

COMMISSIONERS JOURNAL NO. 61 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD AUGUST 4, 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. 14-852

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JULY 31, 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 July 31, 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

ELECTED OFFICIAL COMMENT

RESOLUTION NO. 14-853

IN THE MATTER OF DESIGNATING AUGUST 2014 AS CHILD SUPPORT AWARENESS MONTH IN DELAWARE COUNTY:

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

WHEREAS, ensuring children grow up safe and healthy, and children and families stay out of poverty; and

WHEREAS, ensuring that children receive the financial support they deserve involves working partnerships between county, state and federal agencies, parents, legislators, judges, healthcare professionals, advocacy groups, employers and many others; and

WHEREAS, through the leadership of Delaware County Child Support Enforcement Agency, many children's lives are brighter because of the following accomplishments in the past year:

- Collected \$24,582,695.17 for 2013.
- In May of 2014, DCCSEA broke our highest collection in one month record with \$2,387,412.49.
- The Agency received awards from the State of Ohio for Best Overall Performance in the:
  - \*Best Performance Collections on Current Support in the Medium Caseload Division
  - \*Best Performance Collections on Cases with Arrears in the Medium Caseload Division
  - \*Best Overall Performance in the Medium Caseload Division
  - \*Total Disbursement per Total FTE (cost effectiveness) in the Medium Caseload Division.  
The Agency collected \$17.49 for every dollar we spent.
  - \*Best Performance Paternity Establishment in the Medium Caseload Division.
  - \*Most Improved Collections on Cases with Arrears in the Medium Caseload Division.

WHEREAS, the theme of this year's Child Support Awareness Month is "Support Is Key". We applaud parents who are committed to supporting their children; therefore, during Child Support Awareness Month, we acknowledge and celebrate parents who provide positive emotional and financial foundations for

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their children.

NOW, THEREFORE, WE, The Delaware County Board of Commissioners of Delaware County, Ohio, do hereby designate, in conjunction with the State of Ohio,

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

RESOLUTION NO. 14-854

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0801:

It was moved by Mr. Stapleton, seconded by Mr. O'Brien to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0801 and Purchase Orders as listed below:

PR Number	Vendor Name	Line Description	Line Account	Amount
- WORKER'S COMPENSATION				
R1404719	SEDGWICK CLAIMS MANAGEMENT	WORKERS COMP CONTRACT	61311923-5301	\$23,583.00
Vote on Motion	Mr. O'Brien	Aye	Mr. Merrell	Aye
			Mr. Stapleton	Aye

RESOLUTION NO. 14-855

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

Environmental Services is requesting that Ross Bigelow and Joe Holbrook attend a Central Ohio Code Officials Association National Electrical Code Seminar in Reynoldsburg, Ohio on August 13, 2014 at no cost.

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

RESOLUTION NO. 14-856

IN THE MATTER OF APPROVING A LETTER OF ARRANGEMENT BETWEEN DELAWARE COUNTY, OHIO AND THE AUDITOR OF STATE REGARDING THE DELAWARE COUNTY TRANSIT BOARD-DELAWARE AREA TRANSIT AGENCY- COMPLIANCE WITH THE NATIONAL TRANSIT DATABASE UNIFORM SYSTEM OF ACCOUNTS (USOA) REQUIREMENTS:

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

Letter Of Arrangement

July 15, 2014  
Board of Commissioners Delaware County  
140 N Sandusky St  
Delaware, Ohio 43015

This letter of arrangement between the Delaware County, Ohio (the County) and the Auditor of State sets forth the nature and scope of the services we will provide, the County's required involvement and assistance in support of our services, the related fee arrangements, and other terms and conditions designed to ensure that our professional services achieve the County's objectives.

Summary of Services

We propose to perform the procedures described in the attachment. We will perform these procedures for the year ended December 31, 2013. We will follow the American Institute of Certified Public Accountants' Attestation Standards for agreed-upon procedures engagements and applicable attestation engagement standards included in the Comptroller General of the United States' Government Auditing Standards.

The Attestation Standards require you to consent that our planned procedures are sufficient for your needs. These Standards also specify that we are not responsible for determining the sufficiency of the procedures. The attached letter describes procedures we will use which are designed to help evaluate the sufficiency of your accounting system to comply with National Transit Database Uniform System of Accounts (USOA) requirements.

Our responsibilities

We are responsible for completing the procedures you have agreed to, and for reporting any exceptions. We have no responsibility to perform procedures beyond those to which you have agreed. However, if other

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matters come to our attention indicating potential, significant errors regarding our report's subject matter, we will describe this matter in our report.

You should be aware that a properly executed agreed-upon procedures engagement may not detect errors or fraud that may have occurred relating to the subject matter of our report. For example, we may limit certain procedures to selective testing of data because it may not be efficient for us to test every transaction. Our engagement will be more limited than would be an audit, the objective of which would be the expression of an opinion on whether the County's financial statements presented fairly, in all material respects, their respective financial position and changes in financial position. Accordingly, we will not express an opinion on the financial statements or on compliance.

In addition, you should be aware that these Agreed Upon Procedures may not suffice for financing purposes.

We will describe any exceptions we find as a result of our procedures exceeding \$10.

You should not rely on our engagement as your primary means of detecting fraud.

**Management Representations**

Prior to issuing our report, we will request written representations from you acknowledging, to the best of your knowledge and belief, your responsibility for:

- Recording all transactions in the County's accounting system and National Transit Database reports.
- Your responsibility for complying with the laws and regulations we have tested as part of our procedures.
- Making all records and documentation related to the accounting records and transactions and balances recorded in those records available to us.
- Other matters for which we may request written representations.

**Access to Records**

To help meet our mutual objectives, the County will provide to us in a timely manner accounting records, schedules and supporting information (an initial list of which we will furnish to you), as well as working space and clerical assistance as mutually agreed upon and as is normal and reasonable in the circumstances. When and if for any reason the County is unable to provide these schedules, information or assistance, the Auditor of State and the County will mutually revise the fee to reflect additional costs, if any, required to achieve these objectives.

**Confidential Information:**

You should redact personal information from all documents (paper or electronic) you provide to the AOS related to our services including financial records and reports, payroll records, employee rosters, health and medical records, tax records, etc. Personal information includes social security numbers, dates of birth, drivers' license numbers or personal financial institution account numbers. The County should redact all personal information from electronic records before you transmit them to the AOS. This information should be fully blacked out in all paper documents prior to sending to the AOS. If you cannot redact personal information from any records or documents you must identify these records to us.

If redacting this personal information compromises our procedures, the County and the AOS will consider these exceptions on a case-by-case basis. Additionally, if redacting this information creates a hardship on you in terms of resources, recordkeeping or other issues, the County and the AOS may collaborate on alternative methods of providing the County's data to the AOS without compromising the personal information of individuals served by the County. The AOS is willing to work with you. It is our intent to minimize the amount of personal information we require. It is important that you review internal policies to find ways to eliminate as much personal information from financial records as possible by substituting non-personal information (i.e., change social security numbers to employee identification numbers).

**Fee**

Except for any changes in fees which may result from unforeseen circumstances, we do not expect our fees and expenses for the services described above to exceed \$492.

If it is determined that additional work is required beyond this estimate, the revisions will be set forth in the form of the attached Amendment to Letter of Arrangement.

Pursuant to Ohio Rev. Code Section 117.13, you may charge all of this agreed upon procedures cost to the general fund or you may allocate the cost among the general fund and other eligible funds in accordance with Auditor of State Bulletin 2009-011.

**Restrictions on using our report**

The Attestation Standards require that our report disclose the following:

This report is intended solely for the information and use of management and those charged with governance and is not intended to be and should not be used by anyone other than these specified parties.

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The Attestation Standards require us to include this language due to concerns that other users may not fully understand the purpose of the report, the nature of the procedures we applied, the basis or assumptions used in its preparation, the extent to which the procedures performed are generally known or understood, and the potential for the report to be misunderstood when taken out of the context for which it was intended.

However, under Revised Code Section 117.26, our report becomes a public record under Section 149.43, Revised Code, when copies of the report are filed with the officers enumerated in the Revised Code. When copies of the report are filed, our working papers become available to the public upon request, subject to information protected for criminal investigations, by attorney-client privilege or by local, state or federal law. The Attestation Standards do not affect public access to our reports or working papers.

**Peer Review Report**

We have attached a copy of our most recent external quality control review report (Peer Review). The report was unqualified.

**Acceptance of terms**

Signing and returning this letter to us indicates you have read this letter and the attachment, and agree with the terms and with the nature and extent of the procedures attached to this letter. If you wish to discuss additional procedures or modification to these procedures or terms, please contact your Auditor of State's Regional Office prior to our commencement of the engagement.

**Robert R. Hinkle, CPA, CGFM Chief Deputy Auditor  
Stacie Scholl, Assistant Chief Auditor**

**National State Auditors Association**

March 30, 2012  
Mr. Dave Yost, Ohio Auditor of State  
Office of Auditor of State  
88 E. Broad Street, 5th Floor  
Columbus, Ohio 43215

We have reviewed the system of quality control of the Ohio Auditor of State (the office) in effect for the period March 1, 2011 through February 29, 2012. A system of quality control encompasses the office's organizational structure and the policies adopted and procedures established to provide it with reasonable assurance of conforming with government auditing standards. The design of the system and compliance with it are the responsibility of the office. Our responsibility is to express an opinion on the design of the system, and the office's compliance with the system based on our review.

We conducted our review in accordance with the policies and procedures for external peer reviews established by the National State Auditors Association (NSAA). In performing our review, we obtained an understanding of the office's system of quality control for engagements conducted in accordance with government auditing standards. In addition, we tested compliance with the office's quality control policies and procedures to the extent we considered appropriate. These tests covered the application of the office's policies and procedures on selected engagements. The engagements selected represented a reasonable cross-section of the office's engagements conducted in accordance with government auditing standards. We believe that the procedures we performed provide a reasonable basis for our opinion.

Our review was based on selective tests; therefore it would not necessarily disclose all weaknesses in the system of quality control or all instances of lack of compliance with it. Also, there are inherent limitations in the effectiveness of any system of quality control; therefore, noncompliance with the system of quality control may occur and not be detected. Projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or because the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the system of quality control of the Ohio Auditor of State in effect for the period March 1, 2011 through February 29, 2012 has been suitably designed and was complied with during the period to provide reasonable assurance of conforming with government auditing standards.

Mark Ruether, CPA Team Leader National State Auditors Association external Peer Review Team  
Joe Christensen, CPA Concurring Reviewer National State Auditors Association External Peer Review Team

**INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES**

Delaware County  
140 N Sandusky St Delaware,  
Ohio 43015

We have performed the procedures enumerated below, with which the County Commissioners and the

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management of Delaware County, Ohio (the County) agreed, solely to assist the County Commissioners in evaluating whether their transit department's accounting system; (1) follows the Federal Transit Administration's (FTA) Uniform System of Accounts (USOA); (2) follows accrual accounting or a directly translatable method; and (3) can report data in conformity with the National Transit Database (NTB) requirements. Management is responsible for its accounting system, reported data and for complying with FTA and NTB requirements. This agreed-upon procedures engagement was conducted in accordance with the American Institute of Certified Public Accountants' attestation standards and applicable attestation engagement standards included in the Comptroller General of the United States' Government Auditing Standards. The sufficiency of the procedures is solely the responsibility of the parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

**Uniform System of Accounts (USOA) (informational only)**

The USOA is the basic reference document for the National Transit Database. It contains the accounting structure required by Federal Transit laws. The main purpose of the USOA is to ensure that data definitions are uniform for all transit agencies. Each transit agency must maintain the accounts and records necessary to meet its own internal information requirements as well as those specified in the USOA. It is not mandatory the internal books of account for a transit agency be maintained solely as described in the USOA. Each transit agency should customize its internal system of accounts to meet its own management requirements and also ensure that it is able to translate its accounts to the prescribed uniform system of accounts.

1. Accrual Method of Accounting USOA (Chapter 1) requires the accrual basis of accounting to be used. For those transit agencies that use cash-basis or encumbrance-basis accounting, in whole or in part, the agency must make work sheet adjustments to record data on the accrual basis of accounting as described in the USOA. USOA (Chapter 2) provides additional information regarding the accounting method prescribed by FTA National Transit Database.

We inquired with management and noted Delaware County maintains accounting records on cash-basis of accounting. We obtained the National Transit Database F-10, F-20 F-30 and F-40 reports from the Delaware County's transit department for the year ended 12/31/2013. We noted the County maintained work sheet adjustments to convert their cash basis information from their accounting system to the accrual basis described in the USOA.

2. Capital Definitions USOA (Chapter 3) indicates capital costs are those expenses related to purchasing capital equipment and financing capital projects. They are large, non-annually recurring expenditures that have long-rang impact on the transit agency. For USOA, capital purchases are defined as long-term assets that are depreciated over a number of years. A capital purchase would be accounted for as a long-term asset at one point in time (i.e. at the time of physical delivery), if, except for a down payment, it is paid entirely at one time.

We reviewed the County's 12/31/2013 National Transit Database F-10, F-20, F-30 and F-40 reports for items identified as capital purchases. We noted the items identified as capital purchases met the requirements of capital purchases specified in USOA Chapter 3. We noted the County maintains a depreciation schedule for these items which is used to compile the County's annual financial report.

3. Revenue Definitions USOA (Chapter 4) provides definitions for classifying the origin and amount of revenue under the USOA. The USOA classifies revenues into various categories, including but not limited to, passenger fares for directly-operated transit service, special transit fares, state special fair assistance and federal cash grants and reimbursements.

We inquired with management and noted the County receives transit revenues in the form of passenger fares for directly operating transit service, special transit fares, and State and Federal grants. We reviewed the County's cash-basis revenue ledger and noted the County has separate account codes to record each of these revenues. We scanned the revenues included in these accounts and noted they appeared consistent with the definitions contained in the USOA.

For the 12/31/2013 National Transit Database F-b, F-20, F-30 and F-40 reports, we agreed the revenue totals to the accrual work sheet and to the County's cash-basis accounting records. We noted the amounts agreed. We agreed the accrual adjustments to the subsequent receipt ledger and noted they were reasonable adjustments to convert the County's cash basis revenues to an accrual basis.

4. Expense Object Classes USOA (Chapter 5) provides definitions for classifying expenses that are included in each object class under the USOA. An object class contains the expense for an article or service obtained. This is distinguished from expense functions, which record the costs to produce the results obtained by using the article of service. Object class expenses are grouped on the basis of types of goods or services purchased. Object classes include salaries and wages, fringe benefits, services, materials and supplies and other expenses.

We inquired with management and noted the County's transit department object expenses include Salaries and

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Wages, Benefits, Contract Services, Maintenance, and various other object classes. We reviewed the County's cash-basis expenditure ledger and noted the County has separate account codes to record each of these object expenses. We scanned the expenses included in each object expense category and noted they appeared consistent with the definitions contained in the USOA.

For the 12/31/2013 National Transit Database F-IU, F-20, F-30 and F-40 reports, we agreed the expense totals to the accrual work sheet and to the County's cash-basis accounting records. We noted the amounts agreed. We agreed the accrual adjustments to the subsequent expense ledger and noted they were reasonable adjustments to convert the County's cash basis expenses to an accrual basis.

- 5. Expense Functions USOA (Chapter 6) provides definitions for classifying expenses under the USOA into various functions. Functions under USOA include Vehicle Operations, Vehicle Maintenance, Non-Vehicle Maintenance, and General Administration.

We inquired with management and noted the County's transit department function expenses include Vehicle Operations, Vehicle Maintenance, Non-Vehicle Maintenance, and General Administration. We scanned the County's function allocations calculations and noted the County has a reasonable method for allocating transit costs to various function expenses consistent with the definitions contained in the USOA. For direct modal and shared costs, if applicable, we scanned the County's calculation and determined these items were allocated based on a reasonable method.

For the 12/31/2013 National Transit Database F-10, F-20, F-30 and F-40 reports, we agreed the functional expenditure totals to the County's allocation calculations.

We were not engaged to, and did not conduct an examination, the objective of which would be the expression of an opinion on the County's transit department's accounting system, receipts, disbursements, balances and compliance with certain laws and regulations. Accordingly, we do not express an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of management, those charged with governance, and others within the County, and is not intended to be, and should not be used by anyone other than these specified parties.

Robert R. Hinkle, CPA, CGFM Chief Deputy Auditor Columbus, Ohio

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

RESOLUTION NO. 14-857

IN THE MATTER OF APPROVING A MAINTENANCE AND SUPPORT AGREEMENT BETWEEN THE DELAWARE COUNTY COMMISSIONERS; THE DELAWARE COUNTY SHERIFF AND SAFRAN MORPHOTRAK, INC. FOR THE AUTOMATIC FINGERPRINT IDENTIFICATION SYSTEM WORKSTATIONS AND SOFTWARE:

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

Whereas, the Sheriff and Sheriff's Office Staff recommends approval of a maintenance and support agreement between The Delaware County Commissioners; The Delaware County Sheriff and Safran Morphotrak, Inc. for the Automatic Fingerprint Identification System Workstations and Software;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve a maintenance and support agreement between the Delaware County Commissioners; The Delaware County Sheriff and Safran Morphotrak, Inc. for the Automatic Fingerprint Identification System Workstations and Software:

Maintenance And Support Agreement

MorphoTrak, LLC, ("MorphoTrak" or "Seller") having a principal place of business at 113 South Columbus Street, 4<sup>th</sup> Floor, Alexandria, VA 22314, and Delaware County Sheriff's Office ("Customer"), having a place of business at 149 N. Sandusky St., Delaware, OH 43015, and Board of Delaware County Commissioner ("Customer"), having a place of business at 101 N. Sandusky St., Delaware, OH 43015, enter into this Maintenance and Support Agreement ("Agreement"), pursuant to which Customer will purchase and Seller will sell the maintenance and support services as described below and in the attached exhibits. Seller and Customer may be referred to individually as "party" and collectively as "parties."

For good and valuable consideration, the parties agree as follows.

Section 1.                      EXHIBITS

The Exhibits listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement will take precedence over the Exhibits and any inconsistency between the Exhibits will be resolved in the order in which they are listed below.

Exhibit A                      "Description of Covered Products"

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Exhibit B	"Support Plan"
Exhibit C	"Support Plan Options and Pricing Worksheet"
Exhibit D	"Billable Rates"

**Section 2. DEFINITIONS**

"Equipment" means the physical hardware purchased by Customer from Seller pursuant to a separate System Agreement, Products Agreement, or other form of agreement.

"MorphoTrak" means MorphoTrak, LLC.

"MorphoTrak Software" means Software that MorphoTrak or Seller owns. The term includes Product Releases, Standard Releases, and Supplemental Releases.

"Non-MorphoTrak Software" means Software that a party other than MorphoTrak or Seller owns.

"Optional Technical Support Services" means fee-based technical support services that are not covered as part of the standard Technical Support Services.

"Patch" means a specific change to the Software that does not require a Release.

"Principal Period of Maintenance" or "PPM" means the specified days, and times during the days, that maintenance and support services will be provided under this Agreement. The PPM selected by Customer is indicated in the Support Plan Options and Pricing Worksheet.

"Products" means the Equipment (if applicable as indicated in the Description of Covered Products) and Software provided by Seller.

"Releases" means an Update or Upgrade to the MorphoTrak Software and are characterized as "Supplemental Releases," "Standard Releases," or "Product Releases." A "Supplemental Release" is defined as a minor release of MorphoTrak Software that contains primarily error corrections to an existing Standard Release and may contain limited improvements that do not affect the overall structure of the MorphoTrak Software. Depending on Customer's specific configuration, a Supplemental Release might not be applicable. Supplemental Releases are identified by the third digit of the three-digit release number, shown here as underlined: "1.2.3". A "Standard Release" is defined as a major release of MorphoTrak Software that contains product enhancements and improvements, such as new databases, modifications to databases, or new servers. A Standard Release may involve file and database conversions, System configuration changes, hardware changes, additional training, on-site installation, and System downtime. Standard Releases are identified by the second digit of the three-digit release number, shown here as underlined: "1.2.3". A "Product Release" is defined as a major release of MorphoTrak Software considered to be the next generation of an existing product or a new product offering. Product Releases are identified by the first digit of the three-digit release number, shown here as underlined: "1.2.3". If a question arises as to whether a Product offering is a Standard Release or a Product Release, MorphoTrak's opinion will prevail, provided that MorphoTrak treats the Product offering as a new Product or feature for its end user customers generally.

"Residual Error" means a software malfunction or a programming, coding, or syntax error that causes the Software to fail to conform to the Specifications.

"Services" means those maintenance and support services described in the Support Plan and provided under this Agreement.

"Software" means the MorphoTrak Software and Non-MorphoTrak Software that is furnished with the System or Equipment.

"Specifications" means the design, form, functionality, or performance requirements described in published descriptions of the Software, and if also applicable, in any modifications to the published specifications as expressly agreed to in writing by the parties.

"Standard Business Day" means Monday through Friday, 8:00 a.m. to 5:00 p.m. local time, excluding established MorphoTrak holidays.

"Standard Business Hour" means a sixty (60) minute period of time within a Standard Business Day(s).

"Start Date" means the date upon which this Agreement begins. The Start Date is specified in the Support Plan Options and Pricing Worksheet.

"System" means the Products and services provided by Seller as a system as more fully described in the Technical and Implementation Documents attached as exhibits to a System Agreement between Customer and Seller (or MorphoTrak).

"Technical Support Services" means the remote telephonic support provided by Seller on a standard and centralized basis concerning the Products, including diagnostic services and troubleshooting to assist Customer in ascertaining the nature of a problem being experienced by the Customer, minor assistance concerning the use of the Software (including advising or assisting the Customer in attempting data/database recovery, database set up,

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client-server advice), and assistance or advice on installation of Releases provided under this Agreement.

"Update" means a Supplemental Release or a Standard Release.

"Upgrade" means a Product Release.

**Section 3. SCOPE AND TERM OF SERVICES**

3.1. In accordance with the provisions of this Agreement and in consideration of the payment by Customer of the price for the Services, Seller will provide to Customer the Services in accordance with Customer's selections as indicated in the Support Plan Options and Pricing Worksheet, and such Services will apply only to the Products described in the Description of Covered Products.

3.2. Unless the Support Plan Options and Pricing Worksheet expressly provides to the contrary, the term of this Agreement is one (1) year, beginning on the Start Date. This annual maintenance and support period will automatically renew upon agreement of the parties unless either party notifies the other of its intention to not renew the Agreement (in whole or part) not less than thirty (30) days before the anniversary date or this Agreement is terminated for default by a party.

3.3. This Agreement covers all copies of the specified Software listed in the Description of Covered Products that are licensed by Seller to Customer. If the price for Services is based upon a per unit fee, such price will be calculated on the total number of units of the Software that are licensed to Customer as of the beginning of the annual maintenance and support period. If, during an annual maintenance and support period, Customer acquires additional units of the Software that is covered by this Agreement, the price for maintenance and support services for those additional units will be calculated and added to the total price either (1) if and when the annual maintenance and support period is renewed or (2) immediately when Customer acquires the additional units, as MorphoTrak determines. Seller may adjust the price of the maintenance and support services effective as of a renewal if it provides to Customer notice of the price adjustment at least forty-five (45) days before the expiration of the annual maintenance and support period. If Customer notifies Seller of its intention not to renew this Agreement as permitted by Section 3.2 and later wishes to reinstate this Agreement, it may do so with Seller's consent provided (a) Customer pays to Seller the amount that it would have paid if Customer had kept this Agreement current, (b) Customer ensures that all applicable Equipment is in good operating conditions at the time of reinstatement, and (c) all copies of the specified Software listed in the Description of Covered Products are covered.

3.4. When Seller performs Services at the location of installed Products, Customer agrees to provide to Seller, at no charge, a non-hazardous environment for work with shelter, heat, light, and power, and with full and free access to the covered Products. Customer will provide all information pertaining to the hardware and software with which the Products are interfacing to enable Seller to perform its obligations under this Agreement.

3.5. All Customer requests for covered Services will be made initially with the call intake center identified in the Support Plan Options and Pricing Worksheet.

3.6. Seller will provide to Customer Technical Support Services and Releases as follows:

3.6.1. Seller will provide unlimited Technical Support Services and correction of Residual Errors during the PPM in accordance with the exhibits. The level of Technical Support depends upon the Customer's selection as indicated in the Support Plan Options and Pricing Worksheet. Any Technical Support Services that are performed by Seller outside the contracted PPM and any Residual Error corrections that are outside the scope shall be billed at the then current hourly rates. Technical Support Services will be to investigate specifics about the functioning of covered Products to determine whether there is a defect in the Product and will not be used in lieu of training on the covered Products.

3.6.2. Unless otherwise stated in paragraph 3.6.3 or if the Support Plan Options and Pricing Worksheet expressly provides to the contrary, Seller will provide to Customer without additional license fees an available Supplemental or Standard Release after receipt of a request from Customer, but Customer must pay for any installation or other services and any necessary Equipment or third party software provided by Seller in connection with such Supplemental or Standard Release. Any services will be performed in accordance with a mutually agreed schedule.

3.6.3 Seller will provide to Customer an available Product Release after receipt of a request from Customer, but Customer must pay for all additional license fees, any installation or other services, and any necessary Equipment provided by Seller in connection with such Product Release. Any services will be performed in accordance with a mutually agreed schedule.

3.6.4. Seller does not warrant that a Release will meet Customer's particular requirement, operate in the combinations that Customer will select for use, be uninterrupted or error-free, be backward compatible, or that all errors will be corrected. Full compatibility of a Release with the capabilities and functions of earlier versions of the Software may not be technically feasible. If it is technically feasible, services to integrate these capabilities and



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functions to the updated or upgraded version of the Software may be purchased at Customer's request on a time and materials basis at Seller's then current rates for professional services.

3.6.5. Seller's responsibilities under this Agreement to provide Technical Support Services shall be limited to the current Standard Release plus the two (2) prior Standard Releases (collectively referred to in this section as "Covered Standard Releases."). Notwithstanding the preceding sentence, Seller will provide Technical Support Services for a Severity Level 1 or 2 error concerning a Standard Release that precedes the Covered Standard Releases unless such error, has been corrected by a Covered Standard Release (in which case Customer shall install the Standard Release that fixes the reported error or terminate this Agreement as to the applicable Software).

3.7. The maintenance and support Services described in this Agreement are the only covered services. Unless Optional Technical Support Services are purchased, these Services specifically exclude and Seller shall not be responsible for:

3.7.1. Any service work required due to incorrect or faulty operational conditions, including but not limited to Equipment not connected directly to an electric surge protector, or not properly maintained in accordance with the manufacturer's guidelines.

3.7.2. The repair or replacement of Products or parts resulting from failure of the Customer's facilities, Customer's personal property and/or devices connected to the System (or interconnected to devices) whether or not installed by Seller's representatives.

3.7.3. The repair or replacement of Equipment that has become defective or damaged due to physical or chemical misuse or abuse, Customer's negligence, or from causes such as lightning, power surges, or liquids.

3.7.4. Any transmission medium, such as telephone lines, computer networks, or the worldwide web, or for Equipment malfunction caused by such transmission medium.

3.7.5. Accessories, custom or Special Products; modified units; or modified Software.

3.7.6. The repair or replacement of parts resulting from the tampering by persons unauthorized by Seller or the failure of the System due to extraordinary uses

3.7.7. Operation and/or functionality of Customer's personal property, equipment, and/or peripherals and any application software not provided by Seller.

3.7.8. Services for any replacement of Products or parts directly related to the removal, relocation, or reinstallation of the System or any System component.

3.7.9. Services to diagnose technical issues caused by the installation of unauthorized components or misuse of the System.

3.7.10 Services to diagnose malfunctions or inoperability of the Software caused by changes, additions, enhancements, or modifications in the Customer's platform or in the Software.

3.7.11 Services to correct errors found to be caused by Customer-supplied data, machines, or operator failure.

3.7.12. Operational supplies, including but not limited to, printer paper, printer ribbons, toner, photographic paper, magnetic tapes and any supplies in addition to that delivered with the System; battery replacement for uninterruptible power supply (UPS); office furniture including chairs or workstations.

3.7.13. Third-party software unless specifically listed on the Description of Covered Products.

3.7.14. Support of any interface(s) beyond Seller-provided port or cable, or any services that are necessary because third party hardware, software or supplies fail to conform to the specifications concerning the Products.

3.7.15. Services related to customer's failure to back up its data or failure to use an UPS system to protect against power interruptions.

3.7.16. Any design consultation such as, but not limited to, configuration analysis, consultation with Customer's third-party provider(s), and System analysis for modifications or Upgrades or Updates which are not directly related to a Residual Error report.

3.8. The Customer hereby agrees to:

3.8.1. Maintain any and all electrical and physical environments in accordance with the System manufacturer's specifications.

3.8.2. Provide standard industry precautions (e.g. back-up files) ensuring database security, per

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Seller's recommended backup procedures.

3.8.3. Ensure System accessibility, which includes physical access to buildings as well as remote electronic access. Remote access can be stipulated and scheduled with customer; however, remote access is required and will not be substituted with on-site visits if access is not allowed or available.

3.8.4. Appoint one or more qualified employees to perform System Administration duties, including acting as a primary point of contact to Seller's Customer Support organization for reporting and verifying problems, and performing System backup. At least one member of the System Administrators group should have completed Seller's End-User training and System Administrator training (if available). The combined skills of this System Administrators group should include proficiency with: the Products, the system platform upon which the Products operate, the operating system, database administration, network capabilities such as backing up, updating, adding, and deleting System and user information, and the client, server and stand alone personal computer hardware. The System Administrator shall follow the Residual Error reporting process described herein and make all reasonable efforts to duplicate and verify problems and assign a Severity Level according to definitions provided herein. Customer agrees to use reasonable efforts to ensure that all problems are reported and verified by the System Administrator before reporting them to Seller. Customer shall assist Seller in determining that errors are not the product of the operation of an external system, data links between system, or network administration issues. If a Severity Level 1 or 2 Residual Error occurs, any Customer representative may contact Seller's Customer Support Center by telephone, but the System Administrator must follow up with Seller's Customer Support as soon as practical thereafter.

3.9. In performing repairs under this Agreement, Seller may use parts that are not newly manufactured but which are warranted to be equivalent to new in performance. Parts replaced by Seller shall become Seller's property.

3.10 Customer shall permit and cooperate with Seller so that Seller may periodically conduct audits of Customer's records and operations pertinent to the Services, Products, and usage of application and data base management software. If the results of any such audit indicate that price has been understated, Seller may correct the price and immediately invoice Customer for the difference (as well as any unpaid but owing license fees). Seller will limit the number of audits to no more than one (1) per year except Seller may conduct quarterly audits if a prior audit indicated the price had been understated.

3.11. If Customer replaces, upgrades, or modifies equipment, or replaces, upgrades, or modifies hardware or software that interfaces with the covered Products, Seller will have the right to adjust the price for the Services to the appropriate current price for the new configuration.

3.12 Customer shall agree not to attempt or apply any update(s), alteration(s), or change(s) to the database software without the prior approval of the Seller.

#### **Section 4. RIGHT TO SUBCONTRACT AND ASSIGN**

Seller may assign its rights and obligations under this Agreement and may subcontract any portion of Seller's performance called for by this Agreement.

#### **Section 5. PRICING, PAYMENT AND TERMS**

5.1 Prices in United States dollars are shown in the Support Plan Options and Pricing Worksheet. Unless this exhibit expressly provides to the contrary, the price is payable annually in advance. Seller will provide to Customer an invoice, and Customer will make payments to Seller within twenty (20) days after the date of each invoice. During the term of this Agreement, Customer will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a United States financial institution.

5.2. Overdue invoices will bear simple interest at the rate of ten percent (10%) per annum, unless such rate exceeds the maximum allowed by law, in which case it will be reduced to the maximum allowable rate.

5.3 If Customer requests, Seller may provide services outside the scope of this Agreement or after the termination or expiration of this Agreement and Customer agrees to pay for those services. These terms and conditions and the prices in effect at the time such services are rendered will apply to those services.

5.4 Price(s) are exclusive of any taxes, duties, export or customs fees, including Value Added Tax or any other similar assessments imposed upon Seller. If such charges are imposed upon Seller, Customer shall reimburse Seller upon receipt of proper documentation of such assessments.

#### **Section 6. LIMITATION OF LIABILITY**

**This limitation of liability provision shall apply notwithstanding any contrary provision in this Agreement. Except for personal injury or death, Seller's (including any of its affiliated companies) total liability arising from this Agreement will be limited to the direct damages recoverable under law, but not to exceed the price of the maintenance and support services being provided for one (1) year under this Agreement. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT SELLER (INCLUDING ANY OF ITS AFFILIATED COMPANIES) WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL,**

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INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE SYSTEM, EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY SELLER PURSUANT TO THIS AGREEMENT. This limitation of liability will survive the expiration or termination of this Agreement. No action for breach of this Agreement or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of such cause of action, except for money due upon an open account.

Section 7. DEFAULT/TERMINATION

7.1. If MorphoTrak breaches a material obligation under this Agreement (unless Customer or a Force Majeure causes such failure of performance), Customer may consider MorphoTrak to be in default. If Customer asserts a default, it will give MorphoTrak written and detailed notice of the default. MorphoTrak will have thirty (30) days thereafter either to dispute the assertion or provide a written plan to cure the default that is acceptable to Customer. If MorphoTrak provides a cure plan, it will begin implementing the cure plan immediately after receipt of Customer's approval of the plan.

7.2. If Customer breaches a material obligation under this Agreement (unless MorphoTrak or a Force Majeure causes such failure of performance); if Customer breaches a material obligation under the Software License Agreement that governs the Software covered by this Agreement; or if Customer fails to pay any amount when due under this Agreement, indicates that it is unable to pay any amount when due, indicates it is unable to pay its debts generally as they become due, files a voluntary petition under bankruptcy law, or fails to have dismissed within ninety (90) days any involuntary petition under bankruptcy law, MorphoTrak may consider Customer to be in default. If MorphoTrak asserts a default, it will give Customer written and detailed notice of the default and Customer will have thirty (30) days thereafter to (i) dispute the assertion, Op cure any monetary default (including interest), or (iii) provide a written plan to cure the default that is acceptable to MorphoTrak. If Customer provides a cure plan, it will begin implementing the cure plan immediately after receipt of MorphoTrak's approval of the plan.

7.3. If a defaulting party fails to cure the default as provided above in Sections 7.1 or 7.2, unless otherwise agreed in writing, the non-defaulting party may terminate any unfulfilled portion of this Agreement and may pursue any legal or equitable remedies available to it subject to the provisions of Section 6 above.

7.4. Upon the expiration or earlier termination of this Agreement, Customer and Seller shall immediately deliver to the other Party, as the disclosing Party, all Confidential Information of the other, including all copies thereof, which the other Party previously provided to it in furtherance of this Agreement. Confidential Information shall include: (a) proprietary materials and information regarding technical plans; (b) any and all other information, of whatever type and in whatever medium including data, developments, trade secrets and improvements, that is disclosed by Seller to Customer in connection with this Agreement; (c) all geographic information system, address, telephone, or like records and data provided by Customer to Seller in connection with this Agreement that is required by law to be held confidential.

Section 8. GENERAL TERMS AND CONDITIONS

8.1. Notices required under this Agreement to be given by one party to the other must be in writing and either delivered in person or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service), or by facsimile with correct answerback received, and shall be effective upon receipt.

Customer: <u>Delaware County Sheriff's Office</u>	Seller: <u>MorphoTrak, LLC</u>
Attn: <u>Sheriff Russell L. Martin</u>	Attn: <u>Law Department</u>
<u>149 N. Sandusky St.</u>	<u>1250 North Tustin Avenue</u>
<u>Delaware, OH 43015</u>	<u>Anaheim, CA 92807</u>
<u>Phone: (740)833-2819</u>	Phone: (714)238-2030 Fax (714)632-2158

8.2. 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, interruption of payments due under this Contract, 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 Contract is terminated as provided herein.

8.3. Failure or delay by either party to exercise any right or power under this Agreement will not operate as a waiver of such right or power. For a waiver to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

8.4. Customer may not assign any of its rights under this Agreement without MorphoTrak's prior written consent.

8.5. This Agreement, including the exhibits, constitutes the entire agreement of the parties regarding the covered maintenance and support services and supersedes all prior and concurrent agreements and understandings, whether written or oral, related to the services performed. Neither this Agreement nor the Exhibits may not be altered, amended, or modified except by a written agreement signed by authorized representatives of both parties.

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Customer agrees to reference this Agreement on all purchase orders issued in furtherance of this Agreement. Neither party will be bound by any terms contained in Customer's purchase orders, acknowledgements, or other writings (even if attached to this Agreement).

8.6. This Agreement will be governed by the laws of the United States to the extent that they apply and otherwise by the laws of the State to which the Products are shipped if Licensee is a sovereign government entity or the laws of the State of Delaware if Licensee is not a sovereign government entity. All actions shall be commenced in the appropriate forum sitting in either Delaware County, Ohio or Franklin County, Ohio.

8.7. Independent Contractor. MORPHO shall act in performance of this Agreement as an independent contractor. As an independent contractor MORPHO and/or its boards, officers, officials, employees, representatives, agents, volunteers and/or servants shall at no time be considered employees of the Delaware County Sheriff, the Board of Delaware County Commissioners, or Delaware County and are not entitled to any of the benefits of employment enjoyed by employees of the Delaware County Sheriff, the Board of Delaware County Commissioners, or Delaware County.

8.8. Indemnification. MORPHO shall provide indemnification as follows: (a) To the fullest extent of the law and without limitation, the MORPHO agrees to indemnify and hold free and harmless the Delaware County Sheriff, the Board of Delaware County Commissioners, Delaware County, Ohio 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, 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 MORPHO's, any subcontractor's, or any sub-subcontractor's performance of this Contract, including, but not limited to the performance or actions of MORPHO's, any subcontractor's, or any sub-subcontractor's officers, officials, boards, employees, agents, servants, volunteers, or representatives (collectively "Contracted Parties".) MORPHO agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that MORPHO shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, and expenses. MORPHO further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that MORPHO shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, and expenses, including, but not limited to attorney's fees. (b) MORPHO 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 acts or omissions negligent or accidental, actual or threatened, intentional or unintentional of the Contracted Parties.

8.9. Insurance. MORPHO shall carry and maintain throughout the life of the Contract such bodily injury and property damage liability insurance as will protect it and the Indemnified Parties against any and all claims for personal injury, including death, or property damage, which may arise out of or result from the performance of or operations under this Contract 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 Contract, Seller shall present to the Board of Commissioners and/or Sheriff current certificates of insurance, and shall maintain current such insurance during and throughout the entire term of this Contract and until the Services are complete. Said insurance shall, at a minimum, include the insurance specified below and the amount of coverage on said policies of insurance shall be at least that which is specified below:

- a. Commercial General Liability Insurance with coverage in an amount equal to and covering all sums which the Seller may or shall become legally obligated to pay as damages, but in an amount providing for a minimum of or at least one million dollars (\$1,000,000.00) coverage per occurrence with an annual aggregate of at least two million dollars (\$2,000,000.00), including coverage for subcontractors, if any are used, covering any and all work performed under this Contract. This insurance shall include, but not be limited to, the following coverage:
  1. Premises-Operations
  2. Product and Completed Operation
  3. Broad Form Property Damage
  4. Contractual
  5. Personal Injury
- b. Umbrella or Excess Liability Insurance (over and above Commercial General Liability) with coverage in an amount equal to and covering all sums which Seller may or shall become legally obligated to pay as damages, but in an amount providing for a minimum of at least two million dollars (\$2,000,000.00) of coverage.

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- c. Auto/Vehicle Liability Insurance covering all owned, leased non-owned, and/or hired vehicles used in providing the Services, used in connection with the Services, and/or otherwise for the Board and/or the Sheriff with coverage in an amount equal to that required by law and covering all sums which the Seller may or shall become legally obligated to pay as damages, but in an amount providing for minimum coverage of at least three hundred thousand dollars (\$300,000.00) (Combined Single Limit) or, one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per accident for bodily injury and one hundred thousand dollars (\$100,000.00) per accident for property damage or more as may be required for particular vehicles or particular uses of vehicles as required by applicable law.

The Board and the Sheriff shall be names as "Additional Insured" on the policies listed in paragraphs a, b, and c above. The Seller shall be responsible for any and all premiums for all required policy (ies) of the insurance. The insurance Seller needs to be identified for each insurance policy and coverage. The certificates of insurance are to be signed by a person authorized by the insurance Seller to bind coverage on its behalf. All insurance shall be written by insurance companies licensed to do business in the State of Ohio and in good standing with the Ohio Department of Insurance. The above required insurance coverage shall be primary insurance as respect to the Indemnified Parties and any insurance maintained by the Indemnified Parties shall be excess to the above required insurance and shall not contribute to it.

The insurer shall provide thirty (30) days written notice to the Board and/or Sheriff before any cancellation or non-renewal of insurance coverage. Failure to provide such written notice will obligate the insurer to provide coverage as if cancellation or non-renewal did not take place. If there is any change in insurance carrier or liability amounts, a new certificate of insurance must be provided to the Board within seven (7) calendar days of change.

During the life of the Contract, the Board and/or Sheriff may require the Seller to provide respective and/or additional certificate(s) of insurance in order to verify coverage. Failure to provide a requested certificate of insurance within seven (7) calendar days of the request may be considered as default.

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

8.10. Equal Opportunity Employment/Non-discrimination. In fulfilling the obligations and duties of this Agreement, MORPHO shall not discriminate against any employee or applicant for employment on the basis of race, religion, national origin, color, creed, gender, sexual orientation, age, Vietnam-era Veteran status, or disability, as defined in the Americans with Disabilities Act.

MORPHO shall ensure that applicants are hired and that employees are treated during employment without regard to any of the listed factors. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

MORPHO agrees to post in conspicuous places, available to employees and applicants for employment, notices stating that MORPHO complies with all applicable federal and state nondiscrimination laws. MORPHO shall incorporate the foregoing requirements of this section in all of its Agreements for any of the work prescribed herein, and shall require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

8.11. Drug Free Workplace. MORPHO agrees to comply with all applicable state and federal laws regarding drug-free workplace and shall have established and have in place a drug free workplace policy. MORPHO shall make a good faith effort to ensure that all of its employees will not purchase, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way.

8.12. Campaign Finance — Compliance With ORC § 3517.13. Ohio Revised Code Section 3517.13 1(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in said sections of the Revised Code are in compliance with the applicable provisions of section 3517.13 of the Revised Code. MORPHO, 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 County from entering, proceeding with, and/or performing the Agreement. Such certification is attached to this Agreement and by this reference made a part thereof.

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

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8.14. 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 facsimile, to the following individuals at the following addresses and shall be effective on the date received:

Customer:

Sheriff Russell L. Martin  
Delaware County Sheriff's Office 149  
North Sandusky Street Delaware, Ohio  
43015  
Fax: (740) 833-2809

MORPHO:

MorphoTrak, LLC  
Attn: Legal Department 1250  
North Tustin Avenue Anaheim,  
CA 92807  
Fax: (714)632-2158

8.15. Severability. If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.

8.16. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes any and all prior agreements, between MORPHO and Customer with regard to MORPHO providing maintenance services for Equipment and Software. No amendment, modification, or waiver of this Agreement shall be valid unless set forth in a written instrument signed by the party to be bound and consented to and accepted by MORPHO.

8.17. Access to Records. At any time, during regular business hours, with reasonable notice, and as often as the Court or other agency or individual authorized by the Court may deem necessary, the Contractor shall make available to the Court and/or all individuals(s) authorized by law all books, records, documents, papers, subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. The Court and/or individual(s) authorized by law shall be permitted by the Contractor to inspect, audit, make excerpts, photo static copies, and/or transcripts of an and all such documents relating to all matters covered by this Contract.

8.18. Retention of Records. The Seller shall retain and maintain and assure that all of its subcontractors retain and maintain for a minimum of three (3) years after reimbursement/compensation for services rendered under this Contract all books, records, documents, papers, subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. If an audit, litigation, or other action is initiated during the time period of this Contract or the retention period, the Contractor 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.

8.19. Counterparts. This Contract may be executed in counterparts.

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

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

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

**Section 9. CERTIFICATION DISCLAIMER**

Seller specifically disclaims all certifications regarding the manner in which Seller conducts its business or performs its obligations under this Agreement, unless such certifications have been expressly accepted and signed by an authorized signatory of Seller.

**Section 10. COMPLIANCE WITH APPLICABLE LAWS**

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The Parties shall at all times comply with all applicable regulations, licenses and orders of their respective countries relating to or in any way affecting this Agreement and the performance by the Parties of this Agreement. Each Party, at its own expense, shall obtain any approval or permit required in the performance of its obligations. Neither Seller nor any of its employees is an agent or representative of Customer.

Exhibit A DESCRIPTION OF COVERED PRODUCTS  
MAINTENANCE AND SUPPORT AGREEMENT NO. SA 005075-001  
CUSTOMER: Delaware County Sheriff's Office

The Following table lists the products under maintenance coverage

Product	Description	Node	Quantity
Workstation	GPW/cluster, SCANNER	OHDELAUX001	1

MAINTENANCE AND SUPPORT AGREEMENT NO. SA 005075-001  
Exhibit B Support plan

This Support Plan is a Statement of Work that provides a description of the support to be performed.

Services Provided. The Services provided are based on the Severity Levels as defined herein. Each Severity Level defines the actions that will be taken by Seller for Response Time, Target Resolution Time, and Resolution Procedure for reported errors. Because of the urgency involved, Response Times for Severity Levels 1 and 2 are based upon voice contact by Customer, as opposed to written contact by facsimile or letter. Resolution Procedures are based upon Seller's procedures for Service as described below.

Severity Level	Definition	Response Time	Target Resolution Time
1	Total system failure-occurs when the system is not functioning and there is no workaround, such as a central server is down or when the workflow of entire agency is not functioning.	Telephone conference within 1 hour of initial voice notification	Resolve Within 24 Hours Of Initial Notification
2	Critical failure- critical process failure occurs when a crucial element in the system that does not prohibit continuance of basic operations in not functioning and there is usually no suitable workaround. Note that this may not be applicable to intermittent problems	Telephone conference within 3 standard business hours of initial voice notification	Resolve Within 7 Standard Business Days Of Initial Notification
3	Non-Critical Failure- non-critical part or component failure occurs when a system component is not functioning, but the system is still useable for its intended purpose, or there is a reasonable workaround.	Telephone conference within 6 standard business hours of initial voice notification	Resolve Within 180 Days In A Seller-Determined Patch Or Release
4	Inconvenience- an inconvenience occurs when system causes a minor disruption in the way task are performed by does not stop workflow.	Telephone conference within 2 standard business days of initial voice notification	At Seller's Discretion, May Be In A Future Release
5	Customer request for an enhancement to system functionality is the responsibility of seller's product management.	Determined by seller's product management	If Accepted By Seller's Product Management, A Release Date Will Be Provided With A Fee Schedule, When

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			Appropriate
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1.1 Reporting a Problem. Customer shall assign an initial Severity Level for each error reported, either verbally or in writing, based upon the definitions listed above. Because of the urgency involved, Severity Level 1 or 2 problems must be reported verbally to the Seller's call intake center. Seller will notify the Customer if Seller makes any changes in Severity Level (up or down) of any Customer-reported problem.

1.2 Seller Response. Seller will use best efforts to provide Customer with a resolution within the appropriate Target Resolution Time and in accordance with the assigned Severity Level when Customer allows timely access to the System and Seller diagnostics indicate that a Residual Error is present in the Software. Target Resolution Times may not apply if an error cannot be reproduced on a regular basis on either Seller's or Customer's Systems. Should Customer report an error that Seller cannot reproduce, Seller may enable a detail error capture/logging process to monitor the System. If Seller is unable to correct the reported Residual Error within the specified Target Resolution Time, Seller will escalate its procedure and assign such personnel or designee to correct such Residual Error promptly. Should Seller, in its sole discretion, determine that such Residual Error is not present in its Release, Seller will verify: (a) the Software operates in conformity to the System Specifications, (b) the Software is being used in a manner for which it was intended or designed, and (c) the Software is used only with approved hardware or software. The Target Resolution Time shall not commence until such time as the verification procedures are completed.

1.3 Error Correction Status Report. Seller will provide verbal status reports on Severity Level 1 and 2 Residual Errors. Written status reports on outstanding Residual Errors will be provided to System Administrator on a monthly basis.

2. Customer Responsibility.

2.1 Customer is responsible for running any installed anti-virus software.

2.2 Operating System ("OS") Upgrades. Unless otherwise stated herein, Customer is responsible for any OS upgrades to its System. Before installing any OS upgrade, Customer should contact Seller to verify that a given OS upgrade is appropriate.

3. Seller Responsibility.

3.1 Anti-virus software. At Customer's request, Seller will make every reasonable effort to test and verify specific anti-virus, anti-worm, or anti-hacker patches against a replication of Customer's application. Seller will respond to any reported problem as an escalated support call.

3.2 Customer Notifications. Seller shall provide access to (a) Field Changes; (b) Customer Alert Bulletins; and (c) hardware and firmware updates, as released and if applicable.

3.3 Account Reviews. Seller shall provide annual account reviews to include (a) service history of site; (b) downtime analysis; and (c) service trend analysis.

3.4 Remote Installation. At Customer's request, Seller will provide remote installation advice or assistance for Updates.

3.5 Software Release Compatibility. At Customer's request, Seller will provide: (a) current list of compatible hardware operating system releases, if applicable; and (b) a list of Seller's Software Supplemental or Standard Releases

3.6 On-Site Correction. Unless otherwise stated herein, all suspected Residual Errors will be investigated and corrected from Seller's facilities. Seller shall decide whether on-site correction of any Residual Error is required and will take appropriate action.

4.Compliance to Local, County, State and/or Federal Mandated Changes. (Applies to Software and interfaces to those Products) Unless otherwise stated herein, compliance to local, county, state and/or federally mandated changes, including but not limited to IBR, UCR, ECARS, NCIC and state interfaces are not part of the covered Services.

(The below listed terms are applicable only when the Maintenance and Support Agreement includes (a) Equipment which is shown on the Description of Covered Products, Exhibit A to the Maintenance.)

5. On-site Product Technical Support Services. Seller shall furnish labor and parts required due to normal wear to restore the Equipment to good operating condition.

5.1 Seller Response. Seller will provide telephone and on-site response to Central Site, defined as the Customer's primary data processing facility, and Remote Site, defined as any site outside the Central Site, as shown in Support Plan Options and Pricing Worksheet.

5.2 At Customer's request, Seller shall provide continuous effort to repair a reported problem beyond the



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PPM. Provided Customer gives Seller access to the Equipment before the end of the PPM, Seller shall extend a two (2) hour grace period beyond PPM at no charge. Following this grace period, any additional on-site labor support shall be invoiced on a time and material basis at Seller's then current rates for professional services.

**Exhibit C**  
**SUPPORT PLAN OPTIONS AND PRICING WORKSHEET**

Maintenance and Support Agreement # <b>SA # 005075-001</b>		Date <b>07/07/2014</b> Rev1		
New Term Effective	Start <b>09/01/2014</b>	End <b>08/31/2015</b>		
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; vertical-align: top;"> <b>CUSTOMER:</b> Delaware CO Sheriff  Address (1): 149 N. Sandusky St.  Address (2):  CITY, STATE, ZIP CODE: Delaware, OH 43015  <b>CONTACT NAME:</b> Scott Vance  <b>CONTACT TITLE:</b> Captain  <b>TELEPHONE:</b> (740)833-2819  <b>FAX:</b>  Email: svance@co.delaware.oh.us </td> <td style="width:50%; vertical-align: top;"> <b>BILLING AGENCY:</b>  Address (1):  Address (2):  CITY, STATE, ZIP CODE:  <b>CONTACT NAME:</b>  <b>CONTACT TITLE:</b>  <b>TELEPHONE:</b>  <b>FAX:</b>  Email: </td> </tr> </table>			<b>CUSTOMER:</b> Delaware CO Sheriff Address (1): 149 N. Sandusky St. Address (2): CITY, STATE, ZIP CODE: Delaware, OH 43015 <b>CONTACT NAME:</b> Scott Vance <b>CONTACT TITLE:</b> Captain <b>TELEPHONE:</b> (740)833-2819 <b>FAX:</b> Email: svance@co.delaware.oh.us	<b>BILLING AGENCY:</b> Address (1): Address (2): CITY, STATE, ZIP CODE: <b>CONTACT NAME:</b> <b>CONTACT TITLE:</b> <b>TELEPHONE:</b> <b>FAX:</b> Email:
<b>CUSTOMER:</b> Delaware CO Sheriff Address (1): 149 N. Sandusky St. Address (2): CITY, STATE, ZIP CODE: Delaware, OH 43015 <b>CONTACT NAME:</b> Scott Vance <b>CONTACT TITLE:</b> Captain <b>TELEPHONE:</b> (740)833-2819 <b>FAX:</b> Email: svance@co.delaware.oh.us	<b>BILLING AGENCY:</b> Address (1): Address (2): CITY, STATE, ZIP CODE: <b>CONTACT NAME:</b> <b>CONTACT TITLE:</b> <b>TELEPHONE:</b> <b>FAX:</b> Email:			
For support on products below, please contact Customer Support at (800) 734-6241 or email at cscenter@morpho.com. <input checked="" type="checkbox"/> AFIS System <input type="checkbox"/> LiveScan™ Station <input type="checkbox"/> Printrak™ BIS System				
<b>STANDARD SUPPORT</b>		<b>ANNUAL FEE</b>		
<input checked="" type="checkbox"/> <b>Advantage – Software Support</b> • 8 a.m. – 5 p.m. Monday to Friday PPM • Unlimited Telephone Support • Remote Dial-In Analysis • Supplemental Releases & Updates • Standard Releases & Updates • Automatic Call Escalation • Software Customer Alert Bulletins • Telephone Response: 2 Hour		\$ 12,216		
<b>STANDARD SUPPORT TOTAL</b>		<b>\$ 12,216</b>		
<b>SUPPORT OPTIONS</b>		<b>ANNUAL FEE</b>		
<input checked="" type="checkbox"/> <b>On-Site Hardware Support</b> • 8 a.m. – 5 p.m. Monday-Friday PPM • Next day PPM On-site Response • Hardware Vendor Liaison • Defective Parts Replacement • Escalation Support • Hardware Customer Alert Bulletins • Hardware Service Reporting • Product Repair • Equipment Inventory Detail Management		\$ Included		
<input checked="" type="checkbox"/> <b>Parts Support</b> • Parts Ordered & Shipped Next Business Day • If customer is providing their own on-site hardware support, the following applies: * Customer Orders & Replaces Parts • Parts Customer Alert Bulletins • Telephone Technical Support for Parts Replacement Available		\$ Included		
<input checked="" type="checkbox"/> <b>UPLIFTS</b> • Increase PPM to 24 x 7 software support • Increase Response Time to 4 hour on-site and 1 hour telephone		\$ Included \$ Included		
<b>SUPPORT OPTIONS TOTAL</b>		<b>\$ Included as checked</b>		
<b>THIRD PARTY SUPPORT</b>		<b>ANNUAL FEE</b>		
<input type="checkbox"/> <b>THIRD PARTY VENDOR NAME:</b> • <b>TERM DATE:</b> • <b>COVERAGE:</b>		\$ -N/A-		
<b>THIRD PARTY SUPPORT TOTAL</b>		<b>\$ -N/A-</b>		
<b>USERS CONFERENCE – NORTH AMERICA</b>		<b>ANNUAL FEE</b>		
<input type="checkbox"/> <b>Users Conference Attendance (\$2,950 per Attendee)</b> Year _____ Number Attendees Requested _____ • Registration fee • Ground transportation to/from the conference airport to the conference hotel • Hotel accommodations • Daily meal allowance • Roundtrip travel for event		\$ -N/A-		
<b>USERS CONFERENCE TOTAL</b>		<b>\$ -N/A-</b>		
<b>OTHER AVAILABLE OPTIONS</b>		<b>ANNUAL FEE</b>		
<input type="checkbox"/> LiveScan 3000 Prism Protection \$1,500 unit/year – Covers labor and material fee for replacement of one (1) prism per year <input type="checkbox"/> Other:		\$ -N/A- \$ -N/A-		
<b>OTHER AVAILABLE OPTIONS TOTAL</b>		<b>\$ -N/A-</b>		
Prepared by: Susan Noisseau, (518)724-5241, Susan.Noisseau@morpho.com				
<b>SUPPORT TOTAL*</b>		<b>\$ 12,216</b>		
<b>USERS CONFERENCE TOTAL</b>		<b>\$ -N/A-</b>		
<b>FULL TERM FEE GRAND TOTAL*</b>		<b>\$ 12,216</b>		

**Exhibit D**  
**CURRENT BILLABLE RATES**  
**MAINTENANCE AND SUPPORT AGREEMENT NO. 005075-001**  
**CUSTOMER: Delaware County Sheriff's Office**

<b>COVERAGE HOURS (PPM)</b>	<b>Billable rates (outside the scope of a current maintenance and support agreement)</b>
8 a.m. -5 p.m. M-F (local time)	\$160 per hour, 2 hours minimum
After 5 p.m. Saturday, Sunday, Seller Holidays	\$240 per hour, 2 hours minimum
<b>COVERAGE HOURS (PPM)</b>	<b>Billable rates (Without an agreement)</b>
8 a.m. -5 p.m. M-F (local time)	\$320 per hour, 2 hours minimum
After 5 p.m. Saturday, Sunday, Seller Holidays	\$480 per hour, 2 hours minimum

Vote on Motion	Mr. O'Brien	Aye	Mr. Merrell	Aye	Mr. Stapleton	Aye
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**RESOLUTION NO. 14-858**

**IN THE MATTER OF APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY; THE SHERIFF OF DELAWARE COUNTY AND RECOVERY AND PREVENTION RESOURCES OF DELAWARE AND MORROW COUNTIES, INC. FOR SERVICES AT THE DELAWARE COUNTY JAIL:**

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

Whereas, the Sheriff and Office Staff recommend approval of the Memorandum of Understanding with the Recovery And Prevention Resources Of Delaware And Morrow Counties, Inc. for services at the Delaware County Jail;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the Memorandum of Understanding with the Recovery And Prevention Resources Of Delaware And Morrow Counties, Inc. for services at the Delaware County Jail:

**MEMORANDUM OF UNDERSTANDING**  
**Delaware County Jail and Recovery & Prevention Resources**

This Memorandum of Understanding ("MOU") is made and entered into by and between the Delaware County Board of Commissioners for and on behalf of the Delaware County Jail, 844 US 42 North, Delaware, Ohio 43015, and Recovery & Prevention Resources of Delaware and Morrow Counties, Inc., 118 Stover Drive, Delaware, Ohio 43015 ("RPR") (hereinafter collectively referred to as the "Parties").

**RECITALS**

WHEREAS, Delaware County, the fastest growing county in Ohio, has experienced two decades of steady increases in the jail population, as well as a surge in drug crimes, high arrests and recidivism rates, has increased its capacity from 178 beds in 2010 to 286 beds in 2011 with many incarcerated individuals with behavioral health disorders (mental and/or substance use disorders); and

WHEREAS, the Delaware County Jail has invited Recovery & Prevention Resources, with offices at 118 Stover Drive, Delaware, Ohio a state certified and nationally accredited behavioral health care provider with expertise in the treatment of the offender population, to provide addiction recovery and mental health treatment with the dual goals of reducing recidivism and promoting recovery;

NOW, THEREFORE, the Parties hereby agree as follows:

**Section 1 - Scope of Services**

- 1.1 RPR will provide OhioMHAS certified outpatient treatment services on site at the Delaware County Jail. Services will include clinical contact groups totaling approximately ten (10) hours per week and will be planned and developed through consultation and partnership between RPR and the Program Coordinator employed by the Delaware County Sheriff's Office (DCSO). Services will be developed for both male and female inmates and will include Moral Reconation Therapy (MRT) groups and groups that focus on alcohol and other drug (AoD) addiction treatment and recovery. The parties agree that, through ongoing consultation between RPR and the DCSO Program Coordinator, the specific nature of treatment interventions is subject to change in order to accommodate emergent needs of the jail population and to increase quality and program effectiveness.
- 1.2 The parties mutually acknowledge and agree these services are provided on a non-exclusive basis.
- 1.3 RPR will maintain certification from OhioMHAS for these services. The Delaware County Jail, will provide information and documents necessary for certification, including copies of Certificates of Use and Occupancy and current fire inspection reports.
- 1.4 RPR will provide appropriately licensed therapists or counselors to provide the services and will provide them with clinical supervision in accordance with the applicable Standards.
- 1.5 The Delaware County Jail will provide safe, appropriate, and well-maintained office space for use by RPR staff for the provision of services. The Delaware County Jail will provide access to a telephone, fax machine, copier, and other general office equipment as necessary for RPR staff to complete their duties at no cost to RPR.
- 1.6 Delaware County Jail will refer to RPR for treatment of male and/or female inmates who have been screened as likely having a substance use and/or a dual disorder.
- 1.7 RPR will maintain its own clinical record on each inmate served in accordance with OhioMHAS documentation standards.

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1.8 Delaware County Jail will make available certain background and demographic information regarding inmates participating in services provided by RPR to facilitate development of clinical records in an efficient manner.

1.9 To assure that inmates are afforded the opportunity to expeditiously engage with treatment services, Delaware County Jail will assure that clinical assessments completed by other contractors are made available to RPR in a timely manner.

2.0 RPR will communicate with staff of the Delaware County Jail for relevant clinical information regarding the inmates served that might assist in the assessment and treatment of the inmates. RPR will abide by all Federal, State and local laws regarding the release of information.

2.1 RPR may participate in case staffing and conferences as invited and permitted by the Delaware County Jail.

2.2 The Delaware County Jail remains responsible for the behavioral management of the inmates in its care including those referred to RPR for alcohol and drug treatment and mental health services.

2.3 RPR must comply and abide by the policies, practices and rules of the Handbook for Contractors, Volunteers and Interns and applicable DCSO policies/procedures.

**Section 2 — Compensation**

Delaware County Jail will pay RPR for the services described herein and the required clinical supervision per OhioMHAS standards in the annual amount of \$21,666.60, pro-rated and to be paid in monthly installments of \$1,805.55 for the duration of this MOU. The annual budget for the program established by this MOU is attached hereto as Exhibit A and, by this reference, fully incorporated herein.

**Section 3 — Term**

3.1 This MOU shall be effective from July 1, 2014 through December 31, 2014 and may only be amended or renewed upon mutual agreement in writing signed by both Parties.

3.2 At least thirty (30) days prior to the expiration of this MOU, the parties will meet to discuss the quality and effectiveness of services provided under the MOU, and the feasibility of continuing the MOU for a subsequent one year term.

**Section 4 — Insurance**

4.1 General Liability Coverage: RPR shall maintain general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000.

4.2 Workers' Compensation Coverage: RPR shall maintain workers' compensation coverage as required by the laws of the State of Ohio.

4.3 Additional Insured: Delaware County, its elected officials and employees, shall be named as additional insured with respect to all activities under this MOU in the policy required by Subsection 4.1.

4.4 Proof of Insurance: RPR shall, upon request, furnish Delaware County with properly executed certificates of insurance for all insurance required by this MOU and properly executed endorsements listing the additional insured as required in Subsection 4.3. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. RPR will replace certificates for any insurance expiring prior to completion of this MOU.

**Section 5 — Liability and Warranties**

To the fullest extent permitted by law, neither party shall be liable to the other for any incidental, indirect or consequential damages arising out of or connected in any way to this MOU. This mutual waiver shall include, but not be limited to, loss of profit, loss of business or income, or any other consequential damages that either party may have incurred from any cause of action whatsoever.

Notwithstanding any other provision to the contrary, and to the fullest extent permitted by law, RPR shall indemnify and hold free and harmless Delaware County and its elected officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting there from, to the proportionate extent caused by any negligent acts, errors or omissions of RPR, its employees and agents or any other person for whose acts any of them may be liable.

**Section 6 — Termination**

Either party may terminate this MOU by providing written notice thirty (30) days prior to the effective date of the termination. The County is not liable for payment for work performed after the date of termination.

**Section 7 — Miscellaneous Terms & Conditions**

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- 7.1 Prohibited Interests: RPR agrees that no agent, officer, or employee of Delaware County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this MOU or the proceeds thereof. RPR further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this MOU, without the prior express written consent of Delaware County.
- 7.2 Independent Contractor: The Parties acknowledge and agree that RPR is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. RPR also agrees that, as an independent contractor, RPR assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder.
- 7.3 Entire Agreement: This MOU, and all documents incorporated by reference, shall constitute the entire understanding and agreement between the County and RPR, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.
- 7.4 Governing Law: This MOU shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this MOU shall be filed in and heard before the courts of Delaware County, Ohio.
- 7.5 Headings: The subject headings of the Sections and Subsections in this MOU are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This MOU shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.
- 7.6 Waivers: No waiver of breach of any provision of this MOU shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this MOU or any other provision hereof. No term or provision of this MOU shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 7.7 Severability: If any item, condition, portion, or section of this MOU or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this MOU and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue in full force and effect.
- 7.8 Non-Discrimination/Equal Opportunity: RPR hereby certifies that, in the hiring of employees for the performance of work under this MOU that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the MOU relates. RPR further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this MOU on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.
- RPR certifies that it complies with all applicable laws regarding Non-Discrimination/Equal Opportunity and will not discriminate.
- 7.9 **ACCESS TO RECORDS.** At any time, during regular business hours, with reasonable notice, and as often as deemed necessary by the Sheriff's Office or other agency or individual authorized by the Sheriff or, upon instituted legal action, an appropriate court, RPR shall make available to the Sheriff, court, and/or individual authorized by law all books, records, documents, papers, subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. The Sheriff, court, and/or individual authorized by law shall be permitted by the RPR to inspect, audit, make excerpts, photo static copies, and/or transcripts of any and all such documents relating to all matters covered by this Contract.
- 7.10 **RETENTION OF RECORDS.** RPR shall retain and maintain and assure that all of its subcontractors retain and maintain for a minimum of three (3) years after reimbursement/compensation for services rendered under this Contract all books, records, documents, papers, subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. If an audit, litigation, or other action is initiated during the time period of this Contract or the retention period, the RPR 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.

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- 7.11 **ASSIGNMENT.** This Agreement and/or any of the rights or responsibilities it contains may not be assigned or transferred to any other party without the express written consent of both Parties.
- 7.12 **SIGNATURES.** Any person executing this Contract in a representative capacity hereby warrants that he/she has authority to sign this Contract or has been duly authorized by his/her principal to execute this Contract on such principal's behalf and is authorized to bind such principal.
- 7.13 **HIPAA COMPLIANCE.** RPR agrees that it will maintain confidentiality of all protected health information in accordance with all applicable patient confidentiality laws and shall not use or disclose any information concerning patients/clients referred to RPR by the Sheriff, including protected health information, for any purpose unless necessary to the performance of this Contract or as may otherwise be required by law or court order.
- 7.14 **COUNTERPARTS.** This Contract may be executed in counterparts.
- 7.15 **DRAFTING.** This Contract shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 7.16 **DRUG FREE ENVIRONMENT.** RPR agrees to comply with all applicable state and federal laws regarding drug-free environment and shall have established and have in place a drug free workplace policy. RPR shall make a good faith effort to ensure that all of its employees will not purchase, use, or possess illegal drugs OT alcohol or abuse prescription drugs in any way.
- 7.17 **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, interruption of payments due under this Contract, 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 Contract is terminated as provided herein.
- 7.18 **LICENSES.** RPR certifies and warrants that he/she and/or his/her employees have obtained and maintain current all approvals, licenses, including operator licenses, certifications, and/or other qualifications (collectively "Licenses") necessary to provide all of the Services and/or Testimony required pursuant to this Contract and to conduct business in the state of Ohio. RPR further certifies and warrants that all such Licenses are operative and current and have not been revoked or are not currently suspended for any reason.

At any time throughout the life of the Contract, the Sheriff may request copies of such Licenses. Copies of such Licenses shall be promptly provided upon request

- 7.19 **INDEPENDENT CONTRACTOR ACKNOWLEDGEMENT/ NO CONTRIBUTION TO OPERS:**  
The Court 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 RPR 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 RPR 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 Contract. RPR acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed him/her of such classification and that no contributions will be made to OPERS. If RPR is an individual or has less than five (5) employees, RPR, in support of being so informed and pursuant to R.C. § 145.038, agrees to and shall complete and shall have each of its employees complete an OPERS Independent Contractor Acknowledgement Form ("Form"). The Form is attached hereto as and by this reference is incorporated as a part of this Contract. The Sheriff shall retain the completed Form(s) and immediately transmit a copy(ies) of it/them to OPERS.

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

- 7.20 **CERTIFICATION REGARDING FINDINGS FOR RECOVERY.**  
RPR hereby certifies that it is not subject to any current unresolved findings for recovery pending with or issued by the Ohio Auditor of State.
- 7.21 **CERTIFICATION REGARDING PERSONAL PROPERTY TAXES.**  
RPR hereby certifies that it is not charged with delinquent personal property taxes on the general list of personal property in Delaware County, Ohio, or any other counties containing property in the taxing districts under the jurisdiction of the Auditor of Delaware County, Ohio.

- 7.22 **NOTICES.** All notices, consents, and/or other communications which may or are required to be given by this Contract or by operation of law, shall be in writing and shall be deemed duly given if personally (hand) delivered, sent by certified or registered United States Mail, return receipt requested, sent via nationally recognized and reputable overnight express courier, return receipt requested, via facsimile, confirmation of delivery, or email, confirmation of delivery, to the following individuals at the following addresses or facsimile numbers and shall be effective when sent or transmitted:

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Sheriff:  
Kassandra Otten  
Program Coordinator  
Delaware County Sheriff's Office, Jail Division 844 U.S. 42 North  
Delaware, Ohio 43015  
  
Facsimile: (740) 833-2854

Email: [kotten@co.delaware.oh.us](mailto:kotten@co.delaware.oh.us)

Contractor:  
Tony Williams, LICDC-CS  
Chief Executive Officer  
Recovery & Prevention Resources of Delaware and Morrow Counties, Inc.  
118 Stover Drive  
Delaware, Ohio 43015-8601  
Facsimile: (740) 363-8742  
  
Email: [tw@rprdm.org](mailto:tw@rprdm.org)

EXHIBIT A

Recovery & Prevention Resources of Delaware and Morrow Counties, Inc.  
Delaware County Jail Addiction Recovery Treatment & Mental Health Services Program  
Budget for the period from January 1, 2014 through December 31, 2014

	<u>FTE's</u>	<u>01/01/14 Through 12/31/2014 (12 months)</u>
Salaries & Wages	.25 FTE	\$21,666.60
Therapist Hours	.05FTE	<u>**Included in blended rate**</u>
<b>Total</b>		<b>\$21,666.60</b>
Fringe Benefits		<u>**Included in blended rate**</u>
<b>Total Expenses</b>		<b><u>\$21,666.60</u></b>

Narrative:

- RPR therapists assigned to this program will provide direct services to program participants and complete necessary documentation per the attached MOU. Estimated time involved: 43.33 hours per month.
- Clinical Director will provide clinical supervision per OhioMHAS Standards and CARF Regulations.
- Fringe benefits include employer's share of payroll taxes, unemployment insurance, worker's compensation premiums, health, dental, vision, life and LTD insurance premiums and pension.

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

RESOLUTION NO. 14-859

IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS FOR ECONOMIC DEVELOPMENT:

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

Supplemental Appropriations

22911716-5365 Moving Forward Ohio Grant/Grant Related Services \$30,698.37.

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

RESOLUTION NO. 14-860

IN THE MATTER OF ACCEPTANCE OF THE SANITARY SEWERS FOR ESTATES OF GLEN OAK SECTION 5 PHASE A:

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

Whereas, the construction of new sanitary sewers at the Estates Of Glen Oak Section 5 Phase A 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:

<b>Estates Of Glen Oak Section 5 Phase A</b>	1956 feet of 8- inch sewer	\$136,569.00
	7 ea.- manhole	\$12,810.00

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. O'Brien              Aye              Mr. Merrell              Aye              Mr. Stapleton              Aye

RESOLUTION NO. 14-861

IN THE MATTER OF ACCEPTANCE OF THE SANITARY SEWERS FOR WEDGEWOOD  
COMMERCE CENTER SECTION 1 LOT 2069 DIVISION 1:

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

Whereas, the construction of new sanitary sewers at the Wedgewood Commerce Center Section 1 Lot 2069 Division 1 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:

Wedgewood Commerce Center Section 1 Lot 2069 Division 1

2266 feet of 8- inch sewer	\$182,582.08
7 ea.- manhole	\$4,851.20

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. Merrell              Aye              Mr. O'Brien              Aye              Mr. Stapleton              Aye

RESOLUTION NO. 14-862

IN THE MATTER OF APPROVING TRANSFER OF APPROPRIATIONS:

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

Transfer from:	Transfer to:	Purpose:	Amount:
10011301-5001	10011301-5301	Electrical Inspections	\$25,000.00
Code Compliance/compensation	Code Compliance/Contract Services		

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

RESOLUTION NO. 14-863

IN THE MATTER OF APPROVING PERSONNEL ACTIONS:

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

The Director of Administrative Services and the County Administrator recommend the compensation adjustment for Joyce Bowens, the Child Support Enforcement Agency Director, effective August 4, 2014;

Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the compensation adjustment for Joyce Bowens, the Child Support Enforcement Agency Director, effective August 4, 2014.

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

ADMINISTRATOR REPORTS

COMMISSIONERS JOURNAL NO. 61 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD AUGUST 4, 2014

Tim Hansley- the Mid Ohio Regional Planning Tour of Delaware is Tomorrow.

COMMISSIONERS’ COMMITTEES REPORTS

- Commissioner Stapleton-no reports
- Commissioner O’Brien- attend the regional planning meeting on Thursday; expressed some concerns on possible development in the area of the Shamrock golf course.
- Commissioner Merrell-on Saturday attended the EMS Retirement event for Mary Reames and Jim Longshore.

RESOLUTION NO. 14-864

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

It was moved by Mr. Stapleton, seconded by Mr. O’Brien to adjourn into Executive Session at 10:00AM.

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

RESOLUTION NO. 14-865

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. O’Brien, seconded by Mr. Merrell to adjourn out of Executive Session at 12:00PM.

Vote on Motion                      Mr. Stapleton              Absent\* Mr. Merrell              Aye              Mr. O'Brien              Aye

\*Commissioner Stapleton was absent for the adjourning of executive session due to a prior commitment.

There being no further business, the meeting adjourned.

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

\_\_\_\_\_  
Ken O’Brien

\_\_\_\_\_  
Dennis Stapleton

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Jennifer Walraven, Clerk to the Commissioners