

COMMISSIONERS JOURNAL NO. 61 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD JUNE 23, 2014

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

Present:  
Gary Merrell, President  
Dennis Stapleton, Vice President  
Ken O'Brien, Commissioner

RESOLUTION NO. 14-707

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JUNE 19, 2014:

It was moved by Mr. Stapleton, seconded by Mr. O'Brien to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on June 19, 2014; and

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

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

Vote on Motion                      Mr. Merrell              Aye              Mr. Stapleton              Aye              Mr. O'Brien              Aye

PUBLIC COMMENT  
Jack Brickner, Director of Development Planned Communities and Powell Chamber of Commerce Representative  
  
Dave Anderson, Liberty Township Trustee

ELECTED OFFICIAL COMMENT

RESOLUTION NO. 14-708

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0620, MEMO TRANSFERS IN BATCH NUMBERS MTAPR0620 AND PROCUREMENT CARD PAYMENTS IN BATCH NUMBER PCAPR0620:

It was moved by Mr. Stapleton, seconded by Mr. O'Brien to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0620, memo transfers in batch numbers MTAPR0620, Procurement Card Payments in batch number PCAPR0620 and Purchase Orders as listed below:

Vote on Motion                      Mr. Stapleton              Aye              Mr. Merrell              Aye              Mr. O'Brien              Aye

RESOLUTION NO. 14-709

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

It was moved by Mr. Stapleton, seconded by Mr. O'Brien to approve the following:

The County Administrator is requesting that Seiji Kille attend an Advanced GAAP Accounting Seminar in Put In Bay, Ohio from August 6-7, 2014 at the cost of \$714.60 (fund number 10011102).

The County Administrator is requesting that Seiji Kille attend an Ohio GFOA Annual Conference in Sandusky, Ohio from September 17-19, 2014 at the cost of \$847.60 (fund number 10011102).

The County Administrator is requesting that Jenna Jackson attend an IEDC Economic Development Credit Analysis Course and Annual Conference in Fort Worth, Texas from October 15-22, 2014 at the cost of \$4,408.50 (fund number 21011113).

Vote on Motion                      Mr. O'Brien              Aye              Mr. Merrell              Aye              Mr. Stapleton              Aye

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RESOLUTION NO. 14-710

IN THE MATTER OF APPROVING RIGHT-OF-WAY WORK PERMIT SUMMARY SHEET:

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to approve the following work permits:

Whereas, the below requests to perform work within the right-of-way have been reviewed and approved by the Delaware County Engineer;

Now Therefore Be It Resolved, that the following permits are hereby approved by The Board of Delaware County Commissioners:

Permit #	Applicant	Location	Type of Work
U14-040	Frontier Communications	Berkshire Road	Bury telephone cable
U14-041	CenturyLink	Miller Paul Road	Relocate buried cable
U14-042	Consolidated Electric	Worthington Road	Bury fiber optic cable
U14-043	Time Warner Cable	Lewis Center Road	Bore cable & conduit

Vote on Motion                      Mr. Merrell                      Aye                      Mr. O'Brien                      Aye                      Mr. Stapleton                      Aye

RESOLUTION NO. 14-711

IN THE MATTER OF ACCEPTING THE DEDICATION OF GREEN MEADOWS DRIVE AS A PUBLIC ROAD:

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to approve the following:

WHEREAS, Section 5553.31 of the Revised Code provides that any person may dedicated lands for road purposes; and,

WHEREAS, Franklin Real Estate Company (American Electric Power) has submitted a dedication plat and wishes to dedicate the extension of Green Meadows Drive as a public road in accordance with the project agreement approved by resolution 14-446;

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

The dedication of Green Meadows Drive is hereby accepted and the record of such road shall be placed on file with the Office of the County Recorder.

Vote on Motion                      Mr. Stapleton                      Aye                      Mr. O'Brien                      Aye                      Mr. Merrell                      Aye

RESOLUTION NO. 14-712

IN THE MATTER OF DECLARING NECESSITY FOR IMPROVEMENT OF GREEN MEADOWS DRIVE, APPROVING THE PLANS, SPECIFICATIONS AND ESTIMATES AND SETTING THE BID DATE FOR THE IMPROVEMENTS:

It was moved by Mr. Stapleton, and seconded by Mr. O’Brien to approve the following:

WHEREAS, the Board entered into agreement with Columbus Southern Power (Ohio Power Company) by resolution 00-360 – further amended by resolution 14-446 – to extend Green Meadows Drive across the property known as the Orange Station; and,

WHEREAS, the County Engineer has prepared plans, specifications, and estimates for Improvement of Green Meadows Drive; and,

WHEREAS, the estimated cost of such improvements is \$1,259,000; and,

WHEREAS, Ohio Power Company has agreed to pay all costs associated with the Improvement if less than \$1,400,000;

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

Section 1: The Board declares necessity for Improvement of Green Meadows Drive by constructing pavements, ditches, drainage of the portion of the road extending across the Orange Station; and,

Section 2: The plans, specifications, and estimate for the Improvements are hereby approved; and,

Section 3: The County Engineer is authorized to advertise for, and receive bids for the Improvement in accordance with the following bid notice:

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Public Notice  
Advertisement for Bids

Sealed bids will be received at the Office of the Delaware County Engineer, 50 Channing Street, Delaware, Ohio 43015, until 10:00 am on Tuesday, July 15, 2004, at which time they will be publicly opened and read aloud, for the project known as:

**DEL-TR 409-1.65**  
**Green Meadows Drive Extension Project**

The proposals must be made on the forms provided in the Contract Documents or a copy thereof and shall contain the full name and address of the bidder. All bids shall be sealed and plainly marked "SEALED BID FOR DEL-TR 409-1.65". 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 one (1) year Maintenance/Performance Bond is required for this project in the amount of one hundred percent (100%) of the total project cost, and may be submitted with the Bid Proposal. The Owner of the project is the Delaware County Board of Commissioners. Copies of the plans and specifications must be obtained from the Delaware County Engineer, 50 Channing Street, Delaware, OH 43015. Cost for printed copies of each set of plans and specifications is \$20, and the cost is non-refundable. Plans and specifications may also be downloaded, free of charge, from the Delaware County Engineer's website at [www.co.delaware.oh.us/ebids](http://www.co.delaware.oh.us/ebids). All bidders must register as a plan holder with the Delaware County Engineer through the County Engineer's ebids website or in person at the time of purchasing plans and specifications.

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 "Bids and Notices."

The Owner requires that all work associated with the project be completed before September 30, 2014. The estimated commencement of work date is July 28, 2014.

This is a prevailing wage contract in accordance with Ohio Revised Code Chapter 4111 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 Gazette Advertisement Dates: June 27, 2014

Vote on Motion                      Mr. O'Brien              Aye              Mr. Merrell              Aye              Mr. Stapleton              Aye

**RESOLUTION NO. 14-713**

**IN THE MATTER OF DECLARING THE NECESSITY FOR IMPROVEMENTS TO MEREDITH AND BOWTOWN ROADS, INCLUDING THE REHABILITATION OF TWO BRIDGES, AND APPROVING PLANS, SPECIFICATIONS, ESTIMATES AND SETTING THE BID DATE FOR DEL-2014 DESIGN BUILD BRIDGE REHABILITATIONS:**

It was moved by Mr. Stapleton, seconded by Mr. O'Brien to approve the following:

Whereas, Section 5555.022 of the Revised Code provides that a Board of County Commissioners may find by a majority vote that the public convenience and welfare require the improving of any part of any public road, may fix the route and termini of the road, may fix the route and termini of the improvement and may authorize such improvement; and,

Whereas, the County Engineer has determined that the existing bridge on Meredith Road over Prairie Run, in Radnor Township and the existing bridge on Bowtown Road over Primmer Ditch in Brown Township, are deficient and require rehabilitation; and,

Whereas, the County Engineer recommends that the Board proceed with rehabilitation of said bridges as a single design-build Improvement; and

Whereas the County Engineer has prepared plans, specifications, a design-build scope of services and estimates for the Improvements; and

Whereas, the County Engineer has estimated the total construction cost of the Improvements to be \$437,000.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners that:

Section 1: The public convenience and welfare require rehabilitation of the bridges on County Road 191 (Meredith Road) over Prairie Run and County Road 84 (Bowtown Road) over Primmer Ditch and the Improvement known as DEL-2014 Design Build Bridge Rehabilitations be initiated for such purposes; and

Section 2: The plans, specifications and estimates for said Improvements are hereby approved; and,

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Section 3: The County Engineer is authorized to advertise for and receive bids on behalf of the Board in accordance with the following Invitation to Bid:

Public Notice  
Advertisement for Bids

Sealed bids will be received at the Office of the Delaware County Engineer, 50 Channing Street, Delaware, Ohio 43015, until 10:00 a.m. on Tuesday, July 22, 2014, at which time and place they will be publicly opened and read aloud, for the project known as

DEL-2014 Design Build Bridge Rehabilitations  
DEL-CR191-0.01 & DEL-CR084-3.57

The proposals must be made on the forms provided in the Contract Documents or a copy thereof and shall contain the full name and address of the bidder. All bids shall be sealed and plainly marked “Sealed Bid for DEL-2014 Design Building Bridge Rehabilitations”. 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 one hundred percent (100%) of the total project cost and shall be submitted upon award of contract.

This Public Notice is also posted on the Delaware County website at [www.co.delaware.oh.us](http://www.co.delaware.oh.us), under “Bids and Notices”.

The Owner of the project is the Delaware County Board of Commissioners. Copies of the plans and specifications must be obtained from the Delaware County Engineer, 50 Channing Street, Delaware, Ohio 43015. Cost for printed copies of each set of plans & specifications is \$20, and the cost is non-refundable. Plans and specifications may also be downloaded, free of charge, from the Delaware County Engineer’s website at [www.co.delaware.oh.us/ebids](http://www.co.delaware.oh.us/ebids). All bidders must register as a plan holder with the Delaware County Engineer through the County Engineer’s ebids website or in person at the time of purchasing plans and specifications.

The Owner requires that all work associated with the project be completed before October 31, 2014. The estimated commencement of work date is July 28, 2014.

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 the County. The Board reserves the right to reject any or all bids.

Delaware Gazette Advertisement: June 27, 2014

Vote on Motion                      Mr. Merrell              Aye              Mr. Stapleton              Aye              Mr. O'Brien              Aye

RESOLUTION NO. 14-714

IN THE MATTER OF AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE OHIO ATTORNEY GENERAL OFFICE FOR THE 2015 VOCA AND SVAA FOR THE DELAWARE COUNTY JUVENILE COURT APPOINTED SPECIAL ADVOCACY PROGRAM:

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to approve the following:

Grant Number 2015 VACHAE474 Federal pass thru funds	\$18,860
County Match	6,286
2015 SACHAE474 State matching funds	<u>1,918</u>
Total	\$27,064

This grant begins on 10-1-14 thru 9-30-15. The funds are used to pay a portion of the CASA coordinator position.

Vote on Motion                      Mr. Stapleton              Aye              Mr. Merrell              Aye              Mr. O'Brien              Aye

RESOLUTION NO. 14-715

IN THE MATTER OF AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE OHIO ATTORNEY GENERAL OFFICE FOR THE 2015 VOCA AND SVAA FOR THE DELAWARE

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COUNTY JUVENILE COURT VICTIMS ASSISTANCE PROGRAM:

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to approve the following:

Grant Number	2015VAGENE035	Federal pass thru funds	\$36,765
		County Match	12,255
	2015 SAGENE035	State matching funds	<u>22,331</u>
		Total	\$71,351

This grant begins on 10-1-14 thru 9-30-15. The funds will be used to pay apportion the Victim assistance coordinator and victims advocate position.

Vote on Motion                      Mr. O'Brien              Aye              Mr. Merrell              Aye              Mr. Stapleton              Aye

RESOLUTION NO. 14-716

IN THE MATTER OF APPROVING AN AGREEMENT FOR MONITORING AND ASSOCIATED SERVICES BETWEEN THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY; DELAWARE COUNTY JUVENILE COURT AND THEMIS TRACKING SERVICES, LLC., A DISTRIBUTOR FOR SECURE ALERT, INC. :

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to approve the following:

Whereas, The Juvenile Court Judge and Staff recommend approval of an agreement with Themis Tracking Services, LLC.;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve an agreement with Themis Tracking Services, LLC.:

AGREEMENT FOR MONITORING AND ASSOCIATED SERVICES  
Between  
Board of Commissioners, Delaware County, Ohio,  
Delaware County, Ohio Juvenile Court, and  
Themis Tracking Services, LLC., a distributor for Secure Alert, Inc.

AGREEMENT FOR MONITORING AND ASSOCIATED SERVICES

This Agreement ( “Agreement”) is made and entered into this 23rd day of June , 2014 by and between the Board of Commissioners, Delaware County, Ohio ( “Board”), whose principal place of business is located at 101 North Sandusky Street, Delaware, Ohio 43015, the Delaware County, Ohio Juvenile Court ( “Court”), whose principal place of business is located at 140 North Sandusky Street, Ground Floor, Delaware, Ohio 43015 (Board and Court collectively “Customer”), and Themis Tracking Services, LLC ( “Provider”), a certified distributor for Secure Alert, Inc., a Utah corporation, whose principal place of business is located at 2703 Vestry Avenue, Cleveland, Ohio 44113, (individually “Party,” collectively, “Parties”).

PRELIMINARY STATEMENTS

WHEREAS, the Court is in need of certain Equipment and Accessories ( “Equipment”), Monitoring Services associated with the Equipment ( “Monitoring Services”), and/or certain other associated services ( “Other Services”) (collectively “Equipment, Monitoring, and Other Services”) to track and monitor offenders ( “Offender”) using Global Positioning Systems ( “GPS”); and,

WHEREAS, The Provider is qualified and willing to provide such Equipment, Monitoring, and Other Services at an agreed-upon price.

STATEMENT OF THE AGREEMENT

NOW, THEREFORE, in consideration of the terms, covenants, conditions, and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

1. **PURPOSE:** The purpose of this Agreement is to state the terms, covenants, and conditions under which the Provider will provide to the Customer certain Equipment, Monitoring, and Other Services used to track and monitor Offenders using GPS.
2. **TERM:** The term of this Agreement shall be inclusive of June 17, 2014 and continue through June 30, 2015.
3. **RENEWAL:** Upon written agreement of the Parties, this Agreement may be renewed for successive one (1) year periods subject to the same terms and conditions provided herein and upon any such terms and conditions as may be specifically agreed upon, added and/or amended in writing by the Parties.

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4. **CONTINUED POSSESSION OF EQUIPMENT:** Continued possession of the Equipment by the Customer past the end of the term or any renewal of this Agreement shall obligate the Customer to payment of additional monthly rental payments for the Equipment as set forth in Schedule A until such time as the Equipment is returned to the Provider.
5. **SCOPE OF SERVICES:** The Provider shall provide/render Equipment, Monitoring, and Other Services to the Customer as follows:
  - A. The Provider shall provide/render to the Customer certain Equipment, Monitoring, and Other Services used to track and monitor Offenders using GPS as specified in Schedule A.
  - B. The Provider shall provide/render to the Customer the straps and cuffs identified in Schedule B.
  - C. If the Customer elects insurance coverage, the Provider shall provide/render to the Customer the insurance coverage identified in Schedule C.
6. **COMPENSATION:** In exchange for providing the Equipment, Monitoring, and Other Services, the Customer shall compensate the Provider at the rates set forth in Schedule A. The Provider will bill the Customer on a monthly billing cycle.
7. **INVOICE:** After the Equipment, Monitoring, and Other Services have been provided/rendered, the Provider shall provide the Court with a proper detailed invoice. A proper invoice is defined as being free from defects, discrepancies, errors, and/or other improprieties and shall include, but is not limited to including, the following:
  - The Provider's full name, address, telephone number, email address, and facsimile number;
  - Name of a contact person with the Provider in charge of billing, including a telephone number and email address for such contact person;
  - The Provider's federal employer identification number and/or a completed federal W-9 form;
  - Court's full name and address;
  - If applicable, purchase order number authorizing the purchase of the Equipment, Monitoring, and Other Services;
  - Billing period;
  - Detail as applicable, including, but not limited to, description of the Equipment, Monitoring, and Other Services provided/rendered, dates of when the Equipment, Monitoring, and Other Services were provided/rendered, and rates and quantities/hours spent providing/rendering the Equipment, Monitoring, and Other Services;
  - Total cost of Equipment, Monitoring, and Other Services provided on the invoice.

The Provider shall submit invoices to the Court as follows:

Rick Smith  
Fiscal Coordinator  
Delaware County Juvenile Court  
140 North Sandusky Street, Ground Floor  
Delaware, Ohio 43015

Upon the submission of a proper invoice, payment shall be made to the Provider within thirty (30) days.

Defective invoices shall be returned to the Provider noting areas for correction. When such notification of defect is sent, the required payment date shall be thirty (30) days after receipt of the corrected invoice.

8. **MAXIMUM PAYMENT:** The Provider agrees to accept as full payment for Equipment, Monitoring, and Other Services, all rendered in a manner satisfactory to the Customer, the lesser of the following: (1) The maximum amount of Thirty-Five Thousand Dollars and No Cents (\$35,000.00) or (2) the amount of actual Equipment, Monitoring, and Other Services rendered to the Customer. It is expressly understood and agreed that in no event shall the total amount to be paid to the Provider under this Agreement exceed the maximum of Thirty-Five Thousand Dollars and No Cents (\$35,000.00).
9. **TAXES:** The Customer is a political subdivision and tax exempt. The Provider therefore agrees to be responsible for all tax liability that accrues as a result of this Agreement and the Equipment, Monitoring, and Other Services that the Provider provides/renderers to the Customer pursuant to this Agreement. Proof of such tax status shall be provided to the Provider by the Customer upon request.
10. **RATE CHANGES:** The Customer shall be provided written notice at least thirty (30) days in advance of any charges of rate(s) included in this Agreement. Such notice shall be sent to the Customer via certified U.S. Mail, return receipt.

If the Customer is agreeable to the noticed change in rate(s), the Customer shall notify the Provider of such agreement. This Agreement shall be amended to reflect such change in rate(s). Such amendment shall be in writing and signed by both Parties.

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Notwithstanding any other provision of this Agreement, if the Customer does not agree to the noticed change in rate(s), the Customer shall have the right to immediately terminate this Agreement upon receipt of the notice of the change in rate(s). If the Customer desires to terminate the Agreement based on such a change in rate(s), it shall provide written notice to the Provider within fifteen (15) days of its receipt of the notice of the change in rate(s). Actual termination of this Agreement shall occur on a date mutually determined by the Parties. In the event of termination due to a change in rate(s), the change in rate(s) shall not take effect before such actual date of termination and the Customer shall not be charged the changed rate(s).

11. **OWNERSHIP:** Neither the Customer, nor the Offender, is the owner of the Equipment nor has title to the Equipment. Neither the Customer, nor Offender, may sell, transfer, or assign, the Equipment, without the express prior written permission of the Provider. Neither the Customer, nor the Offender, may attempt to alter or otherwise tamper with the Equipment. The Customer agrees that it shall at all times keep the Equipment free from any legal process or lien whatsoever and agrees to give the Provider immediate notice if any legal process or lien is asserted or made against the Equipment.
12. **DAMAGE TO OR LOSS OF EQUIPMENT:** The Customer is responsible for any and all loss or damage to or theft of the Equipment. Normal wear and tear is expected. Damage for purposes of this Section includes, without limitation, damage to the casings or straps of the Equipment and any other damage which inhibits any part of the Equipment's ability to function properly or function at all, but excludes normal wear and tear. If the Equipment is damaged, lost or stolen while in the Customers possession, the Customer agrees to pay the Provider the full cost to repair or replace such Equipment based on the rates set forth in Schedule A. The determination of whether the Equipment must be repaired or replaced shall be made by mutual agreement of the Provider and the Provider's manufacturers. The Customer will be provided a detailed evaluation as to the findings of the condition of the Equipment and actions taken on any Equipment either repaired or replaced.
13. **NON-DISCLOSURE OF PROPRIETARY INFORMATION:** The Customer acknowledges that it may obtain or have access to confidential and proprietary information of the Provider that is the sole and exclusive property of the Provider or other entities or persons affiliated with the Provider in connection with the provision of the Equipment, Monitoring, and Other Services described herein ("Proprietary Information") pursuant to the terms of this Agreement. Except as otherwise required by law, the Customer agrees to keep all such Proprietary Information confidential, to limit its use only in connection with the terms of this Agreement, and to protect it with at least the same level of protection that the Customer affords its own confidential and proprietary information. Without limiting the foregoing, the Customer expressly agrees, except as otherwise required by law, that the Customer shall treat as confidential and not disclose any of the Proprietary Information in any manner without the prior written authorization of the Provider. If the Customer is required by public records laws, other applicable law or regulation, or by legal process to disclose any Proprietary Information, the Customer agrees that it shall provide the Provider with reasonable prior written notice of such request to enable the Provider to seek a protective order or other appropriate remedy prior to disclosure. Should this Agreement be terminated for any reason whatsoever, the Customer shall, at the request of the Provider, either destroy or promptly deliver to the Provider all Proprietary Information, including all documents or other media containing Proprietary Information, including all copies, reproductions, summaries, analysis or extracts thereof, in the possession of the Customer, and the Customer shall certify to the Provider that the Customer has done so. The obligation to keep the Proprietary Information confidential pursuant to this Section shall survive the expiration or termination of this Agreement.
14. **WARRANTY:** The Provider hereby warrants that the Equipment, Monitoring, and Other Services that it provides pursuant to this Agreement shall perform to the manufactures specifications. EXCEPT AS PROVIDED IN THIS AGREEMENT, THE PROVIDER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IN CONNECTION WITH THIS AGREEMENT, EQUIPMENT, MONITORING AND OTHER SERVICES AND USER INTERFACES TO MONITORING SERVICES. The Customer's sole remedy against the Provider for any failure whatsoever relating in any way to the use of Equipment, Monitoring, and Other Services shall be limited to the replacement of the Equipment if applicable; provided that any such failure of Equipment, Monitoring, and Other Services was not caused by any act or omission on the part of the Customer. The Provider agrees to transfer to the Customer, to the extent permitted by law or applicable contracts, any warranties made to the Provider by a manufacturer or vendor of the Equipment.
15. **INDEPENDENT CONTRACTOR:** The Provider agrees that he/she/it shall act in performance of this Agreement as an independent contractor. No agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Agreement.

The Provider assumes all responsibility for any and all federal, state, municipal, or other tax liabilities, along with workers compensation, unemployment compensation, contributions to retirement plans, and/or insurance premiums which may accrue and/or become due as a result of compensation received for services and/or deliverables rendered and/or received under or pursuant to this Agreement.

The Provider and/or his/her/its officers, officials, employees, representatives, agents, and/or volunteers are not entitled to any benefits enjoyed by employees of the Court, the Board, or Delaware County, Ohio.

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**16. INDEPENDENT CONTRACTOR ACKNOWLEDGEMENT/NO CONTRIBUTION TO OPERS:**

The Court, the Board, and Delaware County, Ohio (for purposes of this section collectively "County") are public employers as defined in R.C. § 145.01(D). The County has classified The Provider as an independent contractor or another classification other than public employee. As a result, no contributions will be made to the Ohio Public Employees Retirement System ("OPERS") for or on behalf of the Provider and/or any of his/her officers, officials, employees, representatives, agents, and/or volunteers for services and/or deliverables rendered and/or received under or pursuant to this Agreement. The Provider acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed him/her/it of such classification and that no contributions will be made to OPERS. If The Provider is an individual or has less than five (5) employees, the Provider, in support of being so informed and pursuant to R.C. § 145.038, agrees to and shall complete and shall have each of his/her/its employees complete an OPERS Independent Contractor Acknowledgement Form ("Form"). The Form is attached hereto as Exhibit 1 and by this reference is incorporated as a part of this Agreement. The Court shall retain the completed Form(s) and immediately transmit a copy(ies) of it/them to OPERS.

If the Provider has five (5) or more employees, the Provider, by his/her or an authorized representative of the Provider's signature below, hereby certifies such fact in lieu of completing the Form:

\_\_\_\_\_  
Todd Belak  
President  
Themis Tracking Services, LLC

**17. INDEMNITY:** The Provider shall provide indemnification as follows:

- A. To the fullest extent of the law and without limitation, the Provider agrees to indemnify and hold free and harmless the Customer and all of their respective boards, officers, officials, employees, volunteers, agents, servants, and representatives (collectively "Indemnified Parties") from any and all actions, claims, suits, demands, judgments, damages, losses, costs, fines, penalties, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to the Provider's or any subcontractor's performance of this Agreement or the actions, inactions, or omissions of the Provider or any subcontractor, including, but not limited to the performance, actions, inactions, or omissions of the Provider's or any subcontractor's boards, officers, officials, employees, volunteers, agents, servants, or representatives (collectively "Contracted Parties"). The Provider agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that the Provider shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, fines, penalties, and expenses. The Provider further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that the Provider shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, fines, penalties, and expenses, including, but not limited to attorney's fees.
- B. The Provider shall assume full responsibility for, pay for, and shall indemnify and hold free and harmless the Indemnified Parties from any harm, damage, destruction, injury, or loss, regardless of type or nature, known or unknown, realized or unrealized, to any property, real or personal, belonging to the Indemnified Parties or others, including but not limited to real estate, buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts arising out of or resulting in whole or in part from any actions, inactions, or omissions negligent or accidental, actual or threatened, intentional or unintentional of the Contracted Parties.

**18. INFRINGEMENT:** The Provider shall pay all royalties, licensing, and registration fees permitting the Customer the free, uninterrupted, and unobstructed use of all and/or any portion of the Equipment, Monitoring, and/or Other Services which is/are owned, protected, licensed, trademarked, patented, non-patented, and/or copyrighted.

In the event that either of the Parties has or gains knowledge that use of the Equipment, Monitoring, and/or Other Services 1) actually or 2) potentially infringes on the ownership of any owned, protected, licensed, trademarked, patented, non-patented, and/or copyrighted software, product, or service ("Protected Item"), the Provider shall, as applicable, take all of the following actions:

- At no cost to the Customer, secure the rights to possess or use the infringing or potentially infringing Protected Item so that the Customer may continue to have free, uninterrupted, and unobstructed use of the Protected Item.
- If the Provider is unable to secure such rights to the Protected Item, the Provider shall immediately provide to the Customer, at no cost to the Customer, substitute Equipment, Monitoring, and/or Other Services that, in the sole opinion of the Customer, performs the same function and is of the same quality as the Protected Item or refund to the Customer the entire cost of the Agreement. In the event



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of such a substitution or refund, nothing shall prevent or limit the Customer from pursuing any action against the Provider for damages suffered by the Customer.

To the fullest extent of the law and without limitation, the Provider agrees to and shall indemnify and hold free and harmless the Indemnified Parties from any and all actions, claims, suits, demands, judgments, damages, losses, costs, fines, penalties, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any infringement of any right to use, possess, or otherwise operate or have any owned, protected, licensed, trademarked, patented, non-patented, and/or copyrighted software, product, service, invention, process, article, or appliance manufactured, used, or possessed in the performance of the Agreement and/or in providing the Equipment, Monitoring, and/or Other Services, including the use or possession of the same by the Indemnified Parties both during and after the performance of the Agreement and/or providing the Equipment, Monitoring, and Other Services. The Provider agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that the Provider shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, fines, penalties, and expenses. The Provider further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that the Provider shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, fines, penalties, and expenses, including, but not limited to attorney's fees.

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

Prior to commencement of this Agreement, the Provider shall present to the Court current certificates of insurance, and shall maintain current such insurance during and throughout the entire term of this Agreement.

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

The Provider shall name the Board, the Court, and Delaware County, Ohio as additional insureds on such policies of insurance.

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

- 20. WORKERS COMPENSATION INSURANCE:** The Provider shall carry and maintain throughout the life of the Agreement Worker's Compensation Insurance as required by Ohio law and any other state in which work will be performed. The Provider shall be responsible for any and all premiums for such policy(ies).

- 21. LIMITATION OF LIABILITY:** Notwithstanding any other provision of this Agreement, the Provider is not responsible for any injuries, damages, or losses to the Customer or to any other person or to any property, regardless of owner, caused by the misuse, improper activation, or improper maintenance of the Equipment, or the failure to connect to, or the inability to access user interfaces to Monitoring Services, or the failure to follow any instructions for or related to Monitoring Services or Other Services, other than any such injuries, damages or losses caused by the negligence of the Provider.

- 22. ACKNOWLEDGEMENTS AND DISCLAIMER:** The Customer agrees with the following:

- A. The Customer agrees that the Equipment, Monitoring, and Other Services shall not prevent, nor are they intended to prevent, any Offender of the Customer from committing any harmful, tortuous, or illegal acts.
- B. The Customer further agrees that it may be possible for an Offender to remove the Equipment by unauthorized means.
- C. The Provider expressly disclaims any liability for any harmful, tortuous, or illegal acts committed by an Offender while using the Equipment, as well as any liability for any acts committed by an Offender who removes the Equipment and subsequently engages in any harmful, tortuous or illegal acts.
- D. The Customer agrees that use of the Equipment and Monitoring Services shall be generally reserved for, but is not limited to, those Offenders of the Customer who are considered to be minimal flight risks and minimal risks for commission of crimes or torts against person or property.

- 23. FORCE MAJEURE:** The Parties shall be temporarily excused from performance and shall not be entitled to impose any penalty as a result of any delay in performance caused by reason of war, insurrection, strike, automobile fuel shortage, weather, explosion, act of God, order of Court or other public authority, or any other cause beyond the reasonable control of the Parties. Such excusal from performance shall continue until such *force majeure* ceases to exist or the Agreement is terminated as provided in this Agreement.

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**24. TERMINATION:** This Agreement may be terminated as follows:

**A. Termination for the Convenience:**

The Court may terminate this Agreement for convenience at any time and for any reason upon delivering ninety (90) days written notice to the Provider.

The Parties may terminate this Agreement at any time and for any reason upon the mutual written consent of the Parties.

**B. Breach or Default:**

Upon breach or default of any of the provisions, obligations, or duties embodied in this Agreement, the aggrieved Party shall provide written notice of the breach or default to the breaching or defaulting Party and permit the breaching or defaulting Party to remedy the breach or default within a specified reasonable period of time. If the breach or default is not satisfactorily remedied within the specified time period, this Agreement may, at the election of the aggrieved Party, be immediately terminated.

Further, if the breaching or defaulting Party is the Customer, the Provider may require, with minimum fourteen (14) days prior written notice to the Customer, that the Customer return the Equipment to the Provider and that the Customer immediately pay to the Provider the remaining balance of any amounts due under this Agreement. If the Provider is required to track an Offender of the Customer to make demand on such Offender to repossess the Equipment after the notice period has expired, the Customer agrees to pay the Provider, immediately upon demand, the cost of repossession, storing, shipping, and repairing the Equipment.

The Parties acknowledge that the tracking and monitoring of an Offender of the Customer, which is facilitated by this Agreement, may be undertaken in conjunction with criminal/juvenile process against such Offender, or that such Offender of the Customer has voluntarily undertaken to use the Equipment in order to satisfy a criminal conviction/juvenile disposition or plea agreement, or to avoid incarceration. The Provider agrees that in effecting redelivery or repossession of the Equipment from any Offender, it shall coordinate with the Customer and/or with other law enforcement.

The Parties retain and may, without limitation, exercise any and all available administrative, contractual, equitable or legal remedies.

**C. Bankruptcy:**

A Party may immediately terminate this Agreement if a voluntary or involuntary bankruptcy, receivership, or other similar action is filed against the other Party. In such event, the Party seeking to terminate shall provide written notice of such termination to the Provider as soon as possible.

**D. Waiver:**

The waiver of any occurrence of breach or default is not and should not be interpreted as a waiver of any such subsequent occurrences. The Parties retain and may, without limitation, exercise any and all available administrative, contractual, equitable or legal remedies. If a Party fails to perform an obligation or obligations under this Agreement and such failure(s) is (are) waived by the other Party, such waiver shall be limited to the particular failure(s) so waived and shall not be deemed to waive other failure(s). Waiver by any of the Parties shall be authorized in writing and signed by an authorized representative(s) of the waiving Party. In the case of the Court, any waiver shall be approved by the Court.

Termination pursuant to this Section shall relieve the Parties of any and all further obligations under this Agreement, except a) that the Provider shall be entitled to receive compensation for any Equipment, Monitoring, and/or Other Services satisfactorily provided or performed hereunder through the date specified on the notice as the effective date of termination or as otherwise provided in this Section and b) those obligations imposed on the Provider by Sections 17 and 18 of this Agreement and/or by any other Section or provision of this Agreement that expressly survives termination.

If the Agreement is terminated pursuant to this Section, the Provider shall have no cause of action against the Court, the Board, or Delaware County, Ohio except for a cause of action for non-payment for Equipment, Monitoring, and/or Other Services provided, rendered, or performed prior to the effective date of termination, to recover Equipment not returned to the Provider, or other remedies as otherwise expressly provided in this Section. In no event will the Court, the Board, or Delaware County, Ohio be obligated to pay for any Equipment, Monitoring, or Other Services not actually provided, rendered, or performed by the Provider.

**25. ASSIGNMENT:** The Provider may at any time, with prior written notification to the Customer, sell, assign, or transfer its rights, benefits and obligations under this Agreement or the Provider's ownership of the Equipment. The Parties agree that in the event of such sale, assignment, or transfer that the assignee or buyer shall assume all rights, benefits and obligations of the Provider under this Agreement and that such sale, assignment, or transfer shall not change the duties or obligations of the Parties under this Agreement.

**26. SUBCONTRACTING:** The Provider may, with prior written notification to the Customer, subcontract any portion of this Agreement. If any portion of this Agreement is subcontracted, the Provider shall continue

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to act as the prime contractor for the entire Agreement, including the subcontracted portion, and shall continue to assume full responsibility for the performance of the Agreement, including the subcontracted portion. The Provider will remain the sole point of contact and shall be ultimately responsible for the performance of the entire Agreement, including the subcontracted portion.

- 27. CIVIL RIGHTS/NON-DISCRIMINATION:** All contracts with Delaware County, Ohio must contain and all contractors with Delaware County, Ohio must agree to enter a contract containing the language similar to that contained in O.R.C. § 125.111, which requires the following:

Every contract for or on behalf of the state or any of its political subdivisions for any purchase shall contain provisions similar to those required by section 153.59 of the Revised Code in the case of construction contracts by which the contractor agrees to both of the following:

- A. That, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor or subcontractor, by reason of race, color, religion, sex, age, disability or military status as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the contract relates;
- B. That no contractor, subcontractor, or person acting on behalf of any contractor or subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the contract on account of race, color, religion, sex, age, disability or military status as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

All contractors from whom the state or any of its political subdivisions make purchases shall have a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code. Annually, each such contractor shall file a description of the affirmative action program and a progress report on its implementation with the equal employment opportunity office of the department of administrative services.

By signature attached to Exhibit 2 (Non-Discrimination/Equal Opportunity/Civil Rights), by this reference made a part of and incorporated within this Agreement, the Provider certifies that it currently does and shall for the term of this Agreement comply with all of the above requirements, any and all applicable federal, state, and local laws regarding non-discrimination, equal opportunity employment, and civil rights and any applicable County policies and will not in any way discriminate.

- 28. ACCESSIBILITY OF PROGRAMS TO THE DISABLED/HANDICAPPED:** The Provider shall make all Equipment, Monitoring, and/or Other Services provided pursuant to this Agreement accessible to the disabled/handicapped. The Provider shall comply with any and all federal, state, and local laws mandating accessibility and Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), all requirements imposed by the applicable HHS regulations (45 CFR 8;4) and all guidelines and interpretations issued pursuant thereto.
- 29. DRUG FREE ENVIRONMENT:** The Provider agrees to comply and certifies compliance with all applicable state and federal laws regarding drug-free environment and shall have established and have in place a drug free workplace policy. The Provider shall make a good faith effort to ensure that all of its and any of its providers officials, officers, employees, agents, representatives, volunteers, and/or servants will not purchase, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way.
- 30. ACCESS TO RECORDS:** At any time, during regular business hours, with reasonable notice and as often as the Customer, the Comptroller General of the United States, the State, or other agency or individual authorized by the Customer may deem necessary, the Provider shall make available to any and/or all the above named parties or their authorized representatives, all subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Agreement. The Customer and the above named parties shall be permitted by the Provider to inspect, audit, make excerpts, photo static copies and/or transcripts of any and all documents relating to all matters covered by this Agreement.
- 31. RETENTION OF RECORDS:** The Provider, for a minimum of three (3) years after reimbursement/compensation for services rendered under this Agreement, agrees to retain and maintain, and assure that all of its subcontractors retain and maintain, all records, documents, writings and/or other information related to the performance of this Agreement. If an audit, litigation, or other action is initiated during the term of this Agreement, the Provider shall retain and maintain, and assure that all of its subcontractors retain and maintain, such records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever is later.
- 32. CAMPAIGN FINANCE – COMPLIANCE WITH R.C. § 3517.13:** Ohio Revised Code Section 3517.13 I(3) and J(3) require that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or

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other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in said sections of the Revised Code are in compliance with the applicable provisions of section 3517.13 of the Revised Code. The Provider, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13." Failure to complete and submit the required aforementioned certificate/affidavit with the Agreement will prohibit the Customer from entering, proceeding with, and/or performing the Agreement. Such certification is attached to this Agreement as Exhibit 3 and by this reference is incorporated into and made a part of this Agreement.

33. **CERTIFICATION REGARDING FINDINGS FOR RECOVERY:** The Provider hereby certifies that he/she/it is not subject to any current unresolved findings for recovery pending with or issued by the Ohio Auditor of State.

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Todd Belak  
President  
Themis Tracking Services, LLC

34. **CERTIFICATION REGARDING PERSONAL PROPERTY TAXES:** The Provider hereby certifies that he/she/it is not charged with delinquent personal property taxes on the general list of personal property in Delaware County, Ohio, or any other counties containing property in the taxing districts under the jurisdiction of the Auditor of Delaware County, Ohio.

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Todd Belak  
President  
Themis Tracking Services, LLC

35. **COMPETITIVE BIDDING NOT REQUIRED:** Consistent with R.C. § 307.86 and the requirements of such statute, this Agreement is not required to be competitively bid. The Court does not desire to competitively bid this Contract.

36. **NO EXCLUSIVITY:** The Provider shall not be the exclusive provider of the Equipment, Monitoring, and/or Other Services to the Court. The Court, in its sole discretion, may utilize other contractors to perform/provide the same or similar Services/Testimony.

37. **DRAFTING:** This Contract shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.

38. **CONFLICT OF INTEREST:** The Provider is unaware of and certifies that there are no conflicts of interest, either involving it or its employees, that would prohibit the Provider from entering this Agreement and agrees to immediately notify the Provider when and if it becomes aware of any actual or potential conflict(s) of interest that arise during the term of the Agreement.

39. **WAIVER:** The Parties acknowledge and agree that any delay or failure by either Party to enforce its rights under this Agreement does not prevent it from enforcing any rights at a later time.

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

41. **BENEFIT OF CONTRACT:** This Agreement is intended for the exclusive benefit of the Provider, the Customer, and their respective permitted assigns, and is not intended and shall not be construed as conferring any benefit on any third party or the general public.

42. **PRONOUNS:** All pronouns shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or entity to which reference is made may require.

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

44. **HEADINGS:** The headings used in this Agreement are for convenience only and shall not be used to limit or construe the contents of any of the sections of this Agreement.

45. **NOTICES:** All notices which may be required by this Agreement or by operation of any rule of law shall be hand delivered, sent via certified United States Mail, return receipt requested, sent via a nationally recognized and reputable overnight courier, return receipt requested, or via email or facsimile, confirmation of receipt, to the following individuals at the following addresses or facsimile numbers and shall be effective on the date received:

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**Customer:**

Rick Smith  
Fiscal Coordinator  
Delaware County, Ohio  
Juvenile Court  
140 North Sandusky Street, Ground Floor  
Delaware, Ohio 43105

Email: [rsmith@co.delaware.oh.us](mailto:rsmith@co.delaware.oh.us)  
Fax: (740) 833-2599

**Provider:**

Todd Belak  
President  
Themis Tracking Services, LLC.,  
2703 Vestry Avenue  
Cleveland, OH 44113

Email: [toddbelak@sbcglobal.net](mailto:toddbelak@sbcglobal.net)  
Fax: (216) 357-3357

46. **INCORPORATION OF ATTACHMENTS:** By this reference, the following attachments are hereby incorporated into and made a part of this Agreement:

**Schedules:**

- Schedule A: Themis Tracking Services, LLC Equipment, Monitoring, and Services
- Schedule B: Inventory of Equipment
- Schedule C: Insurance Agreement for TrackerPal™ Equipment Insurance

**Exhibits:**

- Exhibit 1: OPERS Independent Contractor Acknowledgement Form
- Exhibit 2: Non-Discrimination / Equal Opportunity / Civil Rights
- Exhibit 3: Certification/Affidavit in Compliance with O.R.C. Section 3517.13

47. **ENTIRE AGREEMENT:** This Agreement (and its Attachments) shall constitute the entire understanding and agreement between the Parties, shall supersede all prior understandings and agreements, whether written or oral, between the Parties relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the Parties. The Customer acknowledges that on behalf of the Provider only an officer of the Provider is authorized to approve amendments to this Agreement. The Provider acknowledges that on behalf of the Customer only the Board and Court are authorized to approve amendments to this Agreement.

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

49. **COUNTERPARTS:** This Agreement may be executed in counterparts.

**SCHEDULE A**  
**THEMIS TRACKING SERVICES, LLC**  
**EQUIPMENT, MONITORING, AND SERVICES**

**EQUIPMENT AND SERVICES FOR OFFENDER MONITORING**

**Active Units:** This Agreement is for a minimum of   1   active ReliAlert device(s) at all times, which will be billed at the rate indicated for the monitoring service level selected below.

**Idle and Overstock Units:** This Agreement allows for   1   ReliAlert device(s), supplied by Provider, as an inactive shelf unit, provided the requirements in the above paragraph (Active Units) have been met. Otherwise, all devices shall have a billing rate as stated below. This Agreement also allows for additional inactive shelf units at a rate of 1 idle unit for every 10 active units. On any device(s) not active on any day that exceeds the above allotment, a charge of \$1.75/day per device exceeding approved inactive shelf unit(s) will be charged to the Customer.(No idle charge for eArrest Beacons)

**Service Offerings Rate Per Active Day: (selections made specific to each individual Offender)**

**Full Service**  
Provider)

**Self Service** (No or limited monitoring provided by

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- |  |  |
|--|--|
| <input type="checkbox"/> Premium Plus \$14.25                        | <input type="checkbox"/> Premium Plus \$10.25        |
| <input type="checkbox"/> Premium \$13.00                             | <input type="checkbox"/> Premium \$9.00              |
| <input type="checkbox"/> Standard Active Plus – <i>Not Available</i> | <input type="checkbox"/> Standard Active Plus \$7.75 |
| <input type="checkbox"/> Standard Active – <i>Not Available</i>      | <input type="checkbox"/> Standard Active \$6.75      |
| <input type="checkbox"/> Passive \$7.00                              | <input type="checkbox"/> Passive \$5.50              |

**eArrest Beacon:** This Agreement provides for an initial order of 2 eArrest Beacon devices to be enabled for use in conjunction with the ReliAlert device for an additional rate of \$0.75 per Active day per enabled device.

**Shipping:** The rates set forth above include 3-5 day ground shipping. The Customer will not be charged for the shipping of materials unless special shipping, other than ground shipping, is requested by the Customer. The Provider agrees to deliver up to five (5) units within four (4) hours of a valid written request from the Customer. This is limited to written requests received by the Provider during regular business hours.

**Rate Guarantee:** The rates set forth above are guaranteed for the initial Term, but are subject to change for any renewal Term. Notice of changes in rate(s) and the Customer’s right to termination upon receipt of a notice of a change in rate(s) shall be as provided in the Agreement.

**Insurance Terms:** If insurance is chosen, it must be taken on all devices for the full term of this Agreement and is payable every day, Active or Inactive days. There is a \$50 deductible for any claims on ReliAlert devices.

- ☐ Device Insurance Accepted, at a rate of \$0.50/day per ReliAlert device. (See Schedule C).
- ☐ Device Insurance Not Accepted

**CUSTOMER OBLIGATIONS**

- 1. **PAYMENT:** Payment shall be as provided in the Agreement.
- 2. **CASE SELECTION:** The Customer understands, agrees and acknowledges that during the Term it shall (a) retain complete authority for case selection, management and administration with respect to each individual who shall participate in Electronic Monitoring (hereinafter “Client”), including, without limitation, monitoring responsibility with respect to each Client, unless otherwise specified per the selected monitoring solution above; (b) identify and make available Customer staff and/or equipment that complies with the Provider’s policies as in effect from time to time, in order to use and access the Monitoring Services, including, without limitation with respect to the Provider’s policy that establishes a specifically correct method of equipment (i.e.: fax, phone, pager) for the purpose of the Provider notification of Alert Conditions to the Customer; (c) perform or oversee Client orientation, installation and de-installation of Equipment and overall compliance with the Provider’s policies, which policies include, without limitation, a specific method of equipment installation, and Offender equipment use guidelines unless otherwise specified per the selected monitoring solution above; (d) establish alert notification protocols and parameters, in accordance with available Notification Options, and an alert response policy, and respond to Alert Conditions in accordance with that policy unless otherwise specified per the selected monitoring solution above; (e) assume the financial responsibility for the cost associated with replacing any lost, stolen, or damaged Equipment or accessories; and (f) provide to the Provider the required information and parameters for monitoring each Client, including, without limitation, each Offender’s case curfew, movement restrictions, inclusion and exclusion zone information, essential demographic and case information. The Customer will be solely responsible for properly recording all Alert Conditions and other information relative to monitoring the Equipment when located on a Client, including, without limitation, data entry and data storage of all such Customer specified information into the Provider’s computer system unless otherwise specified per the selected monitoring solution above; and be responsible for all liaison work with the involved courts and/or agencies.

**PROVIDER OBLIGATIONS**

- 1. **ORDERING AND DELIVERY OF EQUIPMENT; ACCESSORY EQUIPMENT:** The Provider shall coordinate with the Customer, and Secure Alert, Inc., to deliver the Equipment to the Customer pursuant to the Shipping terms described above. The Provider shall also supply to the Customer, an installation and maintenance kit for the Equipment which includes different sizes of straps; as described in Schedule B, measuring device, and torque driver, and any other equipment deemed necessary at no additional cost. Unless otherwise agreed between the Customer and the Provider, the Customer shall return the installation and maintenance kit, along with all other Equipment provided to the Customers by Provider or Provider’s manufacturers, to the Provider upon termination of the Agreement. Additional installation and maintenance kits or kit components can be subject to such additional charges as are set forth in Replacement and Consumables Costs below if not covered under Insurance.

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2. **MONITORING SERVICE:** The Provider, through Secure Alert, Inc., agrees that during the Term it shall (a) maintain twenty-four (24) hour, seven (7) days per week monitoring of Offenders through the central host computer system owned and operated by Secure Alert, Inc.; such host computer which communicates with the Equipment which is properly installed and has not been tampered with or altered, through cellular service where available, and based upon the data provided by the Customer to Secure Alert, Inc. for each Offender, as described in Section 3 below; such communication from the Equipment to the host computer shall be at a minimum of 5 minute intervals (b) subject to the minimum equipment and system requirements required to be satisfied by the Customer to access the web-based user interface, provide Customer’s authorized personnel twenty-four (24) hour, seven (7) days per week access to Secure Alert, Inc.'s user interface for the purpose of directly monitoring Offenders based on the Equipment; (c) provide notification of Alert Conditions as described in Section 4 below to those authorized personnel of the Customer identified in writing by the Customer to Secure Alert, Inc. as being authorized to receive such information, which information is to be provided to the Customer pursuant to the predefined notification protocols to be delivered by the Customer to Secure Alert, Inc. pursuant to Section 3 below; and (d) document and maintain Alert Conditions and Equipment status information for each Offender properly enrolled during the Term.
3. **NOTIFICATION OPTIONS:** The Provider, through Secure Alert, Inc., shall notify the Customer of any Alert Conditions based upon predefined notification protocols available and specified by Customer in writing and delivered to the Provider on or before the commencement of the monitoring of any specific Client.
4. **ALERT CONDITIONS:** For purposes of this Agreement, “Alert Conditions” means an alert notification condition as specified by the Customer, including daily curfew, movement restrictions, inclusion and exclusion zone restriction violations, tamper alerts and Equipment status alerts that the monitoring system is able to identify based on the Equipment, and about which the Provider, through Secure Alert, Inc., agrees to notify the Customer based on protocols available and specified by the Customer in writing and delivered to the Provider on or before the commencement of the monitoring of any specific Client.
5. **TRAINING OF AUTHORIZED PERSONNEL:** The Provider, through Secure Alert, Inc., agrees that it shall provide the Customer reasonably necessary training for its authorized personnel who shall be monitoring Clients, that such personnel may properly use the user interface for the purposes of monitoring Clients as set forth herein as follows: if the initial quantity of ReliAlert devices delivered, as set forth above, is from one (1) to two (2) then live internet based training will be provided. If the initial quantity of ReliAlert devices delivered, as set forth above, is greater than two (2) then live onsite training will be provided. The Customer acknowledges that the Customer’s access to the user interface shall generally be limited to password controlled Internet access and that no software shall actually be delivered to the Customer. The Customer shall bear all responsibility for providing its own computer hardware, software, and internet access meeting the Provider’s minimum requirements for access to the monitoring service.
6. **CUSTOMER SUPPORT:** The Provider shall provide customer service to the Customer as reasonably necessary to provide assistance to and to update the Customer on any changes or updates to the Equipment, Monitoring Services and overall operation of the monitoring system with respect to the Equipment and accessories which may affect the Customer's reasonable use thereof.
7. **LEGAL SUPPORT:** The Provider, at no additional cost to the Customer, shall assist as reasonably necessary the Customer in defending all legal actions involving the Customer and its cases relating to the services provided by the Equipment for its Offenders. Such assistance can include, but is not limited to, participation in depositions, assistance in responding to discovery requests, and providing live testimony.

**REPLACEMENT COSTS FOR THE EQUIPMENT**

If the insurance option isn’t chosen and a device is lost or irreparably damaged, the following replacement charges will apply:

- o ReliAlert XC Unit - \$1550.00

Following are replacement costs for the following uninsurable components:

- o ReliAlert Charging Unit - \$55.00
- o ReliAlert Breakaway Cord - \$20.00
- o HomeAware Beacon - \$135.00

**ACCESSORY COSTS**

**Start Up Kit - \$275.00**

**Individual Items – Prices Below**

Hex Driver Bit	1	\$5.00
Torque Driver	1	\$45.00
Measuring Device	1	\$5.00
Left tamper caps & Right tamper caps	15 each	\$0.05

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Straps	15 (various sizes)	\$15.00
Extra Charger	1	\$55.00
Extra Breakaway Cord	1	\$20.00

SCHEDULE B  
INVENTORY OF EQUIPMENT

The Court acknowledges that it has received the following inventory of straps and/or cuffs:

STRAPS(size – quantity)

E – 1	H – 4	K – 1
F – 2	I – 4	L – 1
G – 4	J – 2	M - 1

CUFFS(size – quantity)

E – 0	H – 4	K – 1
F – 2	I – 4	L – 0
G – 4	J – 2	M - 0

In the event the Agreement is terminated, the Court shall return the above inventory to the Provider or pay the Provider the cost to replace any inventory that was either lost, stolen, or damaged. In the event that the Court orders additional straps/cuffs, the Court consents to the addition of such units to this inventory list. Upon the addition of items to the above inventory list, the Provider shall provide the Court with an updated inventory list.

SCHEDULE C  
INSURANCE ADDENDUM FOR TrackerPAL™ EQUIPMENT INSURANCE

Effective June 23, 2014\_, and in conjunction with the Agreement entered into between Themis Tracking Services, LLC. (“Lessor”) and the Board of Commissioners of Delaware County, Ohio (“Board”) and the Delaware County, Ohio Juvenile Court (“Court”) (Board and Court collectively “Lessee”), Lessor agrees to provide TrackerPAL™ equipment insurance to Lessee for the term of the Addendum. The insurance daily rate is \$.50/day/device and covers both lost and damaged equipment. Lessor reserves the right to review Lost/Damaged TrackerPAL™ figures; and, based upon this review, reserves the right to raise the per diem rate due to excessive loss or damage. At least thirty (30) days prior to any change in the per diem rate, Lessor will notify Lessee in writing of any modifications to the daily insurance rate. Upon receipt of such notification, Lessee shall have the right to immediately terminate this Insurance Addendum. If the Lessee desires to terminate the Insurance Addendum, it shall provide written notice to the Lessor within fifteen (15) days of its receipt of the notice of change in rate. Actual termination of this Insurance Addendum shall occur on a date mutually determined by the Parties. The change in rate shall not take effect before such actual date of termination and the Customer shall not be charged the changed rate.

With the exception of the above-stated amended paragraph, it is understood and agreed that all other terms and conditions forming a part of the Agreement, as previously amended or renewed, (if any), shall remain in full force and effect.

IN WITNESS WHEREOF, each of the parties has executed this Addendum as of the date and year first set forth above.

Vote on Motion                      Mr. Merrell              Aye              Mr. O'Brien              Aye              Mr. Stapleton              Aye

RESOLUTION NO. 14-717

IN THE MATTER OF AUTHORIZING THE PURCHASE OF MOTOR VEHICLES FOR THE SHERIFF’S OFFICE AND THE TRADE-IN OF MOTOR VEHICLES THAT ARE NOT NEEDED, OBSOLETE, OR UNFIT FOR PUBLIC USE:

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to approve the following:

WHEREAS, pursuant to section 307.41 of the Revised Code, the Board of County Commissioners of Delaware County, Ohio (the “Board”) may find, by resolution of necessity, that it is necessary to purchase motor vehicles to be used by the Board, by any county department, board, commission, office or agency, or by any elected county official or his or her employees; and

WHEREAS, the Delaware County Sheriff has demonstrated a need for two (2) additional motor vehicles; and



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WHEREAS, pursuant to section 307.12(G) of the Revised Code, if the Board finds, by resolution, that the County has personal property that is not needed, or is unfit for public use, the Board may offer to sell the property to a firm from which the Board proposes to purchase new property and have the selling price credited to the firm against the purchase price of the new property; and

WHEREAS, the County has motor vehicles currently used by the Sheriff’s Office that are not needed, obsolete, or unfit for public use and that will be accepted for a credit on the purchase of the new motor vehicles;

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

Section 1. The Board hereby finds that it is necessary to purchase two (2) pick-up trucks for use by the Sheriff’s Office or its employees, at an estimated cost not to exceed \$25,000.00 per car.

Section 2. The Board hereby finds that the County has the following motor vehicles that are not needed, obsolete, or unfit for public use and authorizes the trade-in of the motor vehicles as a credit of \$25,000 on the purchase price stated in Section 1:

- 05 Honda Pilot: 2HKYF18425H522315
- 02 Chevy Truck: 2GCEK19T841121968
- 04 Chevy Van: 1GNDX03E84D120557
- 05 Chevy Trailblazer: 1GNET16S56166674
- 10 Ford Fusion: 3FAHP0HG6AR377701

Section 3. This Resolution shall take effect immediately upon adoption.

Vote on Motion                      Mr. Stapleton      Aye      Mr. O'Brien      Aye      Mr. Merrell      Aye

RESOLUTION NO. 14-718

IN THE MATTER OF APPROVING SUBDIVIDER’S AGREEMENT FOR SANCTUARY AT THE LAKES SECTION 2 PART 1:

It was moved by Mr. Stapleton, seconded by Mr. O'Brien to approve the following:

Whereas, the Director of Environmental Services recommends approval of the agreement;

Therefore be it resolved, that the Board of Commissioners approves the agreement for Sanctuary At The Lakes Section 2 Part 1:

**SUBDIVIDER'S AGREEMENT**  
**DELAWARE COUNTY SANITARY ENGINEER**

THIS AGREEMENT executed on this 23rd day of June 2014, by and between **M/I HOMES, INC.** herein after called “SUBDIVIDER”, and the BOARD OF COUNTY COMMISSIONERS of Delaware County, Ohio, as evidenced by the **Sanctuary at the Lakes Section 2 Part 1** Subdivision Plat filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, is governed by the following considerations and conditions, to wit:

There are **35** single family residential equivalent connections approved with this AGREEMENT. Capacity shall be reserved for one year from the date of this AGREEMENT, unless the COUNTY COMMISSIONERS grant an extension in writing. Capacity is not guaranteed until the final Subdivision Plat is recorded. If the final Subdivision Plat is not recorded prior to expiration of the reservation deadline as set forth herein, the SUBDIVIDER agrees and acknowledges that capacity shall not be guaranteed.

Said SUBDIVIDER is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for **Sanctuary at the Lakes Section 2 Part 1 & 2, 3, 4 part 1**, all of which are a part of this AGREEMENT. The SUBDIVIDER shall pay the entire cost and expense of said improvements.

OPTIONS:

- (1) Should SUBDIVIDER elect to record the plat prior to beginning construction, SUBDIVIDER shall execute Bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$475,000**) which is acceptable to the COUNTY COMMISSIONERS to insure faithful performance of this AGREEMENT and the completion of all improvements in accordance with the Subdivision Regulations of Delaware County, Ohio.
- (2) Should SUBDIVIDER elect to proceed with construction prior to recording the plat, no approved financial warranties are necessary until such time as SUBDIVIDER elects to record the plat. At that time, the SUBDIVIDER shall execute Bond, certified check, irrevocable letter of credit, or other

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approved financial warranties equal to the cost of construction remaining to be completed as determined by the SANITARY ENGINEER.

The SUBDIVIDER hereby elects to use Option 1 for this project.

The SUBDIVIDER shall indemnify and save harmless the County, Townships and/or Villages and all of their officials, employees and agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any action, or omissions of the SUBDIVIDER, and any of its contractors or sub-contractors, or from any material, method or explosive used in said work or by or on account of any accident caused by negligence or any other act or omission of SUBDIVIDER, and any of its contractors or the contractors' agents or employees.

All public improvement construction shall be performed within one (1) year from the date of the approval of this AGREEMENT by the COUNTY COMMISSIONERS, but extension of time may be granted if approved by the COUNTY COMMISSIONERS.

The SUBDIVIDER shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the COUNTY. The representative shall be replaced by the SUBDIVIDER, when in the opinion of the COUNTY, the representative's performance is deemed inadequate.

The SUBDIVIDER further agrees that any violations of or noncompliance with any of the provisions and stipulations of this AGREEMENT shall constitute a breach of contract, and the COUNTY shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this Subdivision.

Should the SUBDIVIDER become unable to carry out the provisions of this AGREEMENT, the SUBDIVIDER'S heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this AGREEMENT.

**SANITARY SEWER CONSTRUCTION**

It is further agreed that upon execution of this AGREEMENT, the SUBDIVIDER shall pay the DELAWARE COUNTY SANITARY ENGINEER three and one-half percent (3½%) of the estimated construction cost of the IMPROVEMENTS for plan review (\$16,625.00). The SUBDIVIDER shall also deposit with the DELAWARE COUNTY SANITARY ENGINEER the sum of \$38,050.00 estimated to be necessary to pay the cost of inspection by the DELAWARE COUNTY SANITARY ENGINEER. The DELAWARE COUNTY SANITARY ENGINEER shall in his or her sole discretion inspect, as necessary, the IMPROVEMENTS being installed or constructed by the SUBDIVIDER and shall keep accurate records of the time spent by his or her employees and agents in such inspections for which the SANITARY ENGINEER shall be reimbursed from charges against said deposit. At such time as said fund has been depleted to a level of \$600.00 or less, as a result of charges against the same at the rate of:

INSPECTOR \$75.00 per hour  
CAMERA TRUCK \$150.00 per hour

for time spent by said SANITARY ENGINEER or his or her staff, the SUBDIVIDER shall make an additional deposit of \$600.00 to said fund. On completion of all IMPROVEMENTS provided herein and acceptance of same by the COUNTY, any unused portions of the inspection fund shall be repaid to the SUBDIVIDER less an amount equal to \$0.75 per foot of sewer which will be deducted to cover re-inspection.

The SUBDIVIDER, for a period of five (5) years after acceptance of the IMPROVEMENTS by the COUNTY, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the IMPROVEMENTS shall be the same as new equipment warranties and shall be assigned to the COUNTY upon acceptance of the IMPROVEMENTS.

The SUBDIVIDER shall provide to the COUNTY all necessary easements or rights-of-way required to complete the IMPROVEMENTS, all of which shall be obtained at the expense of the SUBDIVIDER. All public sanitary sewers and private laterals to offsite properties shall have a recorded permanent, exclusive sanitary easement on file at the Delaware County Recorder's Office, the language of which shall be approved by the DELAWARE COUNTY SANITARY ENGINEER. The dimensions of all easements shall be as shown on the approved engineering drawings.

The COUNTY shall, upon certification in writing from the DELAWARE COUNTY SANITARY ENGINEER that all construction is complete according to the plans and specifications, by Resolution accept the IMPROVEMENTS described herein and accept and assume operations and maintenance of the same.

After said acceptance, the capacity charge shall be paid by the applicant upon request to the DELAWARE COUNTY SANITARY ENGINEER for a tap permit to connect to the sanitary sewer.

**ALL CONSTRUCTION UNDER COUNTY JURISDICTION:**

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The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to DELAWARE COUNTY as required:

- (1) "as built" drawings of the IMPROVEMENTS which plans shall become the property of the COUNTY and shall remain in the office of the DELAWARE COUNTY SANITARY ENGINEER and DELAWARE COUNTY ENGINEER. The drawings shall be on reproducible MYLAR (full size), two paper copies (one full size & one 11"x17"), and a Compact Diskette with the plans in DWG format & PDF format.
- (2) An excel spreadsheet, from a template as provided by the DELAWARE COUNTY SANITARY ENGINEER, shall accompany the plan submittal showing the locations of the manholes in Ohio State Plane North Coordinates NAD 1983 (NAVD 1988 datum) and other miscellaneous project data.
- (3) an itemized statement showing the cost of IMPROVEMENTS
- (4) an Affidavit or waiver of lien from all Contractors associated with the project that all material and labor costs have been paid. The SUBDIVIDER shall indemnify and hold harmless the COUNTY from expenses or claims for labor or materials incident to said construction of the IMPROVEMENTS.
- (5) documentation showing the required sanitary sewer easements

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the DELAWARE COUNTY SANITARY ENGINEER a five (5) year maintenance Bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The SUBDIVIDER shall during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the COUNTY regarding submission of shop drawings, construction schedules, operation of facilities and other matters incident hereto.

The SUBDIVIDER shall obtain all other necessary utility services incident to the construction of said IMPROVEMENTS AND FOR THEIR CONTINUED OPERATION. The SUBDIVIDER shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the SUBDIVIDER and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the COUNTY.

IN CONSIDERATION WHEREOF, the DELAWARE COUNTY BOARD OF COMMISSIONERS hereby grants the SUBDIVIDER or its agent the right and privilege to make the IMPROVEMENTS stipulated herein and as shown on the approved plans.

Vote on Motion                      Mr. O'Brien              Aye              Mr. Merrell              Aye              Mr. Stapleton              Aye

**RESOLUTION NO. 14-719**

**IN THE MATTER OF APPROVING SUBDIVIDER’S AGREEMENTS FOR TRAIL’S END SECTION 2, PHASE A:**

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to approve the following:

Whereas, the Director of Environmental Services recommends approval of the agreement;

Therefore be it resolved, that the Board of Commissioners approves the agreement for Trail’s End Section 2, Phase A:

**SUBDIVIDER'S AGREEMENT**  
**DELAWARE COUNTY SANITARY ENGINEER**

THIS AGREEMENT executed on this 23rd day of June 2014, by and between **Edwards Land Development Co., LLC**, herein after called “SUBDIVIDER”, and the BOARD OF COUNTY COMMISSIONERS of Delaware County, Ohio, as evidenced by the **Trail’s End Section 2, Phase A** Subdivision Plat filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, is governed by the following considerations and conditions, to wit:

There are **25** single family residential equivalent connections approved with this AGREEMENT. Capacity shall be reserved for one year from the date of this AGREEMENT, unless the COUNTY COMMISSIONERS grant an extension in writing. Capacity is not guaranteed until the final Subdivision Plat is recorded. If the final Subdivision Plat is not recorded prior to expiration of the reservation deadline as set forth herein, the SUBDIVIDER agrees and acknowledges that capacity shall not be guaranteed.

Said SUBDIVIDER is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for **Trail’s End Section 2, Phase A & B**, all of which are a part of this AGREEMENT. It is understood that Section 2 Phase B will be platted at a later time. The SUBDIVIDER shall pay the entire cost and expense of said improvements.

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**OPTIONS:**

- 1) Should SUBDIVIDER elect to record the plat prior to beginning construction, SUBDIVIDER shall execute Bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$199,324.50 for Trail's End Section 2 Phase A**) which is acceptable to the COUNTY COMMISSIONERS to insure faithful performance of this AGREEMENT and the completion of all improvements in accordance with the Subdivision Regulations of Delaware County, Ohio.
- 2) Should SUBDIVIDER elect to proceed with construction prior to recording the plat, no approved financial warranties are necessary until such time as SUBDIVIDER elects to record the plat. At that time, the SUBDIVIDER shall execute Bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction remaining to be completed as determined by the SANITARY ENGINEER.

The SUBDIVIDER hereby elects to use Option 1 for this project.

The SUBDIVIDER shall indemnify and save harmless the County, Townships and/or Villages and all of their officials, employees and agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any action, or omissions of the SUBDIVIDER, and any of its contractors or sub-contractors, or from any material, method or explosive used in said work or by or on account of any accident caused by negligence or any other act or omission of SUBDIVIDER, and any of its contractors or the contractors' agents or employees.

All public improvement construction shall be performed within one (1) year from the date of the approval of this AGREEMENT by the COUNTY COMMISSIONERS, but extension of time may be granted if approved by the COUNTY COMMISSIONERS.

The SUBDIVIDER shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the COUNTY. The representative shall be replaced by the SUBDIVIDER, when in the opinion of the COUNTY, the representative's performance is deemed inadequate.

The SUBDIVIDER further agrees that any violations of or noncompliance with any of the provisions and stipulations of this AGREEMENT shall constitute a breach of contract, and the COUNTY shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this Subdivision.

Should the SUBDIVIDER become unable to carry out the provisions of this AGREEMENT, the SUBDIVIDER'S heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this AGREEMENT.

**SANITARY SEWER CONSTRUCTION**

It is further agreed that upon execution of this AGREEMENT, the SUBDIVIDER shall pay the DELAWARE COUNTY SANITARY ENGINEER three and one-half percent (3½%) of the estimated construction cost of the IMPROVEMENTS for plan review of the entire reviewed and approved plan **for Trail's End Section 2, Phases A and B (\$9,674.43)**. The SUBDIVIDER shall also deposit with the DELAWARE COUNTY SANITARY ENGINEER the sum of **\$16,950.00** estimated to be necessary to pay the cost of inspection **for Trail's End Section 2, Phase A** by the DELAWARE COUNTY SANITARY ENGINEER. The DELAWARE COUNTY SANITARY ENGINEER shall in his or her sole discretion inspect, as necessary, the IMPROVEMENTS being installed or constructed by the SUBDIVIDER and shall keep accurate records of the time spent by his or her employees and agents in such inspections for which the SANITARY ENGINEER shall be reimbursed from charges against said deposit. At such time as said fund has been depleted to a level of \$600.00 or less, as a result of charges against the same at the rate of:

INSPECTOR \$75.00 per hour  
CAMERA TRUCK \$150.00 per hour

for time spent by said SANITARY ENGINEER or his or her staff, the SUBDIVIDER shall make an additional deposit of \$600.00 to said fund. On completion of all IMPROVEMENTS provided herein and acceptance of same by the COUNTY, any unused portions of the inspection fund shall be repaid to the SUBDIVIDER less an amount equal to \$0.75 per foot of sewer which will be deducted to cover re-inspection.

The SUBDIVIDER, for a period of five (5) years after acceptance of the IMPROVEMENTS by the COUNTY, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the IMPROVEMENTS shall be the same as new equipment warranties and shall be assigned to the COUNTY upon acceptance of the IMPROVEMENTS.

The SUBDIVIDER shall provide to the COUNTY all necessary easements or rights-of-way required to complete the IMPROVEMENTS, all of which shall be obtained at the expense of the SUBDIVIDER. All public sanitary sewers and private laterals to offsite properties shall have a recorded permanent, exclusive

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sanitary easement on file at the Delaware County Recorder’s Office, the language of which shall be approved by the DELAWARE COUNTY SANITARY ENGINEER. The dimensions of all easements shall be as shown on the approved engineering drawings. If any onsite easement or necessary right of way is not to be recorded as part of a subdivision plat, such easements and rights-of- way shall be recorded and provided to the DELAWARE COUNTY SANITARY ENGINEER before a preconstruction meeting will be permitted and before construction may begin on the improvements. All offsite easements must be recorded prior to signing the plans unless otherwise permitted by the SANITARY ENGINEER.

If, due to unforeseen circumstances during construction activities, the SUBDIVIDER must install the proposed sanitary sewer mains or service laterals to a different location than shown on the approved and signed construction plans, the SUBDIVIDER shall request a revision to the construction plans and the SANITARY ENGINEER shall evaluate this request. If the request for a revision is approved in writing by the SANITARY ENGINEER, SUBDIVIDER shall provide and record revised permanent, exclusive sanitary sewer easements prior to the COUNTY’S acceptance of the sewer. The language and dimensions of the revised permanent exclusive sanitary sewer easements shall be acceptable to the SANITARY ENGINEER.

The COUNTY shall, upon certification in writing from the DELAWARE COUNTY SANITARY ENGINEER that all construction is complete according to the plans and specifications, by Resolution accept the IMPROVEMENTS described herein and accept and assume operations and maintenance of the same.

After said acceptance, the capacity charge and any surcharges shall be paid by the applicant upon request to the DELAWARE COUNTY SANITARY ENGINEER for a tap permit to connect to the sanitary sewer.

ALL CONSTRUCTION UNDER COUNTY JURISDICTION:

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to DELAWARE COUNTY as required:

- 1. "as built" drawings of the IMPROVEMENTS which plans shall become the property of the COUNTY and shall remain in the office of the DELAWARE COUNTY SANITARY ENGINEER and DELAWARE COUNTY ENGINEER. The drawings shall be on reproducible MYLAR (full size), two paper copies (one full size & one 11”x17”), and a Compact Diskette with the plans in DWG format & PDF format.
- 2. An excel spreadsheet, from a template as provided by the DELAWARE COUNTY SANITARY ENGINEER, shall accompany the plan submittal showing the locations of the manholes in Ohio State Plane North Coordinates NAD 1983 (NAVD 1988 datum) and other miscellaneous project data.
- 3. an itemized statement showing the cost of IMPROVEMENTS
- 4. an Affidavit or waiver of lien from all Contractors associated with the project that all material and labor costs have been paid. The SUBDIVIDER shall indemnify and hold harmless the COUNTY from expenses or claims for labor or materials incident to said construction of the IMPROVEMENTS.
- 5. documentation showing the required sanitary sewer easements

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the DELAWARE COUNTY SANITARY ENGINEER a five (5) year maintenance Bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The SUBDIVIDER shall during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the COUNTY regarding submission of shop drawings, construction schedules, operation of facilities and other matters incident hereto.

The SUBDIVIDER shall obtain all other necessary utility services incident to the construction of said IMPROVEMENTS AND FOR THEIR CONTINUED OPERATION. The SUBDIVIDER shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the SUBDIVIDER and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the COUNTY.

IN CONSIDERATION WHEREOF, the DELAWARE COUNTY BOARD OF COMMISSIONERS hereby grants the SUBDIVIDER or its agent the right and privilege to make the IMPROVEMENTS stipulated herein and as shown on the approved plans.

Vote on Motion                      Mr. Merrell              Aye              Mr. Stapleton              Aye              Mr. O'Brien              Aye

**RESOLUTION NO. 14-720**

**IN THE MATTER OF ACCEPTANCE OF THE SANITARY SEWERS FOR THE COURTYARDS OF POWELL PHASE 1:**

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to approve the following:

Whereas, the construction of new sanitary sewers The Courtyards of Powell Phase 1 have been completed to

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meet sewer district requirements; and

Whereas, the sewer district has received the necessary items required by the subdivider’s agreement; and

Whereas, the Director of Environmental Services recommends accepting sanitary sewers for ownership, operation, and maintenance by Delaware County as follows:

The Courtyards of Powell Phase 1	822’ feet of 8- inch sewer	\$40,345.00
	4 ea. manholes	\$6,100.00

Therefore be it resolved, that the Board of Commissioners approve and accept the above sanitary sewers for ownership, operation, and maintenance by the Delaware County Sewer District.

Vote on Motion                    Mr. Stapleton     Aye     Mr. Merrell           Aye     Mr. O'Brien           Aye

RESOLUTION NO. 14-721

IN THE MATTER OF ACCEPTANCE OF THE SANITARY SEWERS FOR THE VILLAGE AT  
BALE KENYON PHASE 2:

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to approve the following:

Whereas, the construction of new sanitary sewers at Bale Kenyon Phase 2 have been completed to meet sewer district requirements; and

Whereas, the sewer district has received the necessary items required by the subdivider’s agreement; and

Whereas, the Director of Environmental Services recommends accepting sanitary sewers for ownership, operation, and maintenance by Delaware County as follows:

The Courtyards of Powell Phase 1	315 feet of 8- inch sewer	\$21,752.17
	4 ea. manholes	\$2,091.75

Therefore be it resolved, that the Board of Commissioners approve and accept the above sanitary sewers for ownership, operation, and maintenance by the Delaware County Sewer District.

Vote on Motion                    Mr. O'Brien           Aye     Mr. Merrell           Aye     Mr. Stapleton           Aye

RESOLUTION NO. 14-722

IN THE MATTER OF APPROVING THE GRADING, LANDSCAPING AND LEISURE PATH  
IMPROVEMENT PLAN FOR NORTHSTAR WILSON ROAD LEISURE PATH:

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to approve the grading, landscaping and leisure path improvement plan for Northstar Wilson Road Leisure Path.

Whereas, the improvement plan was reviewed for conflicts with existing sanitary sewer infrastructure and easements; and

Whereas, the Director of Environmental Services recommends approval of the grading, landscaping and leisure path improvement plan for Northstar Wilson Road Leisure Path.

Therefore be it resolved, that the Board of Commissioners approves the grading, landscaping and leisure path improvement plan for Northstar Wilson Road Leisure Path.

Vote on Motion                    Mr. Merrell           Aye     Mr. O'Brien           Aye     Mr. Stapleton           Aye

RESOLUTION NO. 14-723

IN THE MATTER OF APPROVING A NEW ORGANIZATION KEY AND SUPPLEMENTAL  
APPROPRIATIONS FOR THE SANITARY ENGINEER:

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to approve the following:

New Organization Key	
66711906	OECC Motor Control Center

Supplemental Appropriations	
66711906-5301	OECC Motor Control Center/Professional Services 200,000.00

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66711906-5410	OECC Motor Control Center/Building and Improvements	2,800,000.00
Vote on Motion	Mr. Stapleton    Aye    Mr. O'Brien    Aye    Mr. Merrell    Aye	

RESOLUTION NO. 14-724

RESOLUTION OF NECESSITY FOR PURCHASE OR LEASE OF AUTOMOBILES FOR THE USE OF THE COUNTY COMMISSIONERS; ANY COUNTY DEPARTMENT, BOARD, COMMISSION, OFFICE OR AGENCY; OR ANY ELECTED COUNTY OFFICIAL OR HIS OR HER EMPLOYEES:

It was moved by Mr. Stapleton, seconded by Mr. O'Brien to approve the following:

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

WHEREAS, the Board has before it a request from the Division of Environmental Services to expend county monies for the purchase of one new vehicle; and

WHEREAS, the Board participates in the State of Ohio's cooperative purchasing program; and

WHEREAS, the vehicle is available for purchase via the State of Ohio's cooperative purchasing program.

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

- Section 1. The Board hereby declares that a necessity exists to purchase one new vehicle for use by the Regional Sewer District, it being required to replace an existing jet truck needed for operation, maintenance and treatment purposes.
- Section 2. The Board hereby declares that the make and model of such vehicle is a 2014 GapVax Combination Jet / Vacuum Machine for a total price of \$541,960.00.
- Section 3. The Board hereby declares that the purchase or lease of said vehicle will be in accordance with the State of Ohio's cooperative purchasing program, pursuant to the contract and terms and conditions set forth in Contract # 800337, which is, by this reference, fully incorporated herein and of which the purchase orders approved herein shall be made a part.
- Section 4. The Board hereby approves a purchase order request for a total of \$541,960.00 to M Tech Company in Cleveland, Ohio from 66211901 – 5450.

Section 5. This Resolution shall take immediate effect upon passage.

Vote on Motion	Mr. O'Brien    Aye    Mr. Merrell    Aye    Mr. Stapleton    Aye
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RESOLUTION NO. 14-726

IN THE MATTER OF AMENDING THE SAWMILL PARKWAY DRAFT AGREEMENT OF 6-20-2014 TO INCLUDE THE NUMBER "56" IN SECTION 4.2 AND THE ADDITION OF "COLLECTIVELY" AND "THE OLENTANGY LOCAL SCHOOL DISTRICT" TO THE DEFINITION OF SCHOOL DISTRICT:

It was moved by Mr. Stapleton and seconded by Mr. Merrell to amend The Sawmill Parkway Draft Agreement Of 6-20-2014 to include the number "56" in Section 4.2 and the addition of "collectively" and "The Olentangy Local School District" to the definition of School District.

Vote on Motion	Mr. Stapleton    Aye    Mr. Merrell    Aye    Mr. O'Brien    Abstain
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RESOLUTION NO. 14-725

IN THE MATTER OF APPROVING (AS AMENDED WITH RESOLUTION NO. 14-726), AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE, THE SAWMILL PARKWAY COOPERATIVE AGREEMENT BY AND BETWEEN THE CITY OF DELAWARE, OHIO AND THE COUNTY OF DELAWARE, OHIO RELATING TO THE CONSTRUCTION OF SAWMILL PARKWAY EXTENSION:

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

WHEREAS, the County Administrator recommends approval of the Sawmill Parkway Cooperative Agreement by and between the City of Delaware, Ohio and the County of Delaware, Ohio, Relating to the Construction of Sawmill Parkway Extension; and

WHEREAS, pursuant to section 305.30 of the Revised Code, the County Administrator may contract on behalf of the Board of County Commissioners and perform such additional duties as the Board may determine by resolution;

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

Section 1. The Board hereby approves the Sawmill Parkway Cooperative Agreement by and between the City of Delaware, Ohio, and the County of Delaware, Ohio, Relating to the Construction of Sawmill Parkway Extension substantially in the form set forth herein.

Section 2. The Board hereby authorizes and directs the County Administrator to execute and approve the Agreement described in Section 1 hereof.

Section 3. The Board finds and determines that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including section 121.22 of the Revised Code.

SAWMILL PARKWAY  
COOPERATIVE AGREEMENT  
by and between  
CITY OF DELAWARE, OHIO  
and  
COUNTY OF DELAWARE, OHIO  
relating to

CONSTRUCTION OF SAWMILL PARKWAY EXTENSION

Dated as of  
\_\_\_\_\_

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This **SAWMILL PARKWAY COOPERATIVE AGREEMENT** is made and entered into as of \_\_\_\_\_ (the “*Effective Date*”) by and between the **CITY OF DELAWARE, OHIO** (the “*City*”), a municipal corporation duly

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organized and validly existing under the Constitution and the laws of the State of Ohio (the “*State*”) and its Charter and the COUNTY OF DELAWARE, OHIO (the “*County*” and together with the City, the “*Parties*”), a county and political subdivision duly organized and validly existing under the Constitution and the laws of the State, under the circumstances summarized in the following recitals (the capitalized terms not defined in the recitals are being used therein as defined in Article I hereof).

**RECITALS:**

**WHEREAS**, Sawmill Parkway is an arterial roadway located in the southwest part of the County which has its current northern terminus at Hyatts Road (County Road 123); and

**WHEREAS**, the Parties have determined that the construction of an extension to Sawmill Parkway commencing at the current northern terminus of Sawmill Parkway at Hyatts Road and proceeding in a northerly/northwesterly direction and terminating approximately 1600 feet north/northwest of U.S. Route 42 (a depiction of which is attached hereto as **EXHIBIT A** and referred to herein as the “*Project*”), would enhance and facilitate traffic flow in the northern portion of the County and further, that the construction of the Project will stimulate the development of real property proximately located thereto and result in the creation of jobs and employment opportunities and generally enhance the prosperity, health, safety, and welfare of the residents of the City and the County; and

**WHEREAS**, the Parties have agreed that the County will initially provide for the payment of the costs of the Project either from currently available funds and/or the issuance of County securities; and

**WHEREAS**, the Parties have also agreed that the City shall be responsible for paying a portion of the costs of the Project and that those payments shall be made from service payments in lieu of taxes (“*PILOTs*”) which the City shall be entitled to receive pursuant to the creation of one or more tax increment financing areas within the City and in proximity to the site of the Project; and

**WHEREAS**, to facilitate the timely completion of the Project, the City, acting pursuant to Ordinance No. \_\_\_\_\_ passed by its City Council on \_\_\_\_\_, 2014, has authorized the execution of this Agreement; and

**WHEREAS**, to facilitate the timely completion of the Project, the County, acting pursuant to Resolution No. \_\_\_\_\_ adopted by its Board of County Commissioners on \_\_\_\_\_, 2014, has authorized the execution of this Agreement;

**NOW, THEREFORE**, in consideration of the premises and the mutual representations and agreements in this Agreement, the Parties agree as follows:

(END OF RECITALS)

**ARTICLE I**

**DEFINITIONS**

**Section 1.1    Use of Defined Terms.** In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, the words and terms set forth in Section 1.2 shall have the meanings set forth in Section 1.2 unless the context or use clearly indicates another meaning or intent.

**Section 1.2    Definitions.** As used herein:

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“*Agreement*” means this Sawmill Parkway Cooperative Agreement dated as of \_\_\_\_\_, 2014.

“*Approved Contract Documents*” shall have the meaning set forth in Section 5.10.

“*City*” means the City of Delaware, Ohio.

“*City Council*” means the City Council of the City.

“*City’s Share of Interest on Project Costs*” shall have the meaning set forth in Section 4.3(a)(ii).

“*City’s Share of Project Costs*” shall have the meaning set forth in Section 4.3(a)(i).

“*City’s Total Balance Due*” shall have the meaning set forth in Section 4.3(a)(iv).

“*City’s Total Share of Project Costs*” shall have the meaning set forth in Section 4.3(a)(iii).

“*Construction Contract*” means the agreements between the County and its various contractors for the construction of the Project.

“*Construction Period*” means the period commencing with the award of the initial Construction Contract with a contractor for the performance of the work for the Project and ending upon the Project Completion Date.

“*Contract Documents*” means, collectively, the documents that constitute the substance of the requirements for the work to be performed by a contractor for the Project, including, without limitation, Plans, Specifications, general and supplementary conditions, addenda, modifications, a Construction Contract, bid form, and surety bond, including change orders that are issued after the award of a Contract.

“*Cost*” or “*Costs*” means all “costs of permanent improvements” as such items are set forth in Section 133.15(B) of the Ohio Revised Code and incurred with respect to the acquisition, construction and installation of the Project, all as delineated in the Project Budget.

“*Cost Budget*” shall have the meaning set forth in Section 6.4.

“*County*” means the County of Delaware, Ohio.

“*County Securities*” means, collectively, any securities of the County (including notes or bonds) to be issued for the purpose of paying any portion of the Costs of the Project.

“*Environmental Laws*” means the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, or any other federal, state or local statute, law, act, ordinance, code, rule, regulation, order, or decree relating to any Hazardous Materials.

“*Hazardous Materials*” means and includes any hazardous substance, toxic or dangerous waste, substance or material or any pollutant or contaminant defined or referenced in any Environmental Laws.

“*Improvement*” has the same meaning as set forth in Section 5709.40(A)(4) of the Ohio Revised Code.

“*Joint Vocational School District*” means the Delaware Area Career Center.

“*Material Delay*” means a delay that is more than thirty (30) days from the Project Completion Date.

“*Notice Address*” means:

as to the City:	City of Delaware, Ohio One South Sandusky Street Delaware, Ohio 43015 Attention: City Manager
as to the County	County of Delaware, Ohio 101 North Sandusky Street

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**Delaware, Ohio 43015  
Attention: County Administrator**

***“Parties”*** means, collectively, the City and the County.

***“PILOTS”*** means service payments in lieu of taxes which are to be paid by owners of real property in accordance with the TIF Legislation.

***“Plans”*** means the graphic and pictorial portions of the Contract Documents showing the design, type of construction, location, dimensions, and character of the Project to be provided by a contractor, generally including plans, elevations, sections, details, schedules, diagrams, notes and portions of specifications.

***“Project”*** means acquiring, constructing and otherwise improving an extension to Sawmill Parkway commencing at the current northern terminus of Sawmill Parkway at Hyatts Road and proceeding in a northerly/northwesterly direction and terminating approximately 1,600 feet north/northwest of U.S. Route 42, a depiction of which is included on **EXHIBIT A** hereto and incorporated herein by reference. The Project will include three intersections within the City’s corporate boundaries as well as a fully functional, 4-leg intersection at U.S. Route 42, all together with any necessary and related storm sewer improvements, signage and signalization, shared use bicycle and pedestrian paths, landscaping, and the acquisition of interests in real estate therefor, together with all other incidental work and related appurtenances thereto. Right-of-way acquired for the Project shall be of sufficient area to accommodate future utility installations (i.e. fiber, sewer and water) to support economic development surrounding the Project.

***“Project Completion Date”*** shall have the meaning set forth in Section 6.3.

***“Public Improvements”*** means any public infrastructure improvement as such term is defined in Section 5709.40(A)(7) of the Ohio Revised Code.

***“School District”*** means collectively the Delaware City School District and the Olentangy Local School District.

***“Specifications”*** means those portions of the Contract Documents consisting of the detailed written administrative, procedural, and technical requirements and standards for construction of the Project, whether physically on the Plans or bound in separate volumes, including identification of acceptable materials, methods, equipment, construction systems, quality, and workmanship.

***“State”*** means the State of Ohio.

***“TIF Area”*** means, collectively, (a) those certain parcels of real property located in the City (which are depicted and referred to as the “Sawmill Parkway TIF Area” on **EXHIBIT C** which is attached hereto and incorporated herein by reference) and which will be identified in the initial TIF Legislation, the Improvements to which will be exempted from real property taxation pursuant to the TIF Legislation and (b) any parcels of real property which are currently located outside the City (such real property being the approximate \_\_\_\_ acres which area is bounded to the north by the current southern corporate boundary of the City, to the east by the railroad tracks, to the south by Bunty Station Road and to the west by U.S. Route 42 and depicted and referred to as the “Possible Sawmill Parkway TIF Area” on **EXHIBIT C**) and which if hereafter annexed into the City, will thereafter

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be identified in the TIF Legislation (either by amendment of existing TIF Legislation or passage of new TIF Legislation), and in either case, the Improvements to which will be exempted from real property taxation pursuant to the TIF Legislation. The Parties acknowledge that the southern boundary of the TIF Area has been determined based upon the City's current expectations as to what real property might be annexed into the City in the foreseeable future.

**"TIF Exemption"** shall have the meaning set forth in Section 4.4(a).

**"TIF Fund"** means the fund to be created by the TIF Legislation and into which all TIF Revenues to be received by the City (after any withholding by the County as described herein) will be deposited.

**"TIF Legislation"** means, collectively, (a) initially an ordinance to be passed by the City which will identify the real property depicted and referred to as the "Sawmill Parkway TIF Area" on **EXHIBIT C** as the initial TIF Area, *provided* that such TIF Legislation may be amended from time to time to add additional real property to the TIF Area and (b) any additional ordinance(s) passed by the City which will identify additional real property to be included in the TIF Area, including but not limited to real property which is currently not located within the corporate boundaries of the City but may hereafter be annexed into the City.

**"TIF Revenues"** means the PILOTs paid in respect of the TIF Area pursuant to the TIF Legislation and which will be required by the TIF Legislation to be used in the manner set forth in Section 4.4(c).

**Section 1.3 Interpretation.** Any reference in this Agreement to the Parties or to any officers of the Parties includes those entities or officials succeeding to their functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State, or to a section, provision or chapter of the Ohio Revised Code shall include such section, provision or chapter as modified, revised, supplemented or superseded from time to time; *provided* that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph if it constitutes in any way an impairment of the rights or obligations of the Parties under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "*hereof*", "*hereby*", "*herein*", "*hereto*", "*hereunder*" and similar terms refer to this Agreement; and the term "*hereafter*" means after, and the term "*heretofore*" means before, the date of this Agreement. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise. References to articles, sections, subsections, clauses, exhibits or appendices in this Agreement, unless otherwise indicated, are references to articles, sections, subsections, clauses, exhibits or appendices of this Agreement.

**Section 1.4 Captions and Headings.** The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope of the intent of any article, section, subsection, clause, exhibit or appendix of this Agreement.

(END OF ARTICLE I)

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**ARTICLE II**  
**GENERAL AGREEMENT AND TERM**

**Section 2.1    General Agreement Among Parties.** For the reasons set forth in the Recitals hereto, which Recitals are incorporated herein by reference as a statement of the public purposes of this Agreement and the intended cooperative arrangements among the Parties, the Parties have determined to cooperate with each other in the financing, acquisition, construction, improvement, development and operation of the Project, all in accordance with this Agreement. This Agreement is intended as and shall be an agreement among the Parties to cooperate in the financing, acquisition, construction, development and operation of the Project, and the agreements contained herein are intended to and shall be construed as agreements to further effectuate cooperative action and safeguard the respective interests of the Parties hereto.

**Section 2.2    Exercise of Coordinated Efforts.** The Parties acknowledge and agree that it will be necessary to work in a coordinated manner to complete the Project in a timely and cohesive manner which will be economically advantageous to the City and the County and their residents.

**Section 2.3    Term of Agreement.** This Agreement shall become effective as of the Effective Date and will continue until the Project is completed and the City has reimbursed the County for the City's Total Share of Project Costs, unless earlier terminated in accordance with the provisions set forth in Section 2.4.

**Section 2.4    Early Termination of Agreement.** Unless otherwise extended by the written agreement of the Parties, this Agreement shall be terminable by either Party should any of the following events fail to occur:

(a)    **Passage of TIF Legislation.** By the date which is six (6) months following the Effective Date, the City, after having acted in good faith, shall pass the initial TIF Legislation which shall include in the initial TIF Area those parcels depicted and referred to as the "Sawmill Parkway TIF Area" on **EXHIBIT C**.

(b)    **Execution of School Compensation Agreement.** By the date which is six (6) months following the Effective Date, the City, after having acted in good faith, shall enter into a compensation agreement with the School District which authorizes the City to pass TIF Legislation upon such terms, including the provision of compensation to the School District and the Joint Vocational School District, which the Parties reasonably believe will produce sufficient TIF Revenues over the term of the Tax Exemptions provided for in the TIF Legislation to pay to the County an amount equal to the City's Total Share of Project Costs.

(c)    **Issuance of County Securities.** By the date which is nine (9) months following the Effective Date, the County, after having acted in good faith, shall issue and deliver County Securities in an aggregate principal amount, which together with other funds available to and theretofore appropriated by the County, will be sufficient in amount to pay the Costs of the Project.

The failure of any of the events detailed in this Section 2.4 to occur shall not be an Event of Default under this Agreement.

**(END OF ARTICLE II)**

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ARTICLE III

**REPRESENTATIONS AND COVENANTS OF THE PARTIES**

**Section 3.1** **Representations and Covenants of the City.** The City represents and covenants that:

(a) It is a municipal corporation duly organized and validly existing under the Constitution and applicable laws of the State and its Charter.

(b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the City which would impair its ability to carry out its obligations contained in this Agreement.

(c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the knowledge of the City, that execution, delivery and performance do not and will not violate or conflict with any provision of law applicable to the City, including its Charter, and do not and will not conflict with or result in a default under any agreement or instrument to which the City is a party or by which it is bound.

(d) This Agreement to which it is a Party has, by proper action, been duly authorized, executed and delivered by the City and all steps necessary to be taken by the City have been taken to constitute this Agreement, and the covenants and agreements of the City contemplated herein are valid and binding obligations of the City, enforceable in accordance with their terms.

(e) There is no litigation pending or to its knowledge threatened against or by the City wherein an unfavorable ruling or decision would materially adversely affect the City's ability, to carry out its obligations under this Agreement.

(f) It will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor public body.

(g) The City ordinance approving this Agreement, has been duly passed, is in full force and effect and is not subject to repeal by referendum.

**Section 3.2** **Representations and Covenants of the County.** The County represents and covenants that:

(a) It is a county duly organized and validly existing under the Constitution and applicable laws of the State.

(b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the County which would impair its ability to carry out its obligations contained in this Agreement.

(c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the knowledge of the County, that execution, delivery and performance do not and will not violate or conflict with any provision of law applicable to the

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County, and do not and will not conflict with or result in a default under any agreement or instrument to which the County is a party or by which it is bound.

(d) This Agreement to which it is a Party has, by proper action, been duly authorized, executed and delivered by the County and all steps necessary to be taken by the County have been taken to constitute this Agreement, and the covenants and agreements of the County contemplated herein are valid and binding obligations of the County, enforceable in accordance with their terms.

(e) There is no litigation pending or to its knowledge threatened against or by the County wherein an unfavorable ruling or decision would materially adversely affect the County's ability, to carry out its obligations under this Agreement.

(f) It will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor public body.

(g) The County resolution approving this Agreement, has been duly adopted, is in full force and effect and is not subject to repeal by referendum.

**(END OF ARTICLE III)**

**ARTICLE IV**

**FINANCING OF THE PROJECT**

**Section 4.1    General.** The Parties agree that the Cost of the Project, including any right-of-way acquisition, is projected to be approximately \$56.1 million. The Parties agree that the County shall take all reasonable steps to secure the funding to pay the Costs of the Project and that some or all of that amount may be funded through the issuance of County Securities. The Parties further agree to work in a cooperative manner to implement a City tax increment financing on certain real property located within the City to provide a source of repayment for the City's Total Share of Project Costs.

**Section 4.2    County Securities.** Once the conditions set forth in Sections 2.4(a) and 2.4(b) of this Agreement have been satisfied, the County agrees that it will act in good faith to issue the County Securities and provide other available monies within one hundred twenty (120) days following the satisfaction of those conditions to provide sufficient funding to pay the Cost of the Project. The Parties agree that the aggregate principal amount of the County Securities will not exceed \$56 million and that the component issuances comprising the County Securities may be issued in one or more series. The County agrees that it will provide written notification to the City upon the closing of each component issuance comprising the County Securities. The Parties agree that the County Securities may be refinanced or restructured from time to time, *provided* that the County would realize a net present value savings in debt service as a result of that refinancing or restructuring.

**Section 4.3    City's Total Share of Project Costs.**



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(a) Computation of City's Total Share of Project Costs. The City's Total Share of Project Costs shall be computed in accordance with this Section 4.3(a).

(i) City's Share of Project Costs. The City's Share of Project Costs shall equal the sum of (A) 37.5% of the Costs of the portion of the Project extending from the City's current, southern border to and including the proposed intersection improvements at U.S. Route 42 (such portion of the project is depicted on **EXHIBIT B** and referred to thereon as Phases F-1 and E-2) and (B) 100% of the Costs of the portion of the Project extending from the intersection with U.S. Route 42 to a point approximately 1,600 feet north/northwest of U.S. Route 42, including providing proper access to the two businesses that are currently located north of U.S. Route 42 (such portion of the project is depicted on **EXHIBIT B** and referred to thereon as Phase F-2). The Parties agree that the Costs of the various portions of the Project (as described in this subsection) shall be determined by the County Engineer and included in the Final Completion Certificate pursuant to Section 6.3.

(ii) City's Share of Interest on Project Costs. The Interest on the City's Share of Project Costs shall equal the product of (A) the interest (expressed in dollars) due and payable on the County Securities over the repayment term of the County Securities multiplied by (B) the quotient of (1) the City's Share of Project Costs divided by (2) the total Costs of the Project. The Parties agree that the interest due and payable on each component issuance of the County Securities (as described in this subsection) shall be determined by the County Auditor at such time as that component issuance is issued as long-term debt (i.e. with a final maturity longer than one year) and certified in writing to the City within thirty (30) days following the sale and delivery of those County Securities. The Parties further agree that the interest computation for each component issuance shall include interest due and payable for any short-term debt which was issued in anticipation of the long-term debt with a credit for any proceeds from the sale of those County Securities which are deposited into the County's Bond Retirement Fund for the purpose of paying interest on those County Securities. The Parties also agree that the Interest on the City's Share of Project Costs shall be reduced appropriately to reflect either (A) a reduction in interest costs realized by the County in respect of a refinancing or restructuring of the County Securities or (B) a prepayment by the County of any portion of the County Securities.

(iii) City's Total Share of Project Costs. The City's Total Share of Project Costs shall equal the sum of (A) the City's Share of Project Costs plus (B) the City's Share of Interest on Project Costs.

(iv) City's Total Balance Due. As of the date of the Final Completion Certificate, the City's Total Balance Due shall equal the City's Total Share of Project Costs as certified on the Final Completion Certificate. Thereafter, the City's Total Balance Due shall be (A) increased for any additions to or reduced for any reductions of the City's Share of Interest on Project Costs in accordance Section 4.3(a)(ii) and (B) reduced for any payments remitted by the City to the County in respect of that Balance.

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(v) Reduction of City's Total Balance Due. The Parties agree that payments remitted by the City to the County in respect of the City's Total Balance Due shall operate to reduce that Balance as follows:

(A) Any payment remitted from the Effective Date to and including November 30, 2016 shall operate to reduce that Balance by a factor of 1.05. *For example*, a payment of one dollar would reduce the City's Total Balance Due by one dollar and five cents.

(B) Any payment remitted from December 1, 2016 to and including November 30, 2018 shall operate to reduce that Balance by a factor of 1.04.

(C) Any payment remitted from December 1, 2018 to and including November 30, 2020 shall operate to reduce that Balance by a factor of 1.03.

(D) Any payment remitted from December 1, 2020 to and including November 30, 2022 shall operate to reduce that Balance by a factor of 1.02.

(E) Any payment remitted from December 1, 2022 to and including November 30, 2024 shall operate to reduce that Balance by a factor of 1.01.

(F) Any payment remitted on or after December 1, 2024 shall operate to reduce that Balance by a factor of 1.00.

(b) Payment of City's Total Balance Due.

(i) Payment from PILOTs. The Parties intend that the City will create one or more TIF Areas, for which the County agrees to be supportive, and the PILOTs received by the City in respect of those TIF Areas will be applied in the manner set forth in Section 4.4(c). The Parties intend that the City will have remitted payments to the County (or have monies withheld by the County) to reduce the City's Total Balance Due to zero dollars (\$0) prior to the expiration of the Tax Exemptions applicable to the TIF Areas, which is expected to be approximately thirty (30) years following the creation of the TIF Areas.

(ii) Payment from Other Lawfully Available Monies. If the City's Total Balance Due has not been reduced to zero dollars (\$0) prior to the expiration of the Tax Exemptions applicable to the TIF Areas, the City agrees that it will commit to reimburse such remaining Balance from any lawfully available monies on an annual "subject to appropriation" basis until such remaining Balance is fully paid.

**Section 4.4 Tax Increment Financing.**

(a) General. The City has determined that it is necessary and appropriate and in the best interests of the City to (i) create one or more TIF Areas, all of which shall directly benefit from the Project, (ii) declare that the Improvement to each parcel is a public purpose and that 100% of that Improvement be declared exempt from taxation (a "TIF Exemption") for a period commencing with the first tax year that begins after the effective date of the TIF Legislation and in which an Improvement due to the construction of a new structure on the parcel first appears on the tax list and duplicate of real and public utility property and ending on the earlier of (A) thirty (30) years after such Tax Exemption commenced or (B) the date on which the City can no longer require PILOTs, all in

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accordance with the requirements of the TIF Statutes, (iii) provide for property owners to make PILOTs with respect to the parcels and (iv) make the payments described in Section 4.4(c).

(b) Creation of TIF Areas. The City agrees that promptly following the Effective Date, the City will begin to take all necessary actions required to pass the initial TIF Legislation, as permitted by all applicable laws and judicial decisions.

(c) Application of TIF Revenues. Pursuant to the TIF Legislation, the City agrees that it will create the TIF Areas within its boundaries from which TIF Revenues shall be collected in the manner pursuant to the TIF Legislation, and shall be used as follows:

(i) *First:* No later than October 15 of each year, the County Auditor will notify the City as to the amount of TIF Revenues which have been collected by the County.

(ii) *Second:* No later than November 15 of each year, the City will notify the County Auditor as to the portion of TIF Revenues which will be required to be remitted to the School District and the Joint Vocational School District, all as provided for in the TIF Legislation and any applicable compensation agreement with the School District.

(iii) *Third:* No later than December 15 of each year, the County will remit to the City the amount required by paragraph *Second*.

(iv) *Fourth:* After the remission of the amounts required by paragraph *Third*, the County shall apply any remaining available TIF Revenues towards the reduction of the then current City's Total Balance Due. The outstanding City's Total Balance Due shall be reduced by the amount of any TIF Revenues applied by the County pursuant to this subsection.

(v) *Fifth:* If after the payments or application of monies required by paragraphs *Third* and *Fourth* there remains any available TIF Revenues, the County shall remit those TIF Revenues to the City at the same time as the distribution of real property taxes for the then current calendar year and such TIF Revenues may then be used by the City to pay the Cost of any other Public Improvements or for any other lawful purpose.

(d) Pledge of TIF Revenues. To the extent permitted by law and subject to the priority of payments as set forth in Section 4.4(c), and to secure the payment of the City's Total Balance Due, the City hereby pledges and assigns to the County all of its respective right, title and interest to the TIF Revenues and grants the County a security interest therein. Such assignment shall terminate upon the City's satisfactory payment to the County of an aggregate amount equal to the City's Total Balance Due.

(e) Inclusion of Annexed Property in TIF Areas. The Parties acknowledge that certain real property (such real property being the approximate \_\_\_\_ acres which area is bounded to the north by the current southern corporate boundary of the City, to the east by the railroad tracks, to the south by Bunty Station Road and to the west by U.S. Route 42) located proximately to the Project will benefit from the Project even though that real property is not currently located within the City's corporate boundaries. In the event that such real property is

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annexed into the City, the City agrees to act in good faith to present TIF Legislation to the City Council for consideration and passage which TIF Legislation would include that real property within the TIF Area.

**Section 4.5     Annexation and Development of Additional Area.** The Parties acknowledge that certain additional real property located proximately to the Project (such real property being generally located west of U.S. Route 42) may be annexed into the City and subsequently developed. The Parties further acknowledge that additional public improvements (including the westerly extension of Sawmill Parkway from its proposed western termini) will be required to facilitate that development and that the City will likely need to create one or more separate tax increment financing areas in that proposed area to pay the costs of those public improvements. Finally, the Parties acknowledge that a company proposing to develop a site proximately located to the Project will consider a variety of factors prior to selecting a site, and while the City and the County will work diligently to attract development to the area surrounding the Project, the City and the County each agree that it will not propose one development site over another solely for the reason of reducing the amount of PILOTs which may be generated by a particular development.

**(END OF ARTICLE IV)**

**ARTICLE V**

**CONSTRUCTION OF THE PROJECT**

**Section 5.1     Cooperative Agreement Among Parties.** The Parties agree that the County will be responsible for the partial financing, acquisition, construction, improvement, development and operation of the Project, all in accordance with this Agreement.

**Section 5.2     County's Scope of Authority.**

(a) Subject to the terms of this Agreement, the County agrees to take all action reasonably necessary or desirable to cause the acquisition, construction, installation, equipping and improvement - in a good and workmanlike manner - of the Project, pursuant to and in accordance with the Plans and Specification including, as limited herein:

(i) All design and supervisory functions relating to the acquisition, construction, installation, equipping, and improvement of the Project and performance of all engineering work related thereto,

(ii) Negotiation and performance of the obligations under all contracts and arrangements for acquisition, construction, installation, equipping, and improvement of the Project on such terms and conditions as are customary and reasonable in light of local, state and national standards and practices,

(iii) Negotiation and performance of the obligations under all contracts and arrangements to procure all materials and equipment necessary for the acquisition, construction, installation, equipping, and improvement of the Project,

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(iv) Obtaining all necessary permits, licenses, consents, approvals, entitlements, and other authorizations required under applicable laws (including without limitation Environmental Laws), from each respective governmental authority, or authority having jurisdiction, in connection with the acquisition, construction, installation, equipping and improvement of the Project in accordance with the Plans and Specification, and all of the foregoing required for the use and operation of the Project,

(v) Maintaining all books and records with respect to the acquisition, construction, installation, equipping, and improvement of the Project and its operation and management, and

(vi) Performance of all other acts necessary and reasonably inferable in connection with the acquisition, construction installation, equipping, and improvement of the Project in accordance with the Plans and Specifications.

(b) Subject to the terms and conditions of this Agreement, during the Construction Period, the County shall have sole management and control over, and responsibility for, the Project site and acquisition, construction, installation, equipping, and improvement of the Project; the testing, means, methods, sequences, and procedures with respect thereto; and the security of the Project.

(c) The County expressly acknowledges and agrees that the County shall require that all wages paid to laborers and mechanics employed in connection with the installation of the Project shall be paid at not less than the prevailing rates of wages for laborers and mechanics for each class of work called for by the Project. The Prevailing Wages shall be determined and implemented in accordance with the requirements of Chapter 4115 of the Ohio Revised Code; or, by the Federal Davis Bacon Act and related acts-whichever is applicable based on upon the financing for the project.

In furtherance thereof, the County shall be responsible for (i) obtaining from the proper agency its determination of the prevailing rates of wages to be paid for all classes of work called for by the Project, (ii) obtaining the designation of a Prevailing Wage Coordinator (or the equivalent thereof under Federal Davis Bacon Act or related acts) for the Project and (iii) ensuring that all contractors and subcontractors receive notification of changes in prevailing wage rates as required.

At such time as the City may request, the County shall be required to provide the City with evidence as required under said Chapter 4115, or the Davis Bacon Act, that there has been compliance with the foregoing requirements. The County agrees that it shall require that representatives of the City be permitted to have access to each contractor's personnel and all documents pertaining to the Project and that such representatives shall have access to the Project, in each case to the extent as may be necessary to monitor and review compliance with this subsection, but that the City shall not be liable for any failure to comply with this subsection. The County shall cooperate fully with representatives of the City in carrying out such tasks.

(d) The County shall obtain and pay for any and all permits and bonds required to be obtained before commencement of the Project and for all other permits, governmental fees, sales taxes and use taxes, if any, licenses and inspections necessary for the proper execution and completion of the Project in the form and at the time required. The cost of any and all permits and bonds shall be included in the Costs of the Project. A Notice of

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Commencement in proper form as provided in the Ohio Revised Code shall be prepared by the County before the commencement of the Project.

**Section 5.3     Delegation of Duties.** The County may execute any of its duties under this Agreement by or through owner's representatives, design professionals, construction managers (at risk and/or advisor) contractors, employees or attorneys-in-fact; *provided, however*, that, no such delegation shall limit or reduce in any way the County's duties and obligations under this Agreement. It is understood that if the County utilizes the construction manager at risk delivery method, any reference to contractor shall mean the construction manager at risk.

**Section 5.4     City Authorized Representative.** The City shall designate a representative to attend to the Project on behalf of the City and who will attend Project meetings, including but not limited to design, procurement, pre-construction, coordination, progress and such other meetings as designated by the County. The City, at its sole discretion, will identify such representative and reserves the right to modify that selection or send a replacement representative at its discretion.

**Section 5.5     Approved Contract Documents.** The Contract Documents and Cost Budget are currently being developed. The Contract Documents will be developed and completed by the County prior to the commencement of construction. Once the Contract Documents are completed, the County will submit those to the City and the City shall within ten days approve, reject, or conditionally approve the Contract Documents. The City and the County will use their best efforts to collaborate and resolve any issues with the Contract Documents so that a final approval of both parties shall occur not less than 30 days after the original submission to the City (the "*Approved Contract Documents*"). If the City takes no action upon the Contract Documents within 45 days from the original submission to the City, then such failure to act shall be deemed as the City's approval of the Contract Documents. Upon the City's approval of the Approved Contract Documents, no further material changes shall be made except in accordance with Section 5.10 hereof. As the As-Built plans are developed and completed during construction, the County will make those available to the City for review upon the request of the City.

**Section 5.6     Performance and Payment for Costs of the Project.**

(a) The County shall undertake and be obligated to complete the acquisition, construction, installation, equipping, and improvement of the Project as appropriate, in accordance with the provisions of this Agreement and the Approved Contract Documents and, subject to the provisions here, shall, using funds initially provided by the County, pay all amounts required to acquire, construct, install, equip, and improve the Project in accordance with the Approved Contract Documents and the Cost Budget.

(b) In addition to the requirements of the Approved Contract Documents, the City and the County agree that:

(i) The County will construct the Project in accordance with the alignment generally depicted on **EXHIBIT A**.

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(ii) The County will include as part of the Project the construction of the Jegs Boulevard intersection pavement to the right-of-way on both sides of the Project.

(iii) Future changes to the intersection of Jegs Boulevard and the Project and signalization and extension of Jegs Boulevard on either side of the Project will be the responsibility of the City.

(iv) Additional intersections with the Project (within the City) will be permitted by the County as shown on **EXHIBIT A**. All costs associated with the construction of future intersections, not specifically included or constructed as part of the Project, will be the responsibility of the City.

(c) It is understood that the County will utilize one or more of the construction project delivery methods that are available to the County under State law such as design-build, construction manager at risk, general contracting and/or multiple prime contractors, and it is understood that factors beyond the control of the County may prevent the award of contracts within the anticipated timeline to allow for completion of the Project and such occurrence shall be addressed as set forth in Section 5.10 of this Agreement.

(d) Additionally, if the bids or negotiated contract sums for the Project shall cause the Project Costs to exceed the budgeted amount for the Project, then the County and the City shall, at their option (i) approve in writing their decision to proceed with the Project *provided* that proceeding with the Project will not violate the applicable provisions of Ohio Revised Code Section 153.12, (ii) authorize re-bidding or re-negotiation for some or all parts of the Project within a reasonable time, (iii) abandon the Project in whole or in part and terminate this Agreement, or (iv) revise the scope of the Project to reduce the actual Cost of construction. In the event that the Parties do not exercise options (i), (ii) or (iv) within a reasonable timeline, not to exceed ninety (90) days following the opening of Bids, or are unable through options (i), (ii) or (iv) to solve the issue within a reasonable time, then the Parties shall be deemed to have exercised option (iii).

**Section 5.7 Project Commencement and Completion.** The Parties agree that the Project may be constructed in one or more phases, as such phases are identified on **EXHIBITS A and B**. The Parties further agree that subject to the satisfaction of the contingencies set forth in Section 2.4, the estimated schedule for construction of the Project shall be as identified in **EXHIBIT D**. The County shall commence construction of Phase F of the Project as soon as is reasonably practicable.

**Section 5.8 Cost Overruns.** A Cost Budget has been established for the Project. If an event occurs of whatever nature including but not limited to a claim from a contractor or design or management professional where the County discovers that such an event may cause the Cost of construction to exceed the Cost Budget for the Project, the following rules shall apply:

(a) Make a good faith effort to stop work or otherwise arrest the activity that will lead to increased Cost, unless otherwise approved in writing by the Parties; or, if in the County's reasonable opinion doing so would be commercially unreasonable and would adversely impact the Project including the schedule for completing the Project.

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(b) As soon as possible following the discovery of the issue or receipt of the contractor claim, notify the City of the same;

(c) As soon as practicable, advise the City as to the estimated Cost increase and recommendations for ameliorating or eliminating the potential Cost increase;

(d) Within fourteen (14) days following the County's recommendations, the City and the County shall meet for the purpose of agreeing upon a course of action to be taken to resolve the increased Cost. If no meeting is held or if no agreement can be reached within said fourteen (14) day period, then the County will proceed as provided herein.

(e) The County, within its reasonable discretion, may elect to resolve contractor claims or to otherwise resolve those events as explained and required by Section 5.10 of this Agreement.

**Section 5.9 Reports.** No later than the 20<sup>th</sup> day of each month after the issuance of the first Notice to Commence Construction for the Project and prior to the Project Completion Date, the County shall provide a written report to the City setting forth in reasonable detail:

(a) All expenditures made or incurred on account of Costs for the acquisition, construction and improvement of the Project during the previous month;

(b) The total Costs of the acquisition, construction and improvement of the Project as of the last day of the previous month; and

(c) A construction status report, to include a written description of all material changes to the Project agreed to by the City and the County.

Additionally, the County shall provide to the City such additional reports and information as the City may reasonably request from time to time relating to the transactions contemplated hereby. The County shall also provide a report to the City addressing the aggregate total of all Costs and costs of the acquisition, construction and improvement of the Project incurred through the Project Completion Date within one hundred eighty (180) days after the Project Completion Date.

**Section 5.10 Recovery Against Contractors, Design Professionals, Construction Managers and Others Before the Project Completion Date.** Prior to the Project Completion Date, the County shall negotiate, accept and prosecute any claim for damages, compensation, or other recoveries due from any contractors, subcontractors, design professionals, construction managers, or others based on any theories of recovery. Any recovery shall reduce the total Cost of the Project.

**Section 5.11 Limits on Change in Approved Contract Documents or Cost Budget.**

(a) This subsection (a) covers changes to Plans and Specification including but not limited to Change Orders, Change Directives, Field Work Orders or any other form of Contract Modification, including any form of settlement. No subsequent amendment to, or change in, any one or more of the Approved Contract Documents or to the work required under those documents shall be made by the County without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed; *provided, however,*



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that no such prior written consent is required for any change or amendment that: (i) together with all changes for the entire project, whenever submitted, does not increase the cost by more than ten percent (10%), (ii) will not materially reduce the value of the Project or (iii) will not materially alter the character or use of the Project.

(b) The County may change the schedule for the completion of the Project upon notification to the City; *provided, however*, no such change may be made without the City's prior written consent, which consent will not be unreasonably withheld.

**Section 5.12 Warranties/Guarantees.** The County shall require its contractors to construct the Project in accordance with the current edition of the Ohio Department of Transportation Construction and Material Specifications ("CMS"), specifically including, but not limited to, the Warranty and Guarantee provisions of the CMS.

(END OF ARTICLE V)

## ARTICLE VI

### CONSTRUCTION OBLIGATIONS AND COVENANTS

**Section 6.1 Covenants of the County.** During the Construction Period (and, where indicated, thereafter), the County shall:

(a) cause the acquisition, construction, installation, equipping, and improvement of the Project within the boundaries of the Project site and cause such acquisition, construction, installation, equipping, and improvement to be prosecuted in a good and workmanlike manner, and in accordance with (i) the Approved Contract Documents, (ii) the schedule for acquisition, construction, installation, equipping, and improvement of the Project, (iii) prevalent industry practices, and (iv) all applicable laws,

(b) use its reasonable efforts to cause acquisition, construction, installation, equipping, and improvement of the Project on or prior to the Project Completion Date,

(c) use its reasonable efforts to cause all material outstanding punch list items with respect to the acquisition, construction, installation, equipping, and improvement of the Project to be completed on or prior to the Project Completion Date,

(d) (i) file all necessary documents under the applicable real property law and the Uniform Commercial Code in order to perfect and maintain the perfection of such title and all other interests in the Project in favor of the County, (ii) pay, or cause to be paid, all assessments, charges, and taxes, if any, payable in connection with the acquisition, construction, installation, equipping, and improvement of the Project to be paid as and when due, whether claim shall be made for payment thereof during or after the Construction Period, subject to the right of the County to contest, in good faith, any such assessment charge or tax so long as, by nonpayment of any such items, the Project shall not be subject to imminent loss or forfeiture, (iii) properly respond to claims against project funds made under Ohio Revised Code Sections 1311.25 through 1311.37, (iv) on a monthly basis, deliver to the City a progress report as required by Section 5.9 hereof regarding the acquisition, construction,

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installation, equipping, and improvement of the Project and adequacy of funding for the Project in relationship to the then current Cost Budget;

(e) cause title to the Project to be and remain, during the Construction Period and on the Project Completion Date, free from and clear of all liens, claims, and encumbrances, except for (i) those created by or arising under the Contract Documents, (ii) claims for materials supplied or labor or services performed in connection with the acquisition, construction, installation, equipping, and improvement of the Project that are properly filed under Ohio Revised Code Sections 1311.25 through 1311.37, and (iii) any other liens or exceptions that are approved in writing by the City or that the City causes to be created;

(f) make available for inspection at the County's office, during normal business hours, by a duly authorized representative of the City any of the County's books and records insofar as they relate solely to the Project at such times as reasonably requested by the City when requested to do so;

(g) allow the City and its respective agents, at all times during normal business hours, the right of entry and free access to the Project to review all work done, labor performed, and materials furnished in and about the Project, it being the Parties' mutual acknowledgement and agreement, however, that the contractor for the Project is subject solely to the County's inspection, supervision and direction;

(h) during the Construction Period, obtain, or cause each contractor to obtain and maintain appropriate insurance coverage including a Builder's Risk policy. All insurance policies shall name the County as a named insured and the City as an additional insured. Prior to the Project commencement, the County shall deliver to the City copies of all such insurance policies, together with endorsements and original certificates therefor. Copies of all renewal policies (including endorsements) and original certificates therefor shall be deposited with the City as evidence of such insurance. All policies shall contain provisions for thirty days' written notice to the City prior to expiration or cancellation. Each insurer under any policies shall be required to waive any defenses the insurer may have to payment as a consequence of acts or omissions of any party;

(i) in the event of any damage to or destruction of the Project, or any part thereof, during the Construction Period that is not the fault of the County, to the extent that insurance proceeds are not sufficient to cover the full cost of any repair, rebuilding or restoration due to deductible and co-insurance amounts under insurance policies maintained by the County, the County shall provide funding to pay the cost of repair, rebuilding or restoration, which payments shall be added to the Cost of the Project;

(j) notify the City in writing within three days of the occurrence of any default or Event of Default hereunder as to which the County has knowledge;

(k) not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, veteran status, or ancestry in violation of applicable laws, and ensure that applicants for employment are considered for employment and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, disability, age, veteran status, or ancestry as required by Applicable Law, and incorporate the requirements of this paragraph in all of the respective contracts

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for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials), and require all contractors for any part of the work involved in the provision of the Project to incorporate such requirements in all subcontracts for such work;

(l) obtain on a timely basis all utility connections and permits when needed as required by the Plans and Specifications; and

(m) before the execution of contracts with the Project contractors, obtain, and maintain such bonds in the form required by Chapter 153 of the Ohio Revised Code and/or Ohio Administrative Code 153:1-4.

**Section 6.2 Construction Force Majeure Event.** The County shall give the City prompt written notice of the occurrence of any Construction Force Majeure Event with respect to the Project that has caused, or is reasonably likely to cause, a Material Delay. Upon the occurrence of a Construction Force Majeure Event, the County shall use its good faith efforts to complete the acquisition, construction, installation, equipping, and improvement of the Project, or cause the acquisition, construction, installation, equipping, and improvement of the Project to be completed, by the Project Completion Date and within the Cost Budget.

Following an occurrence that constitutes a Construction Force Majeure Event, the County shall prepare, as promptly as practicable, a written estimate of any resulting or reasonably expected Material Delay, and shall deliver such estimate to the City. If a Construction Force Majeure Event should cause a Material Delay, the Project Completion Date shall be extended for such additional period of time as may be reasonably necessary to cure such Construction Force Majeure Event and to permit expeditious completion of the acquisition, construction, installation, equipping, and improvement of the Project, but any extension that is more than either thirty days or ten percent from the Project Completion Date, whichever is greater, shall require the prior written consent of the City, which consent will not be unreasonably withheld. If the extent of any Material Delay will not prevent completion of acquisition, construction, installation, equipping, and improvement of the Project on or prior to the Project Completion Date (as extended) the County shall proceed to cause the acquisition, construction, installation, equipping, and improvement of the Project to be completed and the completion conditions to be satisfied as expeditiously as possible in a commercially reasonable manner under the circumstances pursuant to this Agreement.

**Section 6.3 Project Completion; Final Disbursement.** The Project shall be deemed completed when the County and the City shall have jointly prepared and signed the “*Final Completion Certificate*” which certificate shall state:

- (a) the total Costs of acquiring right-of-way for, constructing and otherwise improving the Project,
- (b) the City’s Total Share of Project Costs in accordance with Section 4.3(a)(i), and
- (c) the following:
  - (i) the date of final completion of the right-of-way acquisition, construction, installation, equipping, and improvement of such Project, including all punch-list items (the “*Project Completion Date*”); and

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(ii) that the right-of-way acquisition, construction, installation, equipping, and improvement of such Project has been completed in accordance with the Plans and Specifications, and that all costs then due and payable in connection therewith have been paid, and all obligations, costs, and expenses in connection with such Project have been paid or discharged.

The Final Completion Certificate shall also specify (a) which costs and expenses, if any, are not yet due, or are being contested, and (b) what amounts should be retained for any other reasons. Notwithstanding the foregoing, the Final Completion Certificate shall state that it is given without prejudice to any rights against third parties that then exist or that may come into being subsequently. The County and the City shall also jointly prepare and sign a Final Cost Certification within one hundred eighty (180) days after the Project Completion Date.

**Section 6.4 Certain Representations of the County.** The County, to the best of its knowledge and belief, represents to the City as follows:

(a) No Defaults. No Default or Event of Default by the County has occurred and is continuing under this Agreement or any other agreement or document contemplated thereunder to which it is a party.

(b) Insurance. All insurance required by this Agreement to be obtained by the County is in effect or will be in effect and all premiums now due and payable in respect of such insurance have been paid or will be paid prior to commencement of construction of the Project.

(c) Contract Documents and Other Agreements. True and complete copies of the Plans and Specifications, the Construction Contracts, and all other agreements relating to the Project shall be delivered to the City when complete, and there shall be no alterations, modifications, amendments or changes of any nature whatsoever to any one or more of the foregoing except as expressly permitted hereunder. True and complete copies of all such alterations, modifications, and amendments shall be furnished to the City.

(d) Cost Budget. The “*Cost Budget*” as of the date hereof sets forth and presents a full and complete representation by the County of all costs, expenses, and fees which the County expects to pay to complete the Project on or before the Project Completion Date, including but not limited to all payments to design professionals, other consultants, construction managers, contractors, and any other hard and soft costs.

**Section 6.5 Construction Event of Loss or Casualty.** The County shall give the City written notice of the occurrence of any casualty during the Construction Period promptly following the occurrence thereof. As promptly as practicable, the County shall prepare an estimate of the cost of restoring, rebuilding, and repairing the related damage and shall deliver such estimate to the City.

If a casualty shall occur with respect to the Project during the Construction Period, the net proceeds of the resulting insurance award shall be paid over to the County and disbursed by the County to pay the Costs of acquiring, constructing and otherwise improving the Project and the County will exercise good faith efforts to cause the acquisition, construction, installation, equipping, and improvement of the Project to be completed prior to the Project Completion Date.

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**Section 6.6    Hazardous Materials.**

(a) If, in the course of the construction of the Project the County discovers Hazardous Materials or underground storage tanks that are not included in the Project pursuant to the Plans and Specifications, and which are not maintained in accordance with all applicable Environmental Laws, the County shall notify the City promptly and if commercially reasonable under the circumstances, shall stop and cause all contractors and subcontractors to stop the Project. All Hazardous Materials that may be discovered shall be maintained, removed, transported, and disposed of by qualified contractors in accordance with all applicable state and federal Environmental Laws.

(b) The County shall not knowingly permit a violation of any Environmental Laws to exist with respect to the Project site. The County shall not use or knowingly permit to be used all or any portion of the Project site for the storage, treatment, use, or disposal of any substance for which a license or permit is required by state, federal, or local Environmental Laws and for which no such license or permit has been obtained. Without limitation express or implied, the County shall take all such actions as may be required to avoid or discharge the imposition of any lien on the Project site under any Environmental Law.

**Section 6.7    Ownership and Maintenance.** The Parties agree that the Project will be owned and maintained as follows:

(a) As used in this Section, operation and maintenance responsibilities include, but are not limited to, snow and ice removal, mowing, permit approval, pavement maintenance, and any improvement, reconstruction, or repair activity as set forth in Section 5555.02 of the Ohio Revised Code.

(b) The City shall own, operate and maintain the U.S. Route 42 intersection within the U.S. Route 42 right-of-way and the portion of the Project and frontage roads constructed north of U.S. Route 42.

(c) The County will own, operate and maintain the Project south of the U.S. Route 42 southern right-of-way line until such time that at least fifty percent (50%) of the currently existing parcels with frontage along Sawmill Parkway between U.S. Route 42 and Jegs Boulevard have developed to any use other than uses permitted in the City of Delaware A-1 General Agricultural District as it is written upon execution, at which time the City will assume the ownership, operation and maintenance responsibilities for the remaining portions of the Project located within the City. Ownership, operation and maintenance of any portion of the Project that is subsequently annexed into the City subsequent to the Effective Date, shall be assumed by the City immediately upon the effective date of that annexation.

(d) The County will be responsible for all operation and maintenance of any portions of the Project located outside the City's corporate boundaries.

(e) If either Party determines that ownership of the Project is not consistent with this Section, both Parties agree to work cooperatively to transfer ownership in accordance with this Section.

(f) The City and the County mutually acknowledge and agree that the County acquired right-of-way with limitation of access for the portion of the Project from Hyatts Road to approximately 1400 feet north of Bunt

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Station Road, which required increased acquisition costs to secure the necessary rights to construct a through highway that will meet planned transportation needs. The City and the County further mutually acknowledge and agree and that they desire to preserve, in perpetuity, the limitation of access to the Project as acquired and designed by the County in order to continue to meet planned transportation needs. Therefore, notwithstanding any provision of this Agreement to the contrary, and without regard to ownership or annexation, the City shall not permit, undertake, or otherwise allow any curb cut or similar improvement to portions of the road annexed into the City after the effective date of this agreement that would alter the limited access nature of the Project without the prior express written consent of the Delaware County Board of County Commissioners

**(END OF ARTICLE VI)**

**ARTICLE VII**

**EVENTS OF DEFAULT**

**Section 7.1    Events of Default.** Any of the following shall be an event of default under this Agreement:

(a)     Either the City or the County fails to apply any funds in a manner consistent with the requirements of this Agreement to the payment of the Costs of acquiring, constructing and otherwise improving the Project;

(b)     The County fails to commence or complete the acquisition, construction, installation, equipping, and improvement of the Project on or before each of the estimated commencement dates and estimated completion dates; or

(c)     Either the City or the County shall breach in any material respect any of its agreements, representations or warranties under this Agreement or any other Operative Document to which it is a party or shall fail to observe or perform any material term, covenant, or condition of this Agreement or any other Operative Document to which it is a party (other than as described in subsections (a) or (b) of this Section 7.1); then, in any such event, the non-defaulting party may exercise its rights and remedies provided for in this Agreement; provided such failure or breach shall not constitute an Event of Default so long as the defaulting party notifies the other within 29 days from receiving notice of the default of its intention to cure such failure or breach within an additional 30 days; *provided, however*, that if such failure is other than payment of money and is of such a nature that it cannot be corrected within such 30 day period, such failure or default shall not constitute an event of default if the defaulting party institutes curative action within such 30 day period, diligently pursues such action to completion and cures such failure within a reasonable period, not to exceed one year, after such 30-day period.

**Section 7.2    Dispute Resolution and Remedies.**

(a)     Endeavor to Resolve. If a dispute arises out of or relates to this Agreement, or its alleged breach, the Parties to this Agreement agree to first endeavor to settle the dispute in an amicable manner before having recourse to a judicial forum.

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(b) Non-Binding Mediation. In addition, the City and the County may, by written agreement, submit any disputes to non-binding mediation upon such terms as shall be mutually agreeable. This Article shall not prevent either Party from bringing a third party claim in pending litigation for indemnity and/or contribution.

(c) Remedies. The non-defaulting Party shall have the right to pursue any and all remedies now or hereafter existing at law or in equity (including an action in mandamus) to enforce the performance and observance of the defaulting Party's respective obligations under this Agreement

**Section 7.3** No Waiver. No right or remedy herein conferred upon or reserved to any Party is intended to be exclusive of any other right or remedy, and each and every right or remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of any event of default hereunder. The failure of any Party to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof. Every right and remedy given by this Agreement to the Parties hereto may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

(END OF ARTICLE VII)

**ARTICLE VIII**

**MISCELLANEOUS**

**Section 8.1** Assignment. This Agreement may not be assigned without the prior written consent of all non-assigning Parties.

**Section 8.2** Binding Effect. The provisions of this Agreement shall be binding upon the successors or assigns of the Parties.

**Section 8.3** Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

**Section 8.4** Day for Performance. Wherever herein there is a day or time period established for performance and such day or the expiration of such time period is a Saturday, Sunday or legal holiday, then such time for performance shall be automatically extended to the next business day.

**Section 8.5** Entire Agreement. This Agreement constitutes the entire Agreement between the Parties on the subject matter hereof and supersedes all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter. This Agreement may not be amended, waived or discharged except in an instrument in writing executed by the Parties.

**Section 8.6** Executed Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute but one and the same instrument. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

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**Section 8.7    Extent of Covenants; No Personal Liability.** All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the City or the County other than in his or her official capacity, and neither the members of the legislative bodies of the City or the County nor any official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the City and the County contained in this Agreement

**Section 8.8    Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its principles of conflicts of laws. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the County, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Delaware County, Ohio.

**Section 8.9    Limit on Liability.** Notwithstanding any clause or provision of this Agreement to the contrary, in no event shall City or the County be liable to each other for punitive, special, consequential, or indirect damages of any type and regardless of whether such damages are claimed under contract, tort (including negligence and strict liability) or any other theory of law.

**Section 8.10   Notices.** Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other Party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused.

**Section 8.11   Recitals.** The Parties acknowledge and agree that the facts and circumstances as described in the Recitals hereto are an integral part of this Agreement and as such are incorporated herein by reference.

**Section 8.12   Severability.** If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.



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**Section 8.13 Survival of Representations and Warranties.** All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement.

**Section 8.14 Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(END OF ARTICLE VIII)

**EXHIBIT A**  
**Depiction of Project**  
See attached.

**EXHIBIT B**  
**Depiction of Portion of Project**  
**Relating to City’s Share of Project Costs**  
See attached.

**EXHIBIT C**  
**Depiction of TIF Area**  
See attached.

**EXHIBIT D**  
**of the Project**  
See attached.

(Copies of exhibits available in the commissioners’ office until no longer of administrative value)

Vote on Motion                      Mr. Merrell              Aye              Mr. Stapleton              Aye              Mr. O'Brien              Nay

**RESOLUTION NO. 14-727**

**IN THE MATTER OF AUTHORIZING THE SANITARY ENGINEER TO SIGN THE SANITARY SEWER IMPROVEMENT PLAN FOR THE RAVINES AT WESTAR:**

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

WHEREAS, the Board expressed its support for modifying the existing Agreement for Sanitary Sewer Service (the “Agreement”) between the City of Westerville and Delaware County through Resolution 14-40 in January 2014; and

WHEREAS, the City of Westerville has approved a sanitary sewer improvement plan for The Ravines at Westar; and

WHEREAS, the Sewer District staff has reviewed the construction plan for compliance with the Agreement and have found that it does meet the parameters of the existing Agreement, including the existing capacity requirements for the Zumstein Tract; and

WHEREAS, the Director of Environmental Services recommends approving the construction plan and continuing to work with the City of Westerville to finalize the Agreement modifications.

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

Section 1. The Board hereby authorizes the Sanitary Engineer to approve the construction plan titled “Sanitary Sewer Improvements for The Ravines at Westar”.

Section 2. This resolution shall take effect and be in force immediately after its passage.

Vote on Motion                      Mr. Stapleton              Aye              Mr. Merrell              Aye              Mr. O'Brien              Nay

**ADMINISTRATOR REPORTS**

- Tim Hansley**  
-Will be attending a meeting with the City of Westerville at 1:00 to explain the process of joining the COIRS (Central Ohio Interoperable Radio System)  
-Will be attending a City of Delaware council meeting tonight at 7:15 to discuss the demolition of the Elk’s Building

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COMMISSIONERS’ COMMITTEES REPORTS

Commissioner Stapleton

-No reports

Commissioner O’Brien

-The city of Westerville would be well served by COIRS

Commissioner Merrell

-No reports

RESOLUTION NO. 14-728

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT, EMPLOYMENT, DISMISSAL, DISCIPLINE, PROMOTION, COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL AND TO CONSIDER THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSE AND FOR PENDING OR IMMINENT LITIGATION:

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to adjourn into Executive Session at 10:58AM.

Vote on Motion                      Mr. Stapleton      Aye      Mr. Merrell              Aye      Mr. O’Brien              Aye

RESOLUTION NO. 14-729

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to adjourn out of Executive Session at 12:21PM.

Vote on Motion                      Mr. O’Brien              Aye      Mr. Merrell              Aye      Mr. Stapleton              Aye

RECESS /1:30PM RECONVENE

RESOLUTION NO. 14-730

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

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to adjourn into Executive Session at 1:32PM.

Vote on Motion                      Mr. Merrell              Aye      Mr. O’Brien              Aye      Mr. Stapleton              Aye

RESOLUTION NO. 14-731

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to adjourn out of Executive Session at 4:28PM.

Vote on Motion                      Mr. Stapleton      Aye      Mr. O’Brien              Aye      Mr. Merrell              Aye

There being no further business, the meeting adjourned.

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

\_\_\_\_\_  
Ken O’Brien

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Dennis Stapleton

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Jennifer Walraven, Clerk to the Commissioners