, or under contract, entitle a contractor to pay less than \$10.10 (or the minimum wage as established each January thereafter) to any worker.

g. Payroll Records.

(1) The contractor shall make and maintain for three years records containing the information specified in paragraphs (g)(1) (i) through (vi) of this section for each worker and shall make the records available for inspection and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

- (i) Name, address, and social security number.
- (ii) The worker's occupation(s) or classification(s)
- (iii) The rate or rates of wages paid.
- (iv) The number of daily and weekly hours worked by each worker.
- Any deductions made; and
- (v) Total wages paid.

(2) The contractor shall also make available a copy of the contract, as applicable, for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of 29 CFR part 10 and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of an authorized representative of the Department of Labor, or under its own action, shall take such action as may be necessary to cause suspension of any further payment or advance of funds until such time as the violations are discontinued.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct investigations, including interviewing workers at the worksite during normal working hours.

(5) Nothing in this clause limits or otherwise modifies the contractor's payroll and recordkeeping obligations, if any, under the Davis-Bacon Act, as amended, and its implementing regulations; the Service Contract Act, as amended, and its implementing regulations; the Fair Labor Standards Act, as amended, and its implementing regulations; or any other applicable law.

h. The contractor (as defined in 29 CFR 10.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts. The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with this contract clause.

i. Certification of Eligibility.

(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

j. Tipped employees. In paying wages to a tipped employee as defined in section 3(t) of the

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Fair Labor Standards Act, 29 U.S.C. 203(t), the contractor may take a partial credit against the wage payment obligation (tip credit) to the extent permitted under section 3(a) of Executive Order 13658. In order to take such a tip credit, the employee must receive an amount of tips at least equal to the amount of the credit taken; where the tipped employee does not receive sufficient tips to equal the amount of the tip credit the contractor must increase the cash wage paid for the workweek so that the amount of cash wage paid and the tips received by the employee equal the applicable minimum wage under Executive Order 13658. To utilize this proviso:

- (1) The employer must inform the tipped employee in advance of the use of the tip credit;
- (2) The employer must inform the tipped employee of the amount of cash wage that will be paid and the additional amount by which the employee's wages will be considered increased on account of the tip credit;
- (3) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received); and
- (4) The employer must be able to show by records that the tipped employee receives at least the applicable Executive Order minimum wage through the combination of direct wages and tip credit.

k. Anti-retaliation. It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or 29 CFR part 10 or has testified or is about to testify in any such proceeding.

l. Disputes concerning labor standards. Disputes related to the application of Executive Order 13658 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 10. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the workers or their representatives.

m. Notice. The contractor must notify all workers performing work on or in connection with a covered contract of the applicable minimum wage rate under the Executive Order. With respect to service employees on contracts covered by the Service Contract Act and laborers and mechanics on contracts covered by the Davis-Bacon Act, the contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers performing work on or in connection with a covered contract whose wages are governed by the FLSA, the contractor must post a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by workers. Contractors that customarily post notices to workers electronically may post the notice electronically provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

If a duly authorized representative of the United States discovers or determines whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13658 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for and from any and all liabilities, losses, claims, expenses, suits, fines, penalties, judgments, demands or actions, costs, fees, and damages directly or indirectly arising out of, caused by, related to, resulting from or in any way predicated upon, in whole or in part, the erroneous Executive Order 13658 determination. This includes contractor releasing any claim or entitlement it would otherwise have to an equitable adjustment to the contract and indemnifying and holding harmless the United States from the claims of subcontractors and contractor employees.

#### **19. EXECUTIVE ORDER 13706**

Any reference in this condition to "prime contractor" or "contractor" shall mean the Grantee and any reference to "contract" shall refer to this easement.

(a) Executive Order 13706. This contract is subject to Executive Order 13706, the regulations issued by the Secretary of Labor in 29 CFR part 13 pursuant to the Executive Order, and the following provisions.

(b) Paid Sick Leave. (1) The contractor shall permit each employee (as defined in 29 CFR 13.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship that may be alleged to exist between the contractor and employee, to earn not less than 1 hour of paid sick leave for every 30 hours worked. The contractor shall additionally allow accrual and use of paid sick leave as required by Executive Order 13706 and 29 CFR part 13. The contractor shall in particular comply with the accrual, use, and other requirements set forth in 29 CFR 13.5 and 13.6, which are incorporated by reference in this contract.

(2) The contractor shall provide paid sick leave to all employees when due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 13.24), rebate, or kickback on any account. The contractor shall provide pay and benefits for paid sick leave used no later than one pay period following the end of the regular pay period in which the paid sick leave was taken. The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the requirements of Executive Order 13706, 29 CFR part 13, and this clause.

(c) Withholding. The contracting officer shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay employees the full amount owed

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to compensate for any violation of the requirements of Executive Order 13706, 29 CFR part 13, or this clause, including any pay and/or benefits denied or lost by reason of the violation; other actual monetary losses sustained as a direct result of the violation, and liquidated damages.

(d) Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to comply with Executive Order 13706, 29 CFR part 13, or this clause, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance, or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 13.52.

(e) The paid sick leave required by Executive Order 13706, 29 CFR part 13, and this clause is in addition to a contractor's obligations under the Service Contract Act and Davis-Bacon Act, and a contractor may not receive credit toward its prevailing wage or fringe benefit obligations under those Acts for any paid sick leave provided in satisfaction of the requirements of Executive Order 13706 and 29 CFR part 13.

(f) Nothing in Executive Order 13706 or 29 CFR part 13 shall excuse noncompliance with or supersede any applicable Federal or State law, any applicable law or municipal ordinance, or a collective bargaining agreement requiring greater paid sick leave or leave rights than those established under Executive Order 13706 and 29 CFR part 13.

(g) Record keeping. (1) Any contractor performing work subject to Executive Order 13706 and 29 CFR part 13 must make and maintain, for no less than three (3) years from the completion of the work on the contract, records containing the information specified in paragraphs (i) through (xv) of this section for each employee and shall make them available for inspection, copying, and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

- (i) Name, address, and Social Security number of each employee;
- (ii) The employee's occupation(s) or classification(s); The rate or rates of wages paid (including all pay and benefits provided);
- (iii) The number of daily and weekly hours worked;
- (iv) Any deductions made;
- (v) The total wages paid (including all pay and benefits provided) each pay period;
- (vi) A copy of notifications to employees of the amount of paid sick leave the employee has accrued, as required under 29 CFR 13.5(a)(2);
- (vii) A copy of employees' requests to use paid sick leave, if in writing, or, if not in writing, any other records reflecting such employee requests;
- (viii) Dates and amounts of paid sick leave taken by employees (unless a contractor's paid time off policy satisfies the requirements of Executive Order 13706 and 29 CFR part 13 as described in § 13.5(f)(5), leave must be designated in records as paid sick leave pursuant to Executive Order 13706);
- (ix) A copy of any written responses to employees' requests to use paid sick leave, including explanations for any denials of such requests, as required under 29 CFR 13.5(d)(3);
- (x) Any records reflecting the certification and documentation a contractor may require an employee to provide under 29 CFR 13.5(e), including copies of any certification or documentation provided by an employee;
- (xi) Any other records showing any tracking of or calculations related to an employee's accrual or use of paid sick leave;
- (xii) The relevant covered contract;
- (xiii) The regular pay and benefits provided to an employee for each use of paid sick leave; and
- (xiv) Any financial payment made for unused paid sick leave upon a separation from employment intended, pursuant to 29 CFR 13.5(b)(5), to relieve a contractor from the obligation to reinstate such paid sick leave as otherwise required by 29 CFR 13.5(b)(4).

(2)(i) If a contractor wishes to distinguish between an employee's covered and non-covered work, the contractor must keep records or other proof reflecting such distinctions. Only if the contractor adequately segregates the employee's time will time spent on non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. Similarly, only if that contractor adequately segregates the employee's time may a contractor properly refuse an employee's request to use paid sick leave on the ground that the employee was scheduled to perform non-covered work during the time she asked to use paid sick leave.

(ii) If a contractor estimates covered hours worked by an employee who performs work in connection with covered contracts pursuant to 29 CFR 13.5(a)(i) or (iii), the contractor must keep records or other proof of the verifiable information on which such estimates are reasonably based. Only if the contractor relies on an estimate that is reasonable and based on verifiable information will an employee's time spent in connection with non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. If a contractor estimates the amount of time an employee spends performing in connection with covered contracts, the contractor must permit the employee to use her paid sick leave during any work time for the contractor.

(3) In the event a contractor is not obligated by the Service Contract Act, the Davis-Bacon Act, or the Fair Labor Standards Act to keep records of an employee's hours worked, such as because the employee is exempt from the FLSA's minimum wage and overtime requirements, and the contractor

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chooses to use the assumption permitted by 29 CFR 13.5(a)(1)(iii), the contractor is excused from the requirement in paragraph (1)(d) of this section to keep records of the employee's number of daily and weekly hours worked.

(4)(i) Records relating to medical histories or domestic violence, sexual assault, or stalking, created for purposes of Executive Order 13706, whether of an employee or an employee's child, parent, spouse, domestic partner, or other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, shall be maintained as confidential records in separate files/records from the usual personnel files.

(ii) If the confidentiality requirements of the Genetic Information Nondiscrimination Act of 2008 (GINA), section 503 of the Rehabilitation Act of 1973, and/or the Americans with Disabilities Act (ADA) apply to records or documents created to comply with the recordkeeping requirements in this contract clause, the records and documents must also be maintained in compliance with the confidentiality requirements of the GINA, section 503 of the Rehabilitation Act of 1973, and/or ADA as described in 29 CFR 1635.9, 41 CFR 60-741.23(d), and 29 CFR 1630.14(c)(1), respectively.

(iii) The contractor shall not disclose any documentation used to verify the need to use 3 or more consecutive days of paid sick leave for the purposes listed in 29 CFR 13.5(c)(1)(iv) (as described in 29 CFR 13.5(e)(1)(ii)) and shall maintain confidentiality about any domestic abuse, sexual assault, or stalking, unless the employee consents or when disclosure is required by law.

(5) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(6) Nothing in this contract clause limits or otherwise modifies the contractor's recordkeeping obligations, if any, under the Davis-Bacon Act, the Service Contract Act, the Fair Labor Standards Act, the Family and Medical Leave Act, Executive Order 13658, their respective implementing regulations, or any other applicable law.

(h) The contractor (as defined in 29 CFR 13.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts.

(i) Certification of Eligibility. (1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts currently maintained on the System for Award Management Web site, <http://www.SAM.gov>.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Interference/Discrimination.

(1) A contractor may not in any manner interfere with an employee's accrual or use of paid sick leave as required by Executive Order 13706 or 29 CFR part 13. Interference includes, but is not limited to, miscalculating the amount of paid sick leave an employee has accrued, denying or unreasonably delaying a response to a proper request to use paid sick leave, discouraging an employee from using paid sick leave, reducing an employee's accrued paid sick leave by more than the amount of such leave used, transferring an employee to work on non-covered contracts to prevent the accrual or use of paid sick leave, disclosing confidential information contained in certification or other documentation provided to verify the need to use paid sick leave, or making the use of paid sick leave contingent on the employee's finding a replacement worker or the fulfillment of the contractor's operational needs.

(2) A contractor may not discharge or in any other manner discriminate against any employee for:

(i) Using, or attempting to use, paid sick leave as provided for under Executive Order 13706 and 29 CFR part 13;

(ii) Filing any complaint, initiating any proceeding, or otherwise asserting any right or claim under Executive Order 13706 and 29 CFR part 13;

(iii) Cooperating in any investigation or testifying in any proceeding under Executive Order 13706 and 29 CFR part 13; or

(iv) Informing any other person about his or her rights under Executive Order 13706 and 29 CFR part 13.

(j) Waiver. Employees cannot waive, nor may contractors induce employees to waive, their rights under Executive Order 13706, 29 CFR part 13, or this clause.

(I) Notice. The contractor must notify all employees performing work on or in connection with a covered contract of the paid sick leave requirements of Executive Order 13706, 29 CFR part 13, and this clause by posting a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by employees. Contractors that customarily post notices to employees electronically may post the notice electronically, provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to employees about terms and conditions of employment.

(m) Disputes concerning labor standards. Disputes related to the application of Executive Order 13706 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 13. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

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20. ADDED CONDITIONS

- a. Section 7 obligations under Endangered Species Act must be reconsidered if:
  - (1) New information reveals impacts that may affect federally listed species or critical habitat in a manner not previously considered.
  - (2) The proposed work is subsequently modified to include activities which were not considered during Section 7 consultation with the United States Fish and Wildlife Service.
  - (3) New species are listed, or critical habitat designated that might be affected by the subject work.
- b. In the event any previously unknown or unidentified historic or archaeological deposits be discovered, construction within 50-feet of the deposit(s) shall be immediately cease and a Huntington District Archeologist is to be contacted immediately at 304-399-5729 (O) or 859-221-6523 (C). Should any human remains be inadvertently discovered while accomplishing the activities authorized by the real estate instrument, the applicant and/or contractor must cease all work immediately. The County Coroner and a Huntington District Archeologist to be contacted immediately. Additionally, no media are to be contacted.
- c. No area for which grading has been completed will be unseeded or un- mulched for longer than fourteen (14) days. All disturbed areas will be seeded and/or revegetated with native species and approved seed mixes (where practicable) after completion of construction activities for stabilization and to help preclude the establishment of non-native invasive species.
- d. Should new information regarding the scope and/or impacts of the work become available that was not submitted to this office during our review of the proposal, the Grantee shall submit written information concerning proposed modification(s) to the Alum Creek Lake Project Office for review and evaluation, as soon as practicable.
- e. The Alum Creek Lake Project Resource Manager shall be given a 24-hour notification by the Grantee or the Delaware County Engineers prior to any construction activities for the DEL-CR10-11.56 culvert replacement project.

THIS LICENSE is not subject to Title 10, United States Code, Section 2662.

THIS INSTRUMENT PREPARED BY:	REVIEWED FOR LEGAL SUFFICIENCY BY:
Anita Bradburn, Realty Specialist	Bethany M. Shortridge, Attorney
Vote on Motion	Mrs. Lewis Absent
	Mr. Merrell Aye
	Mr. Benton Aye

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RESOLUTION NO. 25- 618

IN THE MATTER OF ACCEPTING AN EXPANDED EASEMENT FROM THE DEPARTMENT OF THE ARMY CORPS OF ENGINEERS FOR NORTH OLD STATE ROAD:

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

EASEMENT NO. DACW69-2-25

DEPARTMENT OF THE ARMY EASEMENT FOR PIPELINE RIGHT-OF-WAY LOCATED ON ALUM CREEK LAKE DELAWARE COUNTY, OHIO TRACT NOS. 834 AND 836

THE SECRETARY OF THE ARMY under and by virtue of the authority vested in the Secretary by Title 10, United States Code, Section 2668, having found that the granting of this Easement will be in the public interest and will not substantially injure the interests of the United States, hereby grants to, DELAWARE COUNTY BOARD OF COMMISSIONERS, duly organized and existing under and by the virtue of the laws of the State of Ohio, with its principal office at 91 North Sandusky Street, Delaware, Ohio 43015, hereinafter referred to as the “Grantee”, an easement for the construction, operation, maintenance, removal, and replacement of a 76-foot long, 36-inch diameter reinforced concrete pipe culvert located on North Old State Road (CR10) (40.292144,- 82.965525); hereinafter referred to as the “Facilities”, over, across, in and upon the lands of the United States as identified in red on EXHIBIT A, hereinafter referred to as the “Premises”, and which are attached hereto and made a part hereof. THIS EASEMENT is granted subject to the following conditions:

1. TERM

This Easement is granted for a term of Fifty (50) years, beginning July 15, 2025, and ending July 14, 2075.

2. CONSIDERATION

The consideration for this easement shall be the construction, operation and maintenance of a culvert for the benefit of the United States and use of the Premises not against the public interest in accordance with the terms herein set forth.

3. NOTICES

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All correspondence and notices to be given pursuant to this Easement shall be addressed, if to the Grantee, to Delaware County Engineer's Office, 1610 State Route 521, Delaware, Ohio 43015, and if to the United States, to the Real Estate Contracting Officer, Attention: Chief, Real Estate Division, 502 Eighth Street, Huntington, West

Virginia 25701-2070, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

**4. AUTHORIZED REPRESENTATIVES**

Except as otherwise specifically provided, any reference herein to "Secretary", "Real Estate Contracting Officer", or "said officer" shall include their duly authorized representatives. Any reference to "Grantee" shall include assignees, transferees, and their duly authorized representatives.

**5. SUPERVISION BY THE REAL ESTATE CONTRACTING OFFICER**

The construction, operation, maintenance, repair, or replacement of said Facilities, including culverts and other drainage Facilities, shall be performed at no cost or expense to the United States and subject to the approval of the Real Estate Contracting Officer, Huntington District, hereinafter referred to as said "officer". Upon the completion of any of the above activities, the Grantee shall immediately restore the Premises to the satisfaction of said officer. The use and occupation of the Premises for the purposes herein granted shall be subject to such rules and regulations as said officer prescribes in writing from time to time.

**6. APPLICABLE LAWS AND REGULATIONS**

The Grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances, and regulations wherein the Premises are located.

**7. CONDITION OF PREMISES**

The Grantee acknowledges that it has inspected the Premises, knows the condition, and understands that the same is granted without any representation or warranties whatsoever and without any obligation on the part of the United States.

**8. INSPECTION AND REPAIRS**

The Grantee shall inspect the Facilities at reasonable intervals and immediately repair any defects found by such inspection or when required by said officer to repair any such defects.

**9. PROTECTION OF GOVERNMENT PROPERTY**

The Grantee shall be responsible for any damage that may be caused to property of the United States by the activities of the Grantee under this Easement and shall exercise due diligence in the protection of all property located on the Premises against fire or damage from any and all causes. Any property of the United States damaged or destroyed by the Grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefor by the Grantee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

**10. RIGHT TO ENTER**

The right is reserved to the United States, its officers, agents, and employees to enter upon the Premises at any time and for any purpose necessary or convenient in connection with government purposes, to make inspections, to remove timber or other material, except property of the Grantee, to flood the Premises and/or to make any other use of the lands as may be necessary in connection with government purposes, and the Grantee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

**11. TRANSFERS AND ASSIGNMENTS**

Without proper written approval by said Real Estate Contracting Officer, the Grantee shall neither transfer nor assign this Easement or any part thereof nor grant any interest, privilege or license whatsoever in connection with this Easement. The provisions and conditions of this Easement shall extend to and be binding upon and shall inure to the benefit of the representatives, successors and assigns of the Grantee.

**12. INDEMNITY**

The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property or injuries to the person of the Grantee's officers, agents, or employees or others who may be on the Premises at their invitation or the invitation of any one of them, and the Grantee shall hold the United States harmless from any and all such claims not including damages due to the fault or negligence of the United States or its contractors.

**13. SUBJECT TO EASEMENTS**

This Easement is subject to all other existing easements, or those subsequently granted as well as established access routes for roadways and utilities located, or to be located, on the Premises, provided that the proposed grant of any new easement or route will be coordinated with the Grantee, and

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easements will not be granted which will, in the opinion of said officer, interfere with the use of the Premises by the Grantee.

**14. REQUIRED SERVICES**

The Grantee shall furnish through said Facilities such services as may be required from time to time for governmental purposes, provided that payment for such service will be made by the United States at rates which shall be mutually agreeable, but which shall never exceed the most favorable rates granted by the Grantee for similar service.

**15. RELOCATION OF FACILITIES**

In the event all or any portion of the Premises occupied by the said Facilities shall be needed by the United States, or in the event the existence of said Facilities is determined to be detrimental to governmental activities, the Grantee shall from time to time, upon notice to do so, and as often as so notified, remove said Facilities to such other location on the Premises as may be designated by said officer. In the event said Facilities shall not be removed or relocated within ninety (90) days after such notice, the United States may cause such relocation at the sole expense of the Grantee.

**16. TERMINATION**

This Easement may be terminated by the Secretary upon thirty (30) days written notice to the Grantee if the Secretary shall determine that the right-of-way hereby granted interferes with the use or disposal of said land by the United States, or it may be revoked by the Secretary for failure of the Grantee to comply with any or all of the conditions of this Easement, or for non-use for a period of two (2) years, or for abandonment.

**17. SOIL AND WATER CONSERVATION**

The Grantee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon said Premises at the beginning of or that may be constructed by the Grantee during the term of this Easement, and the Grantee shall take appropriate measures to prevent or control soil erosion within the right-of-way herein granted. Any soil erosion occurring outside the Premises resulting from the activities of the Grantee shall be corrected by the Grantee as directed by said officer.

**18. ENVIRONMENTAL PROTECTION**

a. Within the limits of their respective legal powers, the parties hereto shall protect the Premises against pollution of its air, ground, and water. The Grantee shall comply with any laws, regulations, conditions, or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the Premises is specifically prohibited. Such regulations, conditions, or instructions in effect or prescribed by the said Environmental Protection Agency, or any Federal, state, interstate or local governmental agency are hereby made a condition of this Easement. The Grantee shall not discharge waste or effluent from the Premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The use of any pesticides or herbicides within the Premises shall be in conformance with all applicable Federal, state, interstate, and local laws and regulations. The Grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the Premises.

c. The Grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the Grantee's activities, the Grantee shall be liable to restore the damaged resources.

**19. ENVIRONMENTAL CONDITION OF PROPERTY**

An Environmental Condition of Property (ECP), documenting the known history of the property with regard to the storage, release or disposal of hazardous substances thereon, is attached hereto and made a part hereof as EXHIBIT B. Upon revocation or termination of this Easement, another ECP shall be prepared which will document the environmental condition of the property at that time. A comparison of the two assessments will assist the said officer in determining any environmental restoration requirements. Any such requirements will be completed by the Grantee in accordance with the condition on RESTORATION.

**20. HISTORIC PRESERVATION**

The Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural, or other cultural artifacts, relics, remains, or objects of antiquity. In the event such items are discovered on the Premises, the Grantee shall immediately notify said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

**21. NON-DISCRIMINATION**

a. The Grantee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin or religion.

b. The Grantee, by acceptance of this Easement, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or

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pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directive 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the Grantee, its agents, successors, transferees, and assignees.

**22. RESTORATION**

On or before the termination or revocation of this Easement, the Grantee shall, without expense to the United States and within such time as said officer may indicate, restore the Premises to the satisfaction of said officer. In the event the Grantee shall fail to restore the Premises, at the option of said officer, said improvements shall either become the property of the United States without compensation therefore, or said officer shall have the option to perform the restoration at the expense of the Grantee, and the Grantee shall have no claim for damages against the United States or its officers or agents for such action.

**23. DISCLAIMER**

This instrument is effective only insofar as the rights of the United States in the Premises are concerned; and the Grantee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of this Easement does not eliminate the necessity for obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. § 403), Section 404 of the Clean Water Act (33 U.S.C. § 1344) or any other permit or license which may be required by Federal, state, interstate or local laws in connection with the use of the Premises.

**24. EXECUTIVE ORDER 13658**

Any reference in this section to “prime contractor” or “contractor” shall mean the Grantee and any reference to “contract” shall refer to the Easement.

a. The parties expressly stipulate this contract is subject to Executive Order 13658, the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions.

b. Minimum Wages.

(1) Each worker (as defined in 29 CFR 10.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the contractor and worker, shall be paid not less than the applicable minimum wage under Executive Order 13658.

(2) The minimum wage required to be paid to each worker performing work on or in connection with this contract between January 1, 2015, and December 31, 2015, shall be \$10.10 per hour. The minimum wage shall be adjusted each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all workers subject to the Executive Order beginning January 1 of the following year. If appropriate, the contracting officer, or other agency official overseeing this contract shall ensure the contractor is compensated only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on [www.wdol.gov](http://www.wdol.gov) (or any successor Web site). The applicable published minimum wage is incorporated by reference into this contract.

(3) The contractor shall pay unconditionally to each worker all wages due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 10.23), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Executive Order may not be of any duration longer than semi-monthly.

(4) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage requirements. In the event of any violation of the minimum wage obligation of this clause, the contractor and any subcontractor(s) responsible therefore shall be liable for the unpaid wages.

(5) If the commensurate wage rate paid to a worker on a covered contract whose wages are calculated pursuant to a special certificate issued under 29 U.S.C. 214(c), whether hourly or piece rate, is less than the Executive Order minimum wage, the contractor must pay the Executive Order minimum wage rate to achieve compliance with the Order. If the commensurate wage due under the certificate is greater than the Executive Order minimum wage, the contractor must pay the 14(c) worker the greater commensurate wage.

c. Withholding. The agency head shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by Executive Order 13658.

d. Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to pay any worker all or part of the wages due under Executive Order 13658 or 29 CFR part 10, or a failure to comply with any other term or condition of Executive Order 13658 or 29 CFR part 10, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the



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contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 10.52.

e. The contractor may not discharge any part of its minimum wage obligation under Executive Order 13658 by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Act, the cash equivalent thereof.

f. Nothing herein shall relieve the contractor of any other obligation under Federal, State, or local law, or under contract, for the payment of a higher wage to any worker, nor shall a lower prevailing wage under any such Federal, State, or local law, or under contract, entitle a contractor to pay less than \$10.10 (or the minimum wage as established each January thereafter) to any worker.

g. Payroll Records.

(1) The contractor shall make and maintain for three years records containing the information specified in paragraphs (g)(1) (i) through (vi) of this section for each worker and shall make the records available for inspection and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

- (i) Name, address, and social security number.
- (ii) The worker's occupation(s) or classification(s)
- (iii) The rate or rates of wages paid.
- (iv) The number of daily and weekly hours worked by each worker.
- (v) Any deductions made; and
- (vi) Total wages paid.

(2) The contractor shall also make available a copy of the contract, as applicable, for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of 29 CFR part 10 and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of an authorized representative of the Department of Labor, or under its own action, shall take such action as may be necessary to cause suspension of any further payment or advance of funds until such time as the violations are discontinued.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct investigations, including interviewing workers at the worksite during normal working hours.

(5) Nothing in this clause limits or otherwise modifies the contractor's payroll and recordkeeping obligations, if any, under the Davis-Bacon Act, as amended, and its implementing regulations; the Service Contract Act, as amended, and its implementing regulations; the Fair Labor Standards Act, as amended, and its implementing regulations; or any other applicable law.

h. The contractor (as defined in 29 CFR 10.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts. The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with this contract clause.

i. Certification of Eligibility.

(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

j. Tipped employees. In paying wages to a tipped employee as defined in section 3(t) of the Fair Labor Standards Act, 29 U.S.C. 203(t), the contractor may take a partial credit against the wage payment obligation (tip credit) to the extent permitted under section 3(a) of Executive Order 13658. In order to take such a tip credit, the employee must receive an amount of tips at least equal to the amount of the credit taken; where the tipped employee does not receive sufficient tips to equal the amount of the tip credit the contractor must increase the cash wage paid for the workweek so that the amount of cash wage paid and the tips received by the employee equal the applicable minimum wage under Executive Order 13658. To utilize this proviso:

(1) The employer must inform the tipped employee in advance of the use of the tip credit;

(2) The employer must inform the tipped employee of the amount of cash wage that will be paid and the additional amount by which the employee's wages will be considered increased on account of the tip credit.

(3) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received); and

(4) The employer must be able to show by records that the tipped employee receives at least the applicable Executive Order minimum wage through the combination of direct wages and tip credit.

k. Anti-retaliation. It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or 29 CFR part 10 or has testified or is about to testify in any such proceeding.

l. Disputes concerning labor standards. Disputes related to the application of Executive Order 13658 to this contract shall not be subject to the general disputes clause of the contract. Such disputes

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shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 10. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the workers or their representatives.

m. Notice. The contractor must notify all workers performing work on or in connection with a covered contract of the applicable minimum wage rate under the Executive Order. With respect to service employees on contracts covered by the Service Contract Act and laborers and mechanics on contracts covered by the Davis- Bacon Act, the contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers performing work on or in connection with a covered contract whose wages are governed by the FLSA, the contractor must post a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by workers. Contractors that customarily post notices to workers electronically may post the notice electronically provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

If a duly authorized representative of the United States discovers or determines whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13658 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for and from any and all liabilities, losses, claims, expenses, suits, fines, penalties, judgments, demands or actions, costs, fees, and damages directly or indirectly arising out of, caused by, related to, resulting from or in any way predicated upon, in whole or in part, the erroneous Executive Order 13658 determination. This includes contractor releasing any claim or entitlement it would otherwise have to an equitable adjustment to the contract and indemnifying and holding harmless the United States from the claims of subcontractors and contractor employees.

**25. EXECUTIVE ORDER 13706**

Any reference in this condition to "prime contractor" or "contractor" shall mean the Grantee and any reference to "contract" shall refer to this Easement.

(a) Executive Order 13706. This contract is subject to Executive Order 13706, the regulations issued by the Secretary of Labor in 29 CFR part 13 pursuant to the Executive Order, and the following provisions.

(b) Paid Sick Leave.

(1) The contractor shall permit each employee (as defined in 29 CFR 13.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship that may be alleged to exist between the contractor and employee, to earn not less than 1 hour of paid sick leave for every 30 hours worked. The contractor shall additionally allow accrual and use of paid sick leave as required by Executive Order 13706 and 29 CFR part 13. The contractor shall in particular comply with the accrual, use, and other requirements set forth in 29 CFR 13.5 and 13.6, which are incorporated by reference in this contract.

(2) The contractor shall provide paid sick leave to all employees when due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 13.24), rebate, or kickback on any account. The contractor shall provide pay and benefits for paid sick leave used no later than one pay period following the end of the regular pay period in which the paid sick leave was taken.

(3) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the requirements of Executive Order 13706, 29 CFR part 13, and this clause.

(c) Withholding. The contracting officer shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay employees the full amount owed to compensate for any violation of the requirements of Executive Order 13706, 29 CFR part 13, or this clause, including any pay and/or benefits denied or lost by reason of the violation; other actual monetary losses sustained as a direct result of the violation, and liquidated damages.

(d) Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to comply with Executive Order 13706, 29 CFR part 13, or this clause, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance, or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 13.52.

(e) The paid sick leave required by Executive Order 13706, 29 CFR part 13, and this clause is in addition to a contractor's obligations under the Service Contract Act and Davis-Bacon Act, and a contractor may not receive credit toward its prevailing wage or fringe benefit obligations under those Acts for any paid sick leave provided in satisfaction of the requirements of Executive Order 13706 and 29 CFR part 13.

(f) Nothing in Executive Order 13706 or 29 CFR part 13 shall excuse noncompliance with or supersede any applicable Federal or State law, any applicable law or municipal ordinance, or a

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collective bargaining agreement requiring greater paid sick leave or leave rights than those established under Executive Order 13706 and 29 CFR part 13.

(g) Record keeping. (1) Any contractor performing work subject to Executive Order 13706 and 29 CFR part 13 must make and maintain, for no less than three (3) years from the completion of the work on the contract, records containing the information specified in paragraphs (i) through (xv) of this section for each employee and shall make them available for inspection, copying, and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

- (i) Name, address, and Social Security number of each employee;
  - (ii) The employee's occupation(s) or classification(s);
  - (iii) The rate or rates of wages paid (including all pay and benefits provided);
  - (iv) The number of daily and weekly hours worked;
  - (v) Any deductions made;
  - (vi) The total wages paid (including all pay and benefits provided) each pay period;
  - (vii) A copy of notifications to employees of the amount of paid sick leave the employee has accrued, as required under 29 CFR 13.5(a)(2);
  - (viii) A copy of employees' requests to use paid sick leave, if in writing, or, if not in writing, any other records reflecting such employee requests.
  - (ix) Dates and amounts of paid sick leave taken by employees (unless a contractor's paid time off policy satisfies the requirements of Executive Order 13706 and 29 CFR part 13 as described in § 13.5(f)(5), leave must be designated in records as paid sick leave pursuant to Executive Order 13706);
  - (x) A copy of any written responses to employees' requests to use paid sick leave, including explanations for any denials of such requests, as required under 29 CFR 13.5(d)(3);
  - (xi) Any records reflecting the certification and documentation a contractor may require an employee to provide under 29 CFR 13.5(e), including copies of any certification or documentation provided by an employee;
  - (xii) Any other records showing any tracking of or calculations related to an employee's accrual or use of paid sick leave;
  - (xiii) The relevant covered contract;
  - (xiv) The regular pay and benefits provided to an employee for each use of paid sick leave;
- and

(xv) Any financial payment made for unused paid sick leave upon a separation from employment intended, pursuant to 29 CFR 13.5(b)(5), to relieve a contractor from the obligation to reinstate such paid sick leave as otherwise required by 29 CFR 13.5(b)(4).

(2)(i) If a contractor wishes to distinguish between an employee's covered and non-covered work, the contractor must keep records or other proof reflecting such distinctions. Only if the contractor adequately segregates the employee's time will time spent on non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. Similarly, only if that contractor adequately segregates the employee's time may a contractor properly refuse an employee's request to use paid sick leave on the ground that the employee was scheduled to perform non-covered work during the time she asked to use paid sick leave.

(ii) If a contractor estimates covered hours worked by an employee who performs work in connection with covered contracts pursuant to 29 CFR 13.5(a)(i) or (iii), the contractor must keep records or other proof of the verifiable information on which such estimates are reasonably based. Only if the contractor relies on an estimate that is reasonable and based on verifiable information will an employee's time spent in connection with non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. If a contractor estimates the amount of time an employee spends performing in connection with covered contracts, the contractor must permit the employee to use her paid sick leave during any work time for the contractor.

(3) In the event a contractor is not obligated by the Service Contract Act, the Davis-Bacon Act, or the Fair Labor Standards Act to keep records of an employee's hours worked, such as because the employee is exempt from the FLSA's minimum wage and overtime requirements, and the contractor chooses to use the assumption permitted by 29 CFR 13.5(a)(1)(iii), the contractor is excused from the requirement in paragraph (1)(d) of this section to keep records of the employee's number of daily and weekly hours worked.

(4)(i) Records relating to medical histories or domestic violence, sexual assault, or stalking, created for purposes of Executive Order 13706, whether of an employee or an employee's child, parent, spouse, domestic partner, or other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, shall be maintained as confidential records in separate files/records from the usual personnel files.

(ii) If the confidentiality requirements of the Genetic Information Nondiscrimination Act of 2008 (GINA), section 503 of the Rehabilitation Act of 1973, and/or the Americans with Disabilities Act (ADA) apply to records or documents created to comply with the recordkeeping requirements in this contract clause, the records and documents must also be maintained in compliance with the confidentiality requirements of the GINA, section 503 of the Rehabilitation Act of 1973, and/or ADA as described in 29 CFR 1635.9, 41 CFR 60-741.23(d), and 29 CFR 1630.14(c)(1), respectively.

(iii) The contractor shall not disclose any documentation used to verify the need to use 3 or more consecutive days of paid sick leave for the purposes listed in 29 CFR 13.5(c)(1)(iv) (as described in 29 CFR 13.5(e)(1)(ii)) and shall maintain confidentiality about any domestic abuse, sexual assault, or stalking, unless the employee consents or when disclosure is required by law.

(5) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(6) Nothing in this contract clause limits or otherwise modifies the contractor's recordkeeping obligations, if any, under the Davis-Bacon Act, the Service Contract Act, the Fair Labor Standards Act, the Family and Medical Leave Act, Executive Order 13658, their respective implementing regulations,

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or any other applicable law.

(h) The contractor (as defined in 29 CFR 13.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts.

(i) Certification of Eligibility. (1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts currently maintained on the System for Award Management Web site, <http://www.SAM.gov>.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(j) Interference/Discrimination. (1) A contractor may not in any manner interfere with an employee's accrual or use of paid sick leave as required by Executive Order 13706 or 29 CFR part 13. Interference includes, but is not limited to, miscalculating the amount of paid sick leave an employee has accrued, denying or unreasonably delaying a response to a proper request to use paid sick leave, discouraging an employee from using paid sick leave, reducing an employee's accrued paid sick leave by more than the amount of such leave used, transferring an employee to work on non-covered contracts to prevent the accrual or use of paid sick leave, disclosing confidential information contained in certification or other documentation provided to verify the need to use paid sick leave, or making the use of paid sick leave contingent on the employee's finding a replacement worker or the fulfillment of the contractor's operational needs.

(2) A contractor may not discharge or in any other manner discriminate against any employee for:

(i) Using, or attempting to use, paid sick leave as provided for under Executive Order 13706 and 29 CFR part 13;

(ii) Filing any complaint, initiating any proceeding, or otherwise asserting any right or claim under Executive Order 13706 and 29 CFR part 13;

(iii) Cooperating in any investigation or testifying in any proceeding under Executive Order 13706 and 29 CFR part 13; or

(iv) Informing any other person about his or her rights under Executive Order 13706 and 29 CFR part 13.

(k) Waiver. Employees cannot waive, nor may contractors induce employees to waive, their rights under Executive Order 13706, 29 CFR part 13, or this clause.

(l) Notice. The contractor must notify all employees performing work on or in connection with a covered contract of the paid sick leave requirements of Executive Order 13706, 29 CFR part 13, and this clause by posting a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by employees. Contractors that customarily post notices to employees electronically may post the notice electronically, provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to employees about terms and conditions of employment.

(m) Disputes concerning labor standards. Disputes related to the application of Executive Order 13706 to this contract shall not be subject to the general disputes

clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 13. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

## **26. ADDED CONDITIONS**

a. Section 7 obligations under Endangered Species Act must be reconsidered if:

(1) New information reveals impacts that may affect federally listed species or critical habitat in a manner not previously considered.

(2) The proposed work is subsequently modified to include activities which were not considered during Section 7 consultation with the United States Fish and Wildlife Service.

(3) New species are listed, or critical habitat designated that might be affected by the subject work.

b. In the event any previously unknown or unidentified historic or archaeological deposits be discovered, construction within 50-feet of the deposit(s) shall be immediately cease and a Huntington District Archeologist is to be contacted immediately at 304-399-5729 (O) or 859-221-6523 (C). Should any human remains be inadvertently discovered while accomplishing the activities authorized by the real estate instrument, the applicant and/or contractor must cease all work immediately. The County Coroner and a Huntington District Archeologist to be contacted immediately. Additionally, no media are to be contacted.

c. No area for which grading has been completed will be unseeded or un-mulched for longer than fourteen (14) days. All disturbed areas will be seeded and/or revegetated with native species and approved seed mixes (where practicable) after completion of construction activities for stabilization and to help preclude the establishment of non-native invasive species.

d. Should new information regarding the scope and/or impacts of the work become available that was not submitted to this office during our review of the proposal, the Grantee shall submit written information concerning proposed modification(s) to the Alum Creek Lake Project Office for review and

The Owner of the project is the Delaware County Board of Commissioners. Copies of the plans and specifications must be obtained from [www.bidexpress.com](http://www.bidexpress.com). All bidders must register and be a member of the web service to bid on the project.

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This notice is posted on the Delaware County website at [www.co.delaware.oh.us](http://www.co.delaware.oh.us) and may be accessed by selecting “Public Notices and Bids.”

The Owner requires that all work associated with the project be completed before October 1, 2026. The estimated commencement of work date is September 22, 2025.

This is a prevailing wage contract in accordance with Ohio Revised Code Chapter 4115 and the requirements of the Ohio Department of Commerce, Division of Labor and Worker Safety, Wage and Hour Bureau. Bidders shall comply with all applicable provisions.

No bids shall be withdrawn for a period of sixty (60) days after the opening thereof. Awarding of the contract shall be to the Lowest and Best bidder as determined by the Delaware County Board of Commissioners in the best interest of Delaware County. The Board reserves the right to reject any or all bids.

Delaware County Engineer’s Office website advertisement date: August 16, 2025

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

27  
RESOLUTION NO. 25-621

**IN THE MATTER OF APPROVING PLANS, SPECIFICATIONS, ESTIMATE AND SETTING THE BID DATE FOR THE PROJECT KNOWN AS THE SLATE LICK LATERAL #1 WATERSHED DRAINAGE IMPROVEMENT PROJECT:**

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

WHEREAS, the County Engineer has prepared, and recommends approval of, the Plans, Estimate, Bid Specifications and Bid Opening Date and Time for the Slate Lick Lateral #1 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 approves the plans, specifications and estimate for the project known as the Slate Lick Lateral #1 Watershed Drainage Improvement Project.

Section 2. The Board hereby authorizes the County Engineer to advertise for and receive bids on behalf of the Board in accordance with the following Advertisement for Bids:

**Public Notice  
Advertisement for Bids**

Bids shall be submitted electronically through the [www.bidexpress.com](http://www.bidexpress.com) web service until 10:00 am on Tuesday, September 2, 2025, at which time they will be publicly received and read aloud, for the project known as:

**O.R.C. 6131 Drainage Improvement Project  
Slate Lick Lateral #1 Drainage Improvement Project**

All proposals shall be submitted electronically through the web service [www.bidexpress.com](http://www.bidexpress.com). The bid shall be accompanied by a Bid Security in the form of a bid bond in the amount of one hundred percent (100%) of the bid or a certified check in the amount of ten percent (10%) of the bid. In addition to the Bid Security, a Performance Bond is required for this project in the amount of one hundred percent (100%) of the total project cost.

**THE ENGINEER’S CONSTRUCTION ESTIMATE FOR THE PROJECT IS \$35,136.78. PER O.R.C. 6131.40 NO BIDS SHALL BE ACCEPTED THAT EXCEED THE ENGINEER’S CONSTRUCTION ESTIMATE.**

The Owner of the project is the Delaware County Board of Commissioners. Copies of the plans and specifications must be obtained from [www.bidexpress.com](http://www.bidexpress.com). All bidders must register and be a member of the web service to bid on the project.

This notice is posted on the Delaware County website at [www.co.delaware.oh.us](http://www.co.delaware.oh.us) and may be accessed by selecting “Public Notices and Bids.”

The Owner requires that all work associated with the project be completed before December 19, 2025. The estimated commencement of work date is October 1, 2025.

No bids shall be withdrawn for a period of sixty (60) days after the opening thereof. Award of the contract shall be to the Lowest and Best bidder as determined by the Delaware County Board of Commissioners. in the best interest of Delaware County. The Board reserves the right to reject any or all bids.

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

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28  
RESOLUTION NO. 25-622

IN THE MATTER OF APPROVING PLANS, SPECIFICATIONS, ESTIMATE AND SETTING THE  
BID DATE FOR THE PROJECT KNOWN AS THE HOOVER #61 (CRABILL) WATERSHED  
DRAINAGE IMPROVEMENT PROJECT:

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

WHEREAS, the County Engineer has prepared, and recommends approval of, the Plans, Estimate, Bid Specifications and Bid Opening Date and Time for the Hoover #61 (Crabill) 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 approves the plans, specifications and estimate for the project known as the Hoover #61 (Crabill) Drainage Improvement Project.

Section 2. The Board hereby authorizes the County Engineer to advertise for and receive bids on behalf of the Board in accordance with the following Advertisement for Bids:

Public Notice  
Advertisement for Bids

Bids shall be submitted electronically through the [www.bidexpress.com](http://www.bidexpress.com) web service until 10:00 am on Tuesday September 2, 2025, at which time they will be publicly received and read aloud, for the project known as:

O.R.C.6131 Drainage Improvement Project  
Hoover #61 (Crabill#589) Drainage Improvement Project

All proposals shall be submitted electronically through the web service [www.bidexpress.com](http://www.bidexpress.com). The bid shall be accompanied by a Bid Security in the form of a bid bond in the amount of one hundred percent (100%) of the bid or a certified check in the amount of ten percent (10%) of the bid. In addition to the Bid Security, a Performance Bond is required for this project in the amount of one hundred percent (100%) of the total project cost.

THE ENGINEER’S CONSTRUCTION ESTIMATE FOR THE PROJECT IS \$216,632.56. PER O.R.C.  
6131.40 NO BIDS SHALL BE ACCEPTED THAT EXCEED THE ENGINEER’S CONSTRUCTION  
ESTIMATE.

The Owner of the project is the Delaware County Board of Commissioners. Copies of the plans and specifications must be obtained from [www.bidexpress.com](http://www.bidexpress.com). All bidders must register and be a member of the web service to bid on the project.

This notice is posted on the Delaware County website at [www.co.delaware.oh.us](http://www.co.delaware.oh.us) and may be accessed by selecting “Public Notices and Bids.”

The Owner requires that all work associated with the project be completed before May 31, 2026. The estimated commencement of work date is October 27, 2025. Furthermore, **ALL WORK ON AGRICULTURAL LANDS MUST BE COMPLETED BY March 31, 2026.**

No bids shall be withdrawn for a period of sixty (60) days after the opening thereof. Award of the contract shall be to the Lowest and Best bidder as determined by the Delaware County Board of Commissioners in the best interest of Delaware County. The Board reserves the right to reject any or all bids.

Vote on Motion	Mr. Benton	Aye	Mrs. Lewis	Absent	Mr. Merrell	Aye
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29  
RESOLUTION NO. 25-623

IN THE MATTER OF APPROVING PLANS, SPECIFICATIONS, ESTIMATE AND SETTING THE  
BID DATE FOR THE PROJECT KNOWN AS THE NORRIS RUN DRAINAGE IMPROVEMENT  
PROJECT:

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

WHEREAS, the County Engineer has prepared, and recommends approval of, the Plans, Estimate, Bid Specifications and Bid Opening Date and Time for the Norris Run 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 approves the plans, specifications and estimate for the project known as the Norris Run Drainage Improvement Project.

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Section 2. The Board hereby authorizes the County Engineer to advertise for and receive bids on behalf of the Board in accordance with the following Advertisement for Bids:

**Public Notice  
Advertisement for Bids**

Bids shall be submitted electronically through the [www.bidexpress.com](http://www.bidexpress.com) web service until 10:00 am on Tuesday September 2, 2025, at which time they will be publicly received and read aloud, for the project known as:

**O.R.C. 6131 Drainage Improvement Project  
Norris Run Drainage Improvement Project**

All proposals shall be submitted electronically through the web service [www.bidexpress.com](http://www.bidexpress.com). The bid shall be accompanied by a Bid Security in the form of a bid bond in the amount of one hundred percent (100%) of the bid or a certified check in the amount of ten percent (10%) of the bid. In addition to the Bid Security, a Performance Bond is required for this project in the amount of one hundred percent (100%) of the total project cost.

**THE ENGINEER'S CONSTRUCTION ESTIMATE FOR THE PROJECT IS \$1,437,898.31. PER  
O.R.C. 6131.40 NO BIDS SHALL BE ACCEPTED THAT EXCEED THE ENGINEER'S  
CONSTRUCTION ESTIMATE.**

The Owner of the project is the Delaware County Board of Commissioners. Copies of the plans and specifications must be obtained from [www.bidexpress.com](http://www.bidexpress.com). All bidders must register and be a member of the web service to bid on the project.

This notice is posted on the Delaware County website at [www.co.delaware.oh.us](http://www.co.delaware.oh.us) and may be accessed by selecting "Public Notices and Bids."

The Owner requires that all work associated with the project be completed before April 1, 2027. The estimated commencement of work date is October 27, 2025. Furthermore, **ALL WORK ON AGRICULTURAL LANDS MUST BE COMPLETED BY April 1, 2027.**

No bids shall be withdrawn for a period of sixty (60) days after the opening thereof. Award of the contract shall be to the Lowest and Best bidder as determined by the Delaware County Board of Commissioners in the best interest of Delaware County. The Board reserves the right to reject any or all bids.

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

**30  
ADMINISTRATOR REPORTS**

**CA Davies** – attended a DCFA meeting

**DCA Huston and Attorney Hochstettler** – Nothing to report.

**31  
COMMISSIONERS' COMMITTEES REPORTS**

**Commissioner Benton** – attended the MORPC Executive Committee Meeting last week and the Hartford Fair.

**Commissioner Merrell** – attended the Hartford Fair and a Golf Scholarship Outing

**32  
DELAWARE COUNTY SOIL AND WATER CONSERVATION DISTRICT**

**THE PROPOSED RE-ESTIMATE OF THE CONSTRUCTION COST FOR THE WEBSTER-ARNOLD #355 WATERSHED DRAINAGE IMPROVEMENT PROJECT HAS 3 POTENTIAL PARTS:**

**WEBSTER-ARNOLD #355 MAIN SOUTH  
WEBSTER-ARNOLD #355 MAIN NORTH  
WEBSTER-ARNOLD #355 LATERAL #1**

**Main North Consideration is Contingent upon Approval of Main South  
Lateral #1 Consideration Contingent upon Approval of Main South (independent of Main North)**

**DELAWARE COUNTY SOIL AND WATER CONSERVATION DISTRICT**

**10:00A.M. - PUBLIC HEARING FOR CONSIDERATION OF THE RE-ESTIMATE OF THE CONSTRUCTION COST FOR THE WEBSTER-ARNOLD #355 WATERSHED DRAINAGE IMPROVEMENT PROJECT**



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The Board of Commissioners opened the hearing at 10:01 A.M.

The Board of Commissioners closed the hearing at 10:28 A.M.

**RESOLUTION NO. 25-624**

**IN THE MATTER OF THE DELAWARE COUNTY BOARD OF COMMISSIONERS  
ACKNOWLEDGING RECEIPT OF THE WRITTEN OBJECTION AND EXCEPTION TO THE  
ASSESSMENT, FILED BY RUSSELL AND MELINDA WODA IN THE PROCEEDINGS FOR THE  
WEBSTER-ARNOLD #355 WATERSHED DRAINAGE IMPROVEMENT PROJECT AND  
DENYING THE EXCEPTION:**

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

WHEREAS, on July 22, 2016, a Drainage Improvement Petition for the Webster Arnold #355 Watershed Drainage Improvement Project was filed with the Board of Commissioners of Delaware County (the “Board”); and

WHEREAS, on December 15, 2016, the Board adopted Resolution No. 16-1283, finding in favor of the improvement and directing the Delaware County Engineer to proceed with preparation of plans, reports, and schedules for the Webster Arnold #355 Watershed Drainage Improvement Petition Project; and

WHEREAS, on June 27, 2022, the Board held a final public hearing to determine if the action is necessary, conducive to the public welfare, and the benefits derived exceed the cost incurred for the Webster Arnold #355 Watershed Drainage Improvement Project; and

WHEREAS, on June 27, 2022, the Board adopted Resolution Nos. 22-539, 22-540, 22-541, 22-542, No. 22-543, and 22-544 finding in favor of the Webster-Arnold #355 Main South, Main North, and Lateral #1 drainage improvement project and ordering the letting of contracts for the same; and

WHEREAS, the County Engineer solicited for public bids three separate times, failed to receive a qualifying bid, and deemed it necessary to revise the Engineer’s Estimate for the project; and

WHEREAS, the Board directed the Delaware County Engineer to prepare a new estimate for the Webster-Arnold #355 Drainage Improvement Project, pursuant to section 6131.40 of the Revised Code, and to submit the revised estimate to this Board; and

WHEREAS, the Board scheduled a hearing on the Webster-Arnold #355 Watershed Drainage Improvement Project for August 11, 2025; and

WHEREAS, an exception to the assessments or a claim for compensation or damages must be filed with the Clerk of the Board before the date fixed for the final hearing; and

WHEREAS, on August 5, 2025, Russell and Melinda Woda submitted a written objection and exception to the assessment for the Webster-Arnold #355 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 acknowledges the receipt of the written objection filed by, Russell and Melinda Woda, which shall be accepted as the owners’ comments, submitted in accordance with section 6131.08 of the Revised Code.

Section 2. The Board hereby acknowledges the timely receipt of the exception to the assessment filed by Russell and Melinda Woda, to the extent it is submitted as an exception to the county engineer’s schedules of assessments, pursuant to section 6131.17 of the Revised Code.

Section 3. The Board hereby denies the exception to the assessment filed by Russell and Melinda Woda because the owner has not submitted evidence demonstrating that the owner does not benefit from the proposed improvement.

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

**RESOLUTION NO. 25-625**

**IN THE MATTER OF THE COMMISSIONERS SETTING ASIDE THE ORDER FOR AND  
DISMISSING THE PETITION FOR THE WEBSTER ARNOLD #355 WATERSHED DRAINAGE  
IMPROVEMENT PROJECT BECAUSE THE COST IS EQUAL TO OR EXCEEDS THE BENEFITS  
OF THE IMPROVEMENT AND THE IMPROVEMENT IS NOT CONDUCTIVE TO THE PUBLIC  
WELFARE:**

It was moved by Mr. Merrell, seconded by Mr. Benton, to set aside the order for and dismiss the Webster Arnold #355 Watershed Drainage Improvement Project:

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WHEREAS, on July 22, 2016, a Drainage Improvement Petition for the Webster Arnold #355 Watershed Drainage Improvement Project was filed with the Board of Commissioners of Delaware County (the “Board”); and

WHEREAS, on December 15, 2016, the Board adopted Resolution No. 16-1283, finding in favor of the improvement and directing the Delaware County Engineer to proceed with preparation of plans, reports, and schedules for the Webster Arnold #355 Watershed Drainage Improvement Petition Project; and

WHEREAS, on June 27, 2022, the Board held a final public hearing to determine if the action is necessary, conducive to the public welfare, and the benefits derived exceed the cost incurred for the Webster Arnold #355 Watershed Drainage Improvement Project; and

WHEREAS, on June 27, 2022, the Delaware County Board of Commissioners adopted Resolution Nos. 22-539, 22-540, 22-541, 22-542, No. 22-543, and 22-544 finding in favor of the Webster-Arnold #355 Main South, Main North, and Lateral #1 drainage improvement project and ordering the letting of contracts for the same; and

WHEREAS, the County Engineer solicited for public bids three separate times, failed to receive a qualifying bid, and deemed it necessary to revise the Engineer’s Estimate for the project; and

WHEREAS, the Board of Commissioners of Delaware County, State of Ohio, directed the Delaware County Engineer to prepare a new estimate for the Webster-Arnold #355 Drainage Improvement Project, pursuant to section 6131.40 of the Revised Code, and to submit the revised estimate to this Board; and

WHEREAS, on August 11, 2025, the Delaware County Board of Commissioners conducted a public hearing on the Re-Estimate of the Construction Cost for the Webster-Arnold #355 Watershed Drainage Improvement Project, to determine if the action is necessary, conducive to the public welfare, and the benefits derived exceed the cost incurred for the Webster Arnold #355 Watershed Drainage Improvement Project; and

WHEREAS, after hearing all the evidence offered in the proceedings and after receiving and considering all the schedules, plans, and reports filed by the County Engineer, the cost of location and construction, the compensation for land taken, the effect on land along or in the vicinity of the route of the improvement, the effect on land below the lower terminus of the improvement that may be caused by constructing the improvement, the sufficiency of the outlet, the benefits to the public welfare, and the special benefits to land needing the improvement, the Board is prepared to issue its findings on the proposed improvements;

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

Section 1. The Board, exercising its continuing jurisdiction over the improvements as approved in Resolution Nos. 22-539, 22-540, 22-541, 22-542, No. 22-543, and 22-544, hereby finds that the cost of the improvements, as re-estimated, equals or exceeds the benefits derived and that the improvements are no longer conducive to the public welfare due to the lapse in time and development of properties within the watershed since the original approval.

Section 2. The Board hereby sets aside its previous orders and dismisses the petition.

Section 3. The Board hereby orders that the costs for the proceedings of the Webster Arnold #355 Watershed Drainage Improvement Project, including the costs incurred by the Board, the County Engineer and the Delaware Soil and Water Conservation District in making surveys, plans, reports and schedules, shall be paid from county funds.

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

33  
RESOLUTION NO. 25-626

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF  
PENDING OR IMMINENT LITIGATION:

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

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

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:

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(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 Pending or Imminent Litigation.

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

34  
RESOLUTION NO. 25-627

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

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

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

RECESSED AT 10:30 A.M. / RECONVENE AT 1:30 P.M.

35  
DELAWARE COUNTY SOIL AND WATER CONSERVATION DISTRICT

1:30P.M. VIEWING FOR CONSIDERATION OF THE DRAINAGE IMPROVEMENT PETITION  
FOR THE WARREN #129 WATERSHED, FILED BY RICHARD R. LEHNER, EARL E. LEHNER,  
AND OTHERS

There being no further business, the meeting adjourned.

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Jeff Benton

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

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

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