

COMMISSIONERS JOURNAL NO. 66 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 1, 2017

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

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

**1:30 PM Final Hearing For The Haven’s 503 Drainage Improvement Petition Project**

**1**  
**RESOLUTION NO. 17-430**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD APRIL 27, 2017:**

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the “Board”) met in regular session on April 27, 2017; 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              Mrs. Lewis              Aye              Mr. Benton              Aye

**2**  
**PUBLIC COMMENT**

**3**  
**ELECTED OFFICIAL COMMENT**

**4**  
**RESOLUTION NO. 17-431**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0428:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0428 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO’ Increase</b>			
Bound Tree Medical	EMS Supplies	10011303-5243	\$ 10,000.00
Fox Run	Residential Treatment JFS	22511607-5342	\$ 85,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Desc</u>	<u>Line Account</u>	<u>Amount</u>	<u>Line</u>
R1703418	CRAUN	MISCELLANEOUS	66211903 -	\$10,000.00	0001
	LIEBING CO	EQUIPMENT PARTS TO	5201		
	INC	REBUILD RAW PUMPS			

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

**5**  
**RESOLUTION NO. 17-432**

**IN THE MATTER OF APPROVING A RESOLUTION OF RECOGNITION FROM THE DELAWARE COUNTY BOARD OF COMMISSIONERS FOR DELAWARE AREA TRANSIT AGENCY EMPLOYEES RECENTLY HONORED BY THE OHIO PUBLIC TRANSIT ASSOCIATION:**

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

WHEREAS, Barb Lewis, Jeff Benton and Gary Merrell —Commissioners of Delaware County — wish to recognize Delaware Area Transit Agency drivers Lori Poling, Kathy Blakeman, Eva McCarty and Carolyn Roshon for honors recently awarded to them by the Ohio Public Transit Association;

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WHEREAS, Lori Poling, a DATA driver since November 2003, has received the “Best Customer Service” Award from the Ohio Public Transit Association;

WHEREAS, Kathy Blakeman, a DATA driver since January 2016, has received the “Goes Above and Beyond” Award from the Ohio Public Transit Association;

WHEREAS, Eva McCarty, a DATA driver since September 2009, has received the “Strong Leader” Award from the Ohio Public Transit Association;

WHEREAS, Carolyn Roshon, a DATA driver since January 2012, has received the “Safety Conscientious” Award from the Ohio Public Transit Association;

WHEREAS, the Delaware Area Transit Agency, as represented by its drivers, continues to be a positive and valuable resource in Delaware County, enhancing the lives of its customers and furthering economic growth through the service of public transportation.

NOW THEREFORE, be it resolved that The Delaware County Commissioners wish to commend and thank Lori Poling, Kathy Blakeman, Eva McCarty and Carolyn Roshon for their dedication and excellent work on behalf of the citizens of Delaware County.

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

**6  
RESOLUTION NO. 17-433**

**IN THE MATTER OF APPROVING A NON-BINDING TERM SHEET BY AND AMONG DELAWARE COUNTY, COLUMBUS OUTLETS, LLC, AND THE DELAWARE COUNTY FINANCE AUTHORITY REGARDING THE ISSUANCE OF DEVELOPMENT REVENUE BONDS BY THE DELAWARE COUNTY FINANCE AUTHORITY FOR PUBLIC IMPROVEMENTS IN CONNECTION WITH THE TANGER OUTLETS COLUMBUS DEVELOPMENT:**

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

WHEREAS, the Delaware County Board of Commissioners (the “Board”) has previously entered into various agreements in connection with the Tanger Outlets Columbus development, specifically the construction of public improvements in furtherance thereof; and

WHEREAS, in order to provide for the most advantageous financing of the necessary public improvements, the Board deems it to be in the best interests of Delaware County to negotiate an agreement with Columbus Outlets, LLC, the Delaware County Finance Authority, and other parties to the prior agreements, whereby the Delaware County Finance Authority will issue development revenue bonds for the necessary public improvements and providing for the annual appropriation, if necessary and subject to the terms set forth in the Term Sheet (as defined herein), of amounts to be paid with respect to such revenue bonds in the event the revenues and funds pledged to their repayment are insufficient;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the following non-binding term sheet (the Term Sheet) and directs the County Administrator, with the assistance of the County Auditor, the Economic Development Director, the Director of Fiscal Services, and legal counsel, to exercise good faith efforts to negotiate a binding agreement in accordance with the Term Sheet:

**Delaware County Finance Authority  
Development Revenue Bonds, Series 2017  
(Columbus Outlet Mall - Public Improvement Project)  
Financing Term Sheet**

Set forth below is the financing term sheet (the “Term Sheet”) proposed by Delaware County Finance Authority for the transaction described herein and is provided for discussion purposes only and is subject to approval by all parties described herein:

**I – Parties to Transaction:**

<b>Issuer of the Bonds:</b>	Delaware County Finance Authority (“Issuer”)
<b>Bond Counsel:</b>	Ice Miller LLP (“Bond Counsel”)
<b>Underwriter:</b>	Fifth Third Securities, Inc.
<b>Underwriter’s Counsel:</b>	TBD
<b>Issuer’s Counsel:</b>	Bricker & Eckler LLP

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<b>NCA:</b>	Berkshire Landing New Community Authority (“NCA”)
<b>Bond Trustee:</b>	The Huntington National Bank (“Trustee”)
<b>Owner:</b>	Columbus Outlets, LLC, a Delaware limited liability company formed by Tanger Columbus, LLC located in Greensboro, NC and SPG Columbus Outlet Investments, LLC located in Morristown, NJ (“Owner”).
<b>Owner’s Counsel:</b>	Ice Miller LLP
County	County of Delaware, Ohio
County’s Counsel	County Prosecuting Attorney Squire Patton Boggs (US) LLP

**II – Description of Development:**

The Owner constructed and owns a 350,000 square foot outlet mall on approximately 57 acres (the “Development”) located at the interchange of Interstate 71 and US 36/State Route 37 in Berkshire Township, Delaware County, Ohio. The Development opened in June 2016.

**III – Public Improvement Project:**

The Owner has agreed to make \$17,600,000 of transportation road improvements to the I-71 corridor and surrounding road network (the “Public Improvements”). As of the date hereof, all of the Public Improvements have been completed. These Public Improvements are outlined in ODOT Agreement No. 18798, dated November 24, 2014 between the Ohio Department of Transportation (“ODOT”) and the County as supplemented by the Development Agreement, dated April 6, 2015, by and among the Owner, the County, Berkshire Township (the “Township”), and the NCA (collectively, the “Cooperative Agreement”).

Pursuant to the Cooperative Agreement, the Owner was responsible for constructing the Public Improvements and was to be repaid for the costs it incurred, pursuant to the Cooperative Agreement,

The County paid the Owner \$8,000,000 for a portion of these improvements (the “County Contribution”). The remaining \$9,600,000 of Public Improvement costs were to be paid to the Owner from amounts provided by the NCA from TIF Service Payments paid to the NCA by the Township and NCA Charges levied on the Development.

**IV – Benefits of Financing:**

- Here are some of the benefits of the proposed financing:
- Lowest possible cost of capital
  - Maximizing the use of available revenues to pay capital costs
  - Reduce size of bond reserve and reduce negative carry
  - Maximize financing from TIF Service Payments

**V – Primary Agreements:**

**Tax Increment Agreement:**

Pursuant to resolutions adopted in 2015, the Township exempted 75% of the incremental value of the site of the Development (the “TIF District”) from real property taxes for a period of 10 years, beginning with tax year 2016. Pursuant to a Development Agreement between the Township, the NCA and the Developer, the Developer has agreed to make payments in lieu of taxes (“Service Payments”) in an amount equal to the taxes that would have otherwise been paid with respect to the Development. For tax year 2016, the County Auditor valued the Development at 40% of its Completion Value. The Township has assigned the Service Payments to the NCA.

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<b>Cooperative Agreement:</b>	The Issuer, the NCA and the Owner will enter into a cooperative agreement (“Cooperative Agreement”) providing for, among other things, the payment and transfer of the TIF Service Payments to the Bond Trustee.
<b>Declaration</b>	The Owner has filed a Declaration with respect to the Project, wherein it authorizes the NCA to levy a Facilities Charge (the “Facilities Charge”) in an amount equal to ½ of 1% of retail sales occurring at the Development. The NCA has adopted a resolution authorizing the levy of the Facilities Charge.
<b>Tax Lien Agreement:</b>	The County will agree not to sell any tax lien related to the Development at less than 100% of such lien.
<b>Non-Recourse:</b>	<b>Except for the revenues otherwise pledged to provide for the payment of the Debt Service Charges on the Bonds</b> , the Bondholders will have no recourse to the Issuer for the payment of the Bonds.
<b>County Annual Appropriation:</b>	Subject to an annual appropriation by the County’s Board of County Commissioners, the County will agree to make an annual appropriation, if the escrowed TIF Service Payments together with the proceeds held in the Bond Reserve Fund and in the Program Reserve Fund are not sufficient to pay the Debt Service Charges (“County Payment”). (See County Obligation below.)
<b>Indemnification Agreement:</b>	The Owner will agree to indemnify the County and the Issuer for all costs related to the transaction, including the Project and the Bonds.
<b><u>VI - Terms of the Bonds:</u></b>	
<b>Amount of the Bonds:</b>	The par amount of the Bonds is currently estimated to equal \$10,030,000. Such amount is subject to change based upon the final Project costs and interest rate on the Bonds.
<b>Final Maturity of the Bonds:</b>	December 1, 2026 (approximately 9.5 years)
<b>Debt Service Charges:</b>	The debt service charges related to the Bonds will include the principal, interest, premium, Trustee and any other annual fees related to the Bonds (the “Debt Service Charges”).
<b>Program Reserve Deposit</b>	Upon the issuance of the Bonds, the Owner or the NCA will cause to be deposited with the Issuer the sum of \$358,000 from funds available to the Issuer for deposit in the Program Reserve Fund. In the event of a deficiency in the Bond Fund and the Bond Reserve Fund, the Program Reserve Fund will be available to pay debt service on the Bonds. The Program Reserve Fund may be used by the Issuer to fund port authority facilities which include but are not limited to the facilities funded by the Bonds. The Program Reserve Deposit will be retained by the Issuer upon maturity of the Bonds.
<b>Issuer Fee:</b>	The Issuer will charge an upfront fee equal to \$478,000. The Issuer will not charge any annual Issuer fees. All costs of the Issuer associated with the transaction, including its financial advisor and issuer’s counsel will be paid from the Issuer Fee. All other costs of issuance, including costs of Bond Counsel, Underwriter’s Counsel, Owner’s Counsel, County’s Counsel and Underwriter will be paid by the Owner or from the proceeds of the Bonds.
<b>Estimated Average Interest Rate:</b>	[1.90%] (subject to market conditions) [to be revised based on advice from the underwriter]
<b>Capitalized Interest:</b>	

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The interest on the Bonds will be funded from Bond proceeds through December 1, 2017.

- Interest Payment Dates:** June 1 and December 1 of each year, commencing December 1, 2017.
- Principal Payment Dates:** June 1 and December 1 of each year, commencing December 1, 2017.
- Rating:** Expected “AA+” (subject to formal rating by S&P)
- Projected Closing Date of Bonds:** June 30, 2017 (for discussion purposes only)
- Debt Service Reserve:** The Bond debt service reserve, equal to 6 months maximum debt service (excluding the final payment), will be funded with Bond Proceeds (“Bond Reserve”). The interest earnings on the Bond Reserve will be used to make the semiannual Debt Service Charges. The Bond Reserve proceeds will be used to redeem Bonds at final maturity or upon early redemption.
- Type of Bonds:** The interest on the Bonds is expected to be tax-exempt for state and federal income tax purposes, subject to an opinion of Bond Counsel.
- Optional Redemption:** The Bonds will be subject to optional redemption on December 1, 2024\*, and every year thereafter, at par. (Subject to market conditions prior to the issuance of the Bonds.)
- Excess TIF Service Payments:** All excess TIF Service Payments will be used to either: (i) fund an additional reserve for the Bonds; (ii) redeem Bonds on the first available optional call date at par or (iii) repay the NCA for advances made from the Facilities Charge.

**VII – Security for the Bonds:**

**TIF Service Payments:** Pledge of TIF Service Payments: The Township has authorized the TIF Service Payments generated by the Development to be available to pay the Debt Service Charges on the Bonds. The term of the TIF District will be 10 years, commencing in 2016 for taxes payable in 2017. The remaining 25% of the increased real property taxes will be distributed to the taxing subdivisions. The Township will not pledge the TIF Service Payments to any other purpose except on a subordinated basis to the payment of Debt Service Charges.

Senior Tax Lien: Past due TIF Service Payments will become a senior tax lien to any mortgage on the Development (similar to unpaid real estate taxes).

Escrow of Debt Service Charges: On August 1st of each year, commencing August 1, 2017, the Owner shall escrow an amount equal to the Debt Service Charges payable in the following year (“Service Payment Escrow”). The Trustee shall deposit such amount in a subaccount under the Indenture for the Bonds.

The Calculation Agent shall notify the County by September 1 of each year if there is a shortfall that needs to be collected through Special Assessments.

**Facilities Charge:** The NCA will deposit amounts from the Facilities Charge in the Facilities Charge Fund. In the event that on September 15 of each year, the amount held in the Service Payment Escrow is sufficient to pay the Debt Service Charges due in the following year, amounts in the Facilities Charge Fund shall be released to the NCA. In the event that the amount held in the Service Payment Escrow is insufficient

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to pay the Debt Service Charges, the Trustee will retain the amount of any insufficiency in Facilities Charge Fund for the payment of Debt Service Charges when and as the same shall come due. The NCA will not pledge the Facilities Charge to any other purpose except on a subordinated basis to the payment of Debt Service Charges.

**Trustee TIF Distribution:**

The Trustee shall pay from the Service Payment Escrow the semiannual TIF Service Payments directly to the Delaware County Treasurer. If the amount in the Service Payment Escrow on deposit with the Trustee exceeds the amount of the following years' Service Payments, the remaining balance shall be returned to the Owner.

**Owner Covenants:**

The Owner will agree (i) to maintain insurance or other coverage acceptable to the Issuer and the County insuring the Development from loss in the case of damage or destruction, in such a manner that the Bonds may be fully repaid in such event in the event Owner determines not to be rebuild and (ii) in the event the Owner shall sell the Development or shall merge into another entity, any successor entity shall have a net asset value of at least 1.35 times the outstanding principal amount of the Bonds, evidence of which shall be provided in writing to the Issuer and the County prior to the consummation of any such sale..

**County Obligation:**

Annual Appropriation: On or before September 15 of each year, the County will agree to request an Appropriation Payment within its annual budget in an amount equal to the difference between (a) the Debt Service Charges due during the following calendar year and (b) the sum of the amounts held on September 1 of such year in (i) the Service Payment Escrow (ii) the Facilities Charge Fund (iii) the Debt Service Reserve Fund (taking into account any anticipated withdrawals during that calendar year) and (iv) any amounts made available by the Port Authority, at the request of the County, from the Program Reserve Fund. Any Appropriation Payments made will accrue interest at the Bond rate plus 2.50%.

Obligation Absolute: Subject to annual appropriation, the Appropriation Payment is absolute, unconditional and cannot be reduced for any reason.

No Right of Offset: Notwithstanding any other provision to the contrary, the Appropriation Payment is not subject to counterclaim or offset.

**VIII – Flow of Funds:**

The following represents the flow of funds for payment of the Bonds:

- First: Escrow of TIF Service Payments (to the extent paid as Service Payments for any calendar year)
- Second: Facilities Charge Fund
- Third: Six Month Bond Debt Service Reserve
- Fourth: Amounts made available from the Program Reserve Fund, to the extent available
- Fifth: County Appropriation Payments

**IX - Attachments:**

See following attachments:

- Source and Use of Funds
- Bond Debt Service Schedule
- TIF Schedule

**X - Indemnification:**

The Owner will indemnify and hold harmless the County, the NCA and the Issuer for all costs incurred related to the transaction.

**XI - Deposit:**

The Owner agrees to the terms and conditions outlined herein and to pay the non-refundable deposit of \$40,000.

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All deposits will be applied towards the Issuer’s closing cost upon the closing of the Bonds. Additional deposits may be required if the Bonds are not closed by August 1, 2017 or if the Owner makes significant changes to the term sheet.

In the event of termination of the transaction by the Owner, for any reason, the Owner will be obligated to pay any reasonably incurred professional fees not covered by the deposits within 30 days of termination.

**XII – Approval and Acceptance**

This term sheet is subject to: (i) approval by the Owner, the Issuer, and the County (ii) review and approval of final documentation by all parties, (iii) delivery of acceptable legal opinions, (iii) approval of the transaction by the NCA, (iv) Bond rating, and (v) issuance and sale of the Bonds.

This term sheet will be void if not executed by the Owner and the County and returned to the Issuer no later than May 15 , 2017. Please indicate your acceptance of the terms herein by signing below.

\_\_\_\_\_  
COLUMBUS OUTLETS, LLC  
By: SPG Columbus Outlet Investments, LLC \_\_\_\_\_ Date

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

and

By: Tanger Columbus, LLC  
By Tanger Devco, LLC, its Manager \_\_\_\_\_ Date

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Delaware County Finance Authority \_\_\_\_\_ Date

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
County of Delaware, Ohio \_\_\_\_\_ Date

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

**7**  
**RESOLUTION NO. 17-434**

**IN THE MATTER OF APPROVING OWNER’S AGREEMENTS FOR OLENTANGY FALLS EAST SECTION 2, SCIOTO RIDGE CROSSING SECTION 1 AND SCIOTO RIDGE CROSSING SECTION 2:**

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

Whereas, The Engineer recommends approving the Owner’s Agreements for Olentangy Falls East Section 2, Scioto Ridge Crossing Section 1 and Scioto Ridge Crossing Section 2.

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the Owner’s Agreements for Olentangy Falls East Section 2, Scioto Ridge Crossing Section 1 and Scioto Ridge Crossing Section 2

**Olentangy Falls East Section 2**

**OWNER’S AGREEMENT**  
**PROJECT NUMBER: 15049**

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**THIS AGREEMENT**, executed on this 1<sup>st</sup> day of May, 2017 between **ROCKFORD HOMES**, hereinafter called ‘**OWNER**’ and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **OLENTANGY FALLS EAST SECTION 2**, further identified as Project Number 15049 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

**OPTIONS:**

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit “A”** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

**OWNER** hereby elects to use Option 2 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

**All public improvement construction** shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

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

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **THIRTY-EIGHT THOUSAND DOLLARS (\$38,000)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

**Upon completion of construction**, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER’S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit “A”** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer’s** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

**Acceptance of the project** into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER’S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

**Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer** during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, “as-built” drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**.

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within Delaware County and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County**.



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

In consideration whereof, the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO hereby grants the OWNER or his agent, the right and privilege to make the improvements stipulated herein.

**EXHIBIT "A"**

CONSTRUCTION COST ESTIMATE	\$758,700
CONSTRUCTION BOND AMOUNT	\$ N/A
MAINTENANCE BOND AMOUNT	\$ 75,900
INSPECTION FEE DEPOSIT	\$ 38,000

**Scioto Ridge Crossing Section 1**

**OWNER'S AGREEMENT**  
**PROJECT NUMBER: 6022**

**THIS AGREEMENT**, executed on this 1<sup>st</sup> day of May, 2017 between **M/I HOMES OF CENTRAL OHIO, LLC**, hereinafter called '**OWNER**' and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **SCIOTO RIDGE CROSSING SECTION 1**, further identified as Project Number 6022, is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

**OPTIONS:**

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

**OWNER** hereby elects to use Option 1 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

**All public improvement construction** shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

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

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **SIXTY THOUSAND DOLLARS (\$60,000)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

**Upon completion of construction**, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

**Acceptance of the project** into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance

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responsibility as described above shall be completed upon formal acceptance by the COUNTY COMMISSIONERS.

Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance shall be the responsibility of the OWNER. All of the funds set forth in the AGREEMENT shall be made available to the County Engineer to ensure proper safety compliance.

The OWNER shall, within thirty (30) days of completion of construction and prior to final acceptance, to the COUNTY COMMISSIONERS, as required, "as-built" drawings of the improvements, which plans shall become the property of the COUNTY and remain in the office of the Delaware County Engineer.

The OWNER shall, within thirty (30) days of completion of construction, furnish to the COUNTY COMMISSIONERS an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The OWNER shall indemnify and hold harmless Delaware County and all Townships and/or Villages within Delaware County and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The OWNER shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The OWNER shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the OWNER and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the County.

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

In consideration whereof, the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO hereby grants the OWNER or his agent, the right and privilege to make the improvements stipulated herein.

**EXHIBIT "A"**

CONSTRUCTION COST ESTIMATE	\$745,800.00
CONSTRUCTION BOND AMOUNT	\$745,800.00
MAINTENANCE BOND AMOUNT	\$ 74,500.00
INSPECTION FEE DEPOSIT	\$ 60,000.00

**Scioto Ridge Crossing Section 2**

**OWNER'S AGREEMENT**  
**PROJECT NUMBER: 6052**

**THIS AGREEMENT**, executed on this 1<sup>st</sup> day of May, 2017 between **M/I HOMES OF CENTRAL OHIO, LLC**, hereinafter called "OWNER" and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **SCIOTO RIDGE CROSSING SECTION 2**, further identified as Project Number 6052, is governed by the following considerations to wit:

Said OWNER is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this AGREEMENT.

**OPTIONS:**

1. Should OWNER elect to record the plat prior to beginning construction, OWNER shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should OWNER elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as OWNER elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

OWNER hereby elects to use Option 1 for this project.

The financial warranties are to insure faithful performance of this AGREEMENT and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The OWNER shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The OWNER shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date on which this AGREEMENT is executed by the COUNTY COMMISSIONERS.

The OWNER further agrees that any violations of or noncompliance with any of the provisions and stipulations of this AGREEMENT shall constitute a breach of contract, and the COUNTY shall have the

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right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **FIFTY-TWO THOUSAND DOLLARS (\$52,000)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

**Upon completion of construction**, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

**Acceptance of the project** into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

**Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer** during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**.

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within Delaware County and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County**.

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

**In consideration whereof**, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants the **OWNER** or his agent, the right and privilege to make the improvements stipulated herein.

**EXHIBIT "A"**

CONSTRUCTION COST ESTIMATE	\$646,200.00
CONSTRUCTION BOND AMOUNT	\$646,200.00
MAINTENANCE BOND AMOUNT	\$ 64,600.00
INSPECTION FEE DEPOSIT	\$ 52,000.00

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

**8**  
**RESOLUTION NO. 17-435**

**IN THE MATTER OF APPROVING A DITCH MAINTENANCE PETITION AND THE DITCH MAINTENANCE ASSESSMENTS FOR THE MEADOWS AT HOME ROAD:**

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

WHEREAS, on May 1, 2017, a Ditch Maintenance Petition for The Meadows at Home Road was filed with the Board of Commissioners of Delaware County (the "Board"), and

WHEREAS the Petition sets forth the drainage improvements that have been or will be constructed within The Meadows at Home Road located off of Home Road in Concord Township; and

WHEREAS, the Petitioners have requested that the drainage improvements be accepted into the Delaware County Drainage Maintenance Program and that an annual maintenance assessment be collected with the Real Estate Taxes for the improvements in the subject lot to cover the cost of current and future maintenance of the improvements; and

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WHEREAS, the Petitioners represent 100% of the property owners to be assessed for maintenance related to this drainage improvement and have waived their rights to a public viewing and hearing; and

WHEREAS, based on a review of the Petition and all accompanying documents, the Board has determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program.

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

Section 1. The Board hereby grants the Petition, the Board having found and determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program.

Section 2. The Board hereby approves the maintenance assessments, in accordance with the Petition, as follows:

The cost of the drainage improvements is \$10,785.00. The drainage improvements are being constructed for the benefit of the condominium units being created in this development. The developed condominium area of 25 units will receive benefits (cost) of the project on a per acre basis. The basis for calculating the assessment for each lot is therefore \$431.40 per unit. An annual maintenance fee equal to 2% of this basis (\$8.63) will be collected for each developed condominium unit. We (I) understand that the basis for calculating the maintenance assessment will be reviewed and possibly revised every 6 years. The first year’s assessment for all of the lots in the amount of \$215.70 has been paid to Delaware County, receipt of which is hereby acknowledged.

Section 3: This Board finds and determines that all formal actions taken by this Board concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in said formal actions were in meetings open to the public, in compliance with the laws of the State of Ohio.

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

**9**  
**RESOLUTION NO. 17-436**

**IN THE MATTER OF AWARDING A BID AND APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND THE SHELLY COMPANY FOR THE 2017 DEL-COUNTY ROAD IMPROVEMENT PROGRAM:**

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

**2017 DEL-County Road Improvement Program  
Bid Opening of April 11, 2017**

Whereas, as the result of the above referenced bid opening, The Engineer recommends that a bid award be made to The Shelly Company, the low bidder for the project. A copy of the bid tabulation is available for your information; and

Whereas, also available are two copies of the Contract with The Shelly Company for your approval. All necessary documentation for this approval has been received (Certification/Affidavit in Compliance with O.R.C. Section 3517.13, etc.), and

Whereas, the County Engineer recommends approval of the Contract between the Delaware County Commissioners and The Shelly Company for the project known as 2017 DEL-County Road Improvement Program, Resurfacing Various County and Township Roads.

**CONTRACT**

THIS AGREEMENT is made this 1<sup>st</sup> day of May, 2017 by and between **The Shelly Company, 80 Park Drive, Thornville, Ohio 43076**, hereinafter called the “Contractor” and the Delaware County Commissioners, hereinafter called the “Owner”.

The Contractor and the Owner for the considerations stated herein mutually agree as follows:

**ARTICLE 1. Statement of Work**

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services, and perform and complete all work required for the construction of the improvements embraced in the project named **“2017 DEL-County Road Improvement Program, Resurfacing Various County And Township Roads”**, and required supplemental work for the project all in strict accordance with the Contract Documents.

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**ARTICLE 2. The Contract Price**

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed *Three Million One Hundred Sixteen Thousand Three Hundred Eighty-Six Dollars and Seventy-Two Cents (3,116,386.72)*, subject to additions and deductions as provided in the Contract Documents.

**ARTICLE 3. Contract**

The executed Contract Documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation to Bid
- d. Instructions to Bidders
- e. Signed copy of bid
- f. Work Specifications (including all plans, drawings, etc.)
- g. Specifications – General Provisions
- h. Federal and State Requirements

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern except as otherwise specifically stated.

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

**10**

**RESOLUTION NO. 17-437**

**IN THE MATTER OF APPROVING GENERAL ENGINEERING SERVICES CONTRACT NO. 2017-1 BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND JOBES HENDERSON & ASSOCIATES, INC. FOR SERVICES AS LISTED IN THE SCOPE BELOW:**

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

**GENERAL ENGINEERING SERVICES  
DELAWARE COUNTY ENGINEER’S OFFICE  
DELAWARE, OHIO  
Scope of Services**

The consultant may be required to perform miscellaneous design tasks, plan review, and environmental investigations on a task order type basis. Basic services may include, but are not limited to, the following:

- Roadway Design
- Plan Review
- Intersection Design
- Drainage Design
- Traffic Studies
- Structural Design and Review Services
- Field Surveying
- Geotechnical Services
- Bridge Inspection

All work shall be performed on an actual cost basis or by negotiated lump sum fee per task order, to be determined by the Department. The consultant shall maintain a project cost accounting system that will segregate costs for individual task orders.

The duration of the agreement will be twenty-four months from the authorization date of the agreement.

The total amount of this agreement shall not exceed \$150,000.00

Whereas, the County Engineer recommends approval of General Engineering Services Contract No. 2017-1 between the Delaware County Board of Commissioners and Jobes Henderson & Associates, Inc. as follows:

**ENGINEERING SERVICES AGREEMENT**

This Agreement is made and entered into this 1<sup>st</sup> day of May, 2017, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Jobes Henderson & Associates, Inc., a wholly owned subsidiary of Hull & Associates, Inc.,

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and Hull & Associates, Inc., 59 Grant Street, Newark Ohio 43055 (“Consultant”), hereinafter collectively referred to as the “Parties”, and shall be known as the “Prime Agreement.”

**1 SERVICES PROVIDED BY CONSULTANT**

- 1.1 The Consultant will provide “Services” in connection with the following “Project”:  
Delaware County General Engineering Services Contract 2017-1
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 Services shall be rendered by the Consultant in accordance with the following documents, by this reference made part of this Agreement:  
Delaware County General Engineering Services 2017-1 Scope of Services dated 1-22-16

**2 SUPERVISION OF WORK**

- 2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Engineer (“County Engineer”) as the Project Manager and agent of the County for this Agreement.
- 2.2 The County Engineer or his designee shall have authority to review and order changes, commencement, suspension or termination of the Services performed under this Agreement

**3 AGREEMENT AND MODIFICATIONS**

- 3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Consultant, shall supersede all prior understandings and agreements relating to the Project, and may only be modified or amended in writing with the mutual consent and agreement of the parties.

**4 FEES AND REIMBURSABLE EXPENSES**

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Fee Proposal noted in Section 1 and as follows:
- 4.2 For all task order requests made by the Project Manager, the Consultant shall prepare a proposal to complete the requested services as detailed in the task order. The Project Manager shall issue written approval of any task order proposal made by the Consultant in the form of a Notice to Proceed prior to the Consultant initiating work under the task order.
- 4.3 Total compensation under this Agreement shall not exceed One Hundred Fifty Thousand Dollars and no cents (\$150,000.00) without subsequent modification.
- 4.4 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Services.

**5 NOTICES**

- 5.1 “Notices” issued under this Agreement shall be served to the parties listed below in writing. The parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.

County Engineer:

Name: Chris Bauserman, P.E., P.S.  
Attn: Robert M. Riley, P.E., P.S.  
Address: 50 Channing Street, Delaware, Ohio 43015  
Telephone: 740-833-2400  
Email: [rriley@co.delaware.oh.us](mailto:rriley@co.delaware.oh.us)

Consultant:

Name of Principal in Charge: James Roberts, P.E.  
Address of Firm: 59 Grant Street  
City, State, Zip: Newark, Ohio 43055  
Telephone: 740-344-5451  
Project Contact Email: Ms. Susan Derwacter, P.E. (sderwacter@hullinc.com)

**6 PAYMENT**

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- 6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Consultant and approved by the County Engineer shall be based on the calculated percentage of work performed to date in accordance with the Consultant's Price Proposal.
- 6.2 Invoices shall be submitted to the Project Manager by the Consultant on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Consultant shall promptly submit documentation as needed to substantiate said invoices.
- 6.3 The County shall pay invoices within thirty (30) days of receipt.

**7 NOTICE TO PROCEED, COMPLETION OF WORK, DELAYS AND EXTENSIONS**

- 7.1 The Consultant shall commence Work upon written Notice to Proceed ("Authorization") of the County Engineer and shall complete the work as specified in the Authorization.
- 7.2 In the event that unforeseen and unavoidable delays prevent the timely completion of work to be performed under this Agreement, the Consultant may make a written request for time extension, and the County Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

**8 SUSPENSION OR TERMINATION OF AGREEMENT**

- 8.1 The County, upon written Notice as specified in Section 5, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Consultant shall immediately suspend or terminate Work, as ordered by the County.
- 8.2 In the case of Termination, the Consultant shall submit a final invoice within sixty (60) days of receiving Notice of Termination for Work completed up to the date of termination. The County is not liable for payment for work performed after the date of termination.

**9 CHANGE IN SCOPE OF SERVICES**

- 9.1 In the event that significant changes to the Scope of Services are required during performance of the Work, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall be approved by both parties.

**10 OWNERSHIP**

- 10.1 Upon completion or termination of the Agreement, the Consultant shall provide copies, if so requested, to the County of all documents or electronic files produced under this Agreement
- 10.2 The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed surveys, calculations, reports, schematics, drawings and any other tangible written or electronic work produced in accordance with the Agreement.
- 10.3 This section does not require unauthorized duplication of copyrighted materials.

**11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT**

- 11.1 The Consultant shall immediately notify the County, in writing, of any change to key Consultant staff or subconsultants assigned to the Work as contemplated at the time of executing this Agreement.
- 11.2 The Consultant shall not assign or transfer this Agreement, or any of the rights, responsibilities, or remedies contained herein, to any other party without the express, written consent of the County.

**12 INDEMNIFICATION**

- 12.1 The Consultant shall indemnify and hold free and harmless Delaware County and its 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 therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Consultant, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.
- 12.2 The Consultant shall indemnify and hold free and harmless Delaware County and its 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 breach of contract, infringement of any right to use, possess, or otherwise operate or have any owned, protected, licensed, trademarked, patented, non-patented,

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and/or copyrighted software, product, service, equipment, invention, process, article, or appliance manufactured, used, or possessed in the performance of the Agreement and/or in providing the Services, to the extent caused by any act, error, or omission of the Consultant, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

**13 INSURANCE**

- 13.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.
- 13.5 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 13.1 and 13.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 13.6 Proof of Insurance: Prior to the commencement of any work under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Consultant will replace certificates for any insurance expiring prior to completion of work under this Agreement.

**14 MISCELLANEOUS TERMS AND CONDITIONS**

- 14.1 Prohibited Interests: Consultant agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Consultant further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 14.2 Independent Contractor: The Parties acknowledge and agree that Consultant is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Consultant also agrees that, as an independent contractor, Consultant assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Consultant hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 14.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 14.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 14.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be



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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.

- 14.6 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.
- 14.7 Findings for Recovery: Consultant certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 14.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 14.9 County Policies: The Consultant shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Consultant shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Consultant to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 14.10 Drug-Free Workplace: The Consultant agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Consultant shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 14.11 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.
- Consultant 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 Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.
- Consultant certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.
- Consultant certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.
- 14.12 Campaign Finance – Compliance with R.C. 3517.13: Ohio Revised Code Section 3517.13 I(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 Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled “Certification/Affidavit in Compliance With O.R.C. Section 3517.13.” **Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract.** Such certification is attached to this Contract and by this reference made a part thereof.

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

**11**

**RESOLUTION NO. 17-438**

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**IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES CONTRACT WITH CHA CONSULTING, INC. FOR THE PROJECT KNOWN AS DEL-TR114-1.51, ORANGE ROAD IMPROVEMENTS PHASE 2, PART 3:**

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

WHEREAS, section 305.15 of the Revised Code provides that a Board of Commissioners may enter into contracts with any person, firm, partnership, association, or corporation qualified to perform engineering services in the state; and

WHEREAS, the County Engineer has received proposals from engineering firms interested in providing services for the project known as DEL-TR114-1.51, Orange Road Improvements Phase 2, Part 3; and

WHEREAS, the County Engineer has selected the consulting firm of CHA Consulting, Inc. through a Qualifications-Based Selection Process and has negotiated a fee and agreement to provide the required services for engineering and design of the improvements, and requests that the Board enter into Contract with said firm;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio, that the following Professional Services Contract is hereby approved:

**PROFESSIONAL SERVICES CONTRACT**

**DEL-TR114-1.51 Orange Road Improvements Phase 2, Part 3  
Contract #E1112**

**Section 1 – Parties to the Agreement**

This Agreement is made and entered into this 1<sup>st</sup> day of May, 2017 by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and the firm of CHA Consulting, Inc. (CHA, or “Consultant”), 471 East Broad Street Suite 2010, Columbus, OH 43215.

**Section 2 – Contract Administrator**

The Delaware County Board of Commissioners hereby designates the Delaware County Engineer as Administrator and agent of the Board for Work performed in accordance with this Agreement. The Administrator shall have general supervision of the Work and authority to order commencement or suspension thereof.

**Section 3 – Scope of Services (Work)**

Consultant agrees to furnish, unto the County, the continuation of professional services for Orange Road Improvements Phase 2 in accordance with the following Exhibits which are included with this Professional Services Contract by reference and attachment:

Exhibit A – Delaware County Engineer Scope of Services  
Project Designation: DEL Route T.R. 114 Section 1.51

This Scope of Services sets forth the project description and basic parameters for the Orange Road corridor improvements beginning at the Liberty Township line and ending at the Norfolk Southern Railroad as determined in the final corridor study submitted in April 2013 and shared with the public in July 2013. This Scope of Services is provided as reference for, and applicability to the development of Exhibit B and Exhibit C.

The specific Scopes of Services and associated fee estimates contemplated under this Professional Services Contract are identified as Exhibit B and Exhibit C as follows:

Exhibit B- DEL-TR114, East Orange Road, Conceptual Railroad Underpass  
Cost proposal dated March 7, 2017

This Scope of Services and fee estimate is detailed with the specific tasks necessary for the development of a conceptual underpass design for DEL-TR114, East Orange Road under CSX Transportation and Norfolk Southern Railroad.

Exhibit C- DEL-TR114-1.51, Orange Road Improvements, Phase 2  
Revised cost proposal dated April 17, 2017

This Scope of Services and fee estimate is detailed with the specific tasks necessary for the completion of the final design plans, based upon the Stage 1 Plan Submission and review comments dated March 24, 2017.

Consultant further agrees to perform the Work promptly and in a skillful and competent manner under the direction of the Administrator and in accordance with accepted professional standards.

**Section 4 – Compensation**

The County will compensate Consultant for the work specified above as follows:

The lump sum fee of **\$19,549.00** for all services described in Exhibit B (cost proposal dated March 7, 2017) required to complete a conceptual underpass design for DEL-TR114, East Orange Road under CSX Transportation and Norfolk Southern Railroad, the The lump sum fee of **\$268,246.00** for all services described in Exhibit C

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(revised cost proposal dated April 17, 2017) required for the completion of the final design plans, based upon the Stage 1 Plan Submission and review comments dated March 24, 2017. The lump sum fee is annotated in the Detailed Breakdown of Proposed Total Hours, Personnel Categories and Labor Rates as "SUBTOTAL FINAL ENGINEERING AND R/W PHASE"

For all services identified in Exhibit C (Scope of Services) under Part 5 as "IF AUTHORIZED TASKS", the fee for each authorized task shall be the lump sum specified in the Detailed Breakdown of Proposed Total Hours, Personnel Categories and Labor Rates. "IF AUTHORIZED TASKS" shall only be performed upon written authorization of the Administrator. The total fee for all "IF AUTHORIZED TASKS" shall not exceed **\$45,738.00**.

The total compensation to Consultant under this Agreement shall not exceed **\$333,533.00** without subsequent modification.

The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Services.

**Section 5 – Payment**

Compensation shall be paid periodically, but no more than once per month, and shall be based on the calculated percentage of work performed to date in accordance with the Consultant's Price Proposal. Invoices shall be submitted to the Administrator by the Consultant on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Consultant shall promptly submit documentation as needed to substantiate said invoices. The County shall pay invoices within thirty (30) days of receipt.

**Section 6 – Authorization to Proceed, Completion of Work, Delays and Extensions**

The Consultant shall commence Work upon written authorization of the Administrator and shall complete the work no later than **12/22/2017**. Consultant shall not proceed with any "If Authorized" tasks with written Authorization. In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Consultant may make a written request for time extension, and the Administrator may grant such an extension provided that all other terms of the Agreement are adhered to.

**Section 7 – Insurance**

- 7.1 **General Liability Coverage:** Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.2 **Automobile Liability Coverage:** Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.3 **Workers' Compensation Coverage:** Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.4 **Professional Liability Insurance:** Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.
- 7.5 **Additional Insureds:** The County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 7.1 and 7.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 7.6 **Proof of Insurance:** Prior to the commencement of any work under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement and properly executed endorsements listing the additional insured required by Subsection 7.5. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Consultant will replace certificates for any insurance expiring prior to completion of work under this Agreement.

**Section 8 – Indemnification**

The Consultant shall indemnify and hold free and harmless the County and its 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 therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Consultant, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

**Section 9 – Suspension or Termination of Agreement**

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The County may suspend or terminate this Agreement at any time for the convenience of the County, at which time the County shall provide written notice to the Consultant ordering termination of Work. The Consultant shall immediately suspend or terminate Work, as ordered by the County. In the case of Termination, the Consultant shall submit a final invoice within sixty (60) days of receiving Notice of Termination for Work completed up to the date of termination. The County is not liable for payment for work performed after the date of termination.

**Section 10 – Change in Scope of Work**

In the event that significant changes to the Scope of Services as defined in Section 3 are required during performance of the Work, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall be approved by both parties.

**Section 11 – Ownership of Engineering Documents**

Upon completion or termination of the Agreement, the Consultant shall provide copies, if requested, to the County of all documents or electronic files produced under this Agreement. The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed surveys, calculations, reports, schematics, drawings and any other tangible written or electronic work produced in accordance with the Agreement. This section does not require unauthorized duplication of copyrighted materials.

**Section 12 – Change of Key Consultant Staff**

The Consultant shall immediately notify the County, in writing, of any change to key Consultant staff or subconsultants assigned to the Work as contemplated at the time of executing this Agreement.

**Section 13 – Notices**

Notices issued under this Agreement shall be served to the Parties listed below in writing.

County Engineer:

Name: Chris Bauserman, P.E., P.S.  
Attn: Tiffany Jenkins, P.E.  
Address: 50 Channing Street, Delaware, Ohio 43015  
Telephone: 740-833-2400  
Email: tjenkins@co.delaware.oh.us

Consultant:

Name: Cory R. Lamb, P.E., Associate Vice President  
Attn: Charles A. Mitchell, P.E., P.S.  
Address: 471 East Broad Street, Suite 2010, Columbus, Ohio 43215  
Telephone: 614-225-8868  
Email: cmitchell@chacompanies.com

**Section 14 – Miscellaneous Terms & Conditions**

- 14.1 **Prohibited Interests:** Consultant agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Consultant further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 14.2 **Independent Contractor:** The Parties acknowledge and agree that Consultant is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Consultant also agrees that, as an independent contractor, Consultant assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Consultant hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 14.3 **Entire Agreement:** This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Consultant, 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.
- 14.4 **Governing Law:** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 14.5 **Headings:** The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.
- 14.6 **Waivers:** No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No

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

- 14.7 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.
- 14.8 Findings for Recovery: Consultant certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.
- 28.9 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 28.10 County Policies: The Consultant shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Consultant shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing Services under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Consultant to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 28.11 Drug-Free Workplace: The Consultant agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Consultant shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the Services being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 14.12 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

Consultant 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 Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

Consultant certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.

Consultant certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.

- 14.13 Campaign Finance – Compliance with R.C. 3517.13: Ohio Revised Code Section 3517.13 I(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 Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13." **Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract.** Such certification is attached to this Contract and by this reference made a part thereof.

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

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**RESOLUTION NO. 17-439**

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

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

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

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

Permit #	Applicant	Location	Type of Work
U17-051	AEP	Bale Kenyon Road	Relocate facilities
U17-052	Charter Communications	Cameron Avenue	Directional Bore
U17-053	Century Link	Gorsuch Road	Road Bore
U17-054	Aspire Energy	South County Line Road	Road Bore
U17-055	Aspire Energy	Red Bank Road	Directional Bore
U17-056	Century Link	Perfect Road	Remove facilities
U17-057	Spectrum	Fourwinds Drive	Place buried cable in ROW
U17-058	Century Link	Fredricks Road	Relocate facilities
U17-059	Charter Communications	Abbot Downing Blvd	Directional Bore
U17-049	Madison Energy	Concord Road	Extend mainline
U17-050	Consolidated Electric	Orange Road	Install Fiber Optic
U17-060	Columbia Gas	S. Old 3 C Highway	Replace Gas Main

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

**13**

**RESOLUTION NO. 17-440**

**IN THE MATTER OF AUTHORIZING PARTICIPATING IN THE ODOT WINTER CONTRACT (018-18) FOR ROAD SALT:**

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

**WHEREAS**, the Board of Commissioners of Delaware County, Ohio (hereinafter referred to as the “Political Subdivision”) hereby submits this written agreement to participate in the Ohio Department of Transportation’s (ODOT) annual winter road salt bid (018-18) in accordance with Ohio Revised Code 5513.01(B) and hereby agrees to all of the following terms and conditions in its participation of the ODOT winter road salt contract:

- a. The Political Subdivision hereby agrees to be bound by all terms and conditions established by ODOT in the winter road salt contract and acknowledges that upon of award of the contract by the Director of ODOT it shall be bound by all such terms and conditions included in the contract; and
- b. The Political Subdivision hereby acknowledges that upon the Director of ODOT’s signing of the winter road salt contract, it shall effectively form a contract between the awarded salt supplier and the Political Subdivision; and
- c. The Political Subdivision agrees to be solely responsible for resolving all claims or disputes arising out of its participation in the ODOT winter road salt contract and agrees to hold the Department of Transportation harmless for any claims, actions, expenses, or other damages arising out of the Political Subdivision’s participation in the winter road salt contract; and
- d. The Political Subdivision hereby requests through this participation agreement a total of 8000 tons of Sodium Chloride (Road Salt) of which the Political Subdivision agrees to purchase from its awarded salt supplier at the delivered bid price per ton awarded by the Director of ODOT; and
- e. The Political Subdivision hereby agrees to purchase a minimum of 90% of its above-requested salt quantities from its awarded salt supplier during the contract’s effective period of October 1, 2017 through April 30, 2018; and
- f. The Political Subdivision hereby agrees to place orders with and directly pay the awarded salt supplier on a net 30 basis for all road salt it receives pursuant to ODOT winter salt contract; and
- g. The Political Subdivision acknowledges that should it wish to rescind this participation agreement it will do

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so by written, emailed request by no later than Thursday, June 1, 2017. The written, emailed request to rescind this participation agreement must be received by the ODOT Office of Contract Sales, Purchasing Section email: [Contracts.Purchasing@dot.ohio.gov](mailto:Contracts.Purchasing@dot.ohio.gov) by the deadline. The Department, upon receipt, will respond that it has received the request and that it has effectively removed the Political Subdivision's participation request. Furthermore, it is the sole responsibility of the Political Subdivision to ensure ODOT has received this participation agreement as well as the receipt of any request to rescind this participation agreement. The Department shall not be held responsible or liable for failure to receive a Political Subdivision's participation agreement and/or a Political Subdivision's request to rescind its participation agreement.

**NOW, THEREFORE**, be it resolved by the Board of Commissioners of Delaware County, Ohio that this participation agreement for the ODOT winter road salt contract is hereby approved, funding has been authorized subject to future appropriation, and the Political Subdivision agrees to the above terms and conditions regarding participation on the ODOT winter salt contract, and that the County Engineer is authorized to act on behalf of the Board to administer this agreement.

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

**14**

**RESOLUTION NO. 17-441**

**IN THE MATTER OF AWARDING A BID AND APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND THE RIGHTER COMPANY FOR THE PROJECT KNOWN AS DEL-TR 149-2.57, KLONDIKE ROAD BRIDGE REPLACEMENT (REBID):**

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

**DEL-TR 149-2.57, Klondike Road Bridge Replacement (Rebid)  
Bid Opening of April 18, 2017**

Whereas, as the result of the above referenced bid opening, The Engineer recommends that a bid award be made to The Righter Company, the low bidder for the project. A copy of the bid tabulation is available for your information; and

Whereas, also available are two copies of the Contract with The Righter Company for your approval. All necessary documentation for this approval has been received (Certification/Affidavit in Compliance with O.R.C. Section 3517.13, etc.), and

Whereas, the County Engineer recommends approval of the Contract between the Delaware County Commissioners and The Righter Company for the project known as DEL-TR 149-2.57, Klondike Road Bridge Replacement (Rebid).

**CONTRACT**

THIS AGREEMENT is made this 1<sup>st</sup> day of , 2017 by and between **The Righter Company, Inc., 2424 Harrison Road, Columbus, Ohio 43204**, hereinafter called the "Contractor" and the Delaware County Commissioners, hereinafter called the "Owner".

The Contractor and the Owner for the considerations stated herein mutually agree as follows:

**ARTICLE 1. Statement of Work**

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services, and perform and complete all work required for the construction of the improvements embraced in the project named "**DEL-TR 149-2.57, Klondike Road Bridge Replacement (Rebid)**", and required supplemental work for the project all in strict accordance with the Contract Documents.

**ARTICLE 2. The Contract Price**

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed **Seven Hundred Seventy-Five Thousand Eight Hundred Eighty-Two Dollars and Zero Cents (\$775,882.00)**, subject to additions and deductions as provided in the Contract Documents.

**ARTICLE 3. Contract**

The executed Contract Documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation to Bid
- d. Instructions to Bidders

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- e. Signed copy of bid
- f. Work Specifications (including all plans, drawings, etc.)
- g. Specifications – General Provisions
- h. Federal and State Requirements

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern except as otherwise specifically stated.

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

**15**

**RESOLUTION NO. 17-442**

**IN THE MATTER OF APPROVING A CONTRACT FOR MARYHAVEN, INC. TO PERFORM SERVICES AND PROVIDE ASSESSMENTS TO BE USED BY THE DELAWARE COUNTY COMMON PLEAS COURT TO DETERMINE ELIGIBILITY FOR INTERVENTION IN LIEU OF CONVICTION:**

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

Whereas, The Delaware County Common Pleas Court Judges and Staff recommend approval of the following contract;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the following contract with Maryhaven, Inc. to perform services and provide assessments to be used by The Delaware County Common Pleas Court to determine eligibility for intervention in lieu of conviction:

**CONTRACT FOR MARYHAVEN, INC TO PERFORM SERVICES AND PROVIDE ASSESSMENTS TO BE USED BY THE DELAWARE COUNTY COMMON PLEAS COURT TO DETERMINE ELIGIBILITY FOR INTERVENTION IN LIEU OF CONVICTION**

This Contract is entered into this 27<sup>th</sup> day of April 2017 by and between the Board of Delaware County Commissioners (“Board”), whose principal place of business is located at 101 North Sandusky Street, Delaware, Ohio 43015, the Delaware County Common Pleas Court (“Court”), whose principal place of business is located at 91 North Sandusky Street, Delaware, Ohio 43015 (Board and Court collectively “County”) and Maryhaven, Inc. (“Contractor”), whose principal place of business is located at 1791 Alum Creek Drive, Columbus, Ohio 43207 (Individually “Party,” collectively “Parties”).

**PRELIMINARY STATEMENTS**

**WHEREAS**, for the purpose of determining an offender’s eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan, the Court is required by R.C. § 2951.041(A)(1) to obtain an assessment of the offender (“Assessment”); and,

**WHEREAS**, the Contractor provides such Assessments; and,

**WHEREAS**, the Court desires to engage the Contractor to perform such Assessments and the Contractor agrees to provide such Assessments to the Court upon the terms and conditions of this Contract.

**AGREEMENT**

**NOW, THEREFORE**, for good and valuable consideration and in consideration of the mutual promises and agreements of the Parties contained herein, it is agreed as follows:

- 1.        PURPOSE.** The purpose of this Contract is for the Contractor to perform services and provide to the Court an Assessment of certain offenders, pursuant to, R.C. § 2951.041(A)(1), for the purpose of the Court determining the offender’s eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan.
- 2.        TERM.** The term of this Contract shall begin on and be inclusive of the date the last Party signs this Contract and continue through June 30, 2018, unless otherwise terminated as provided in this Contract.
- 3.        RENEWAL.** Upon written agreement of the Parties, this Contract may be renewed for successive one (1) year periods subject to the same terms and conditions provided herein and upon any such terms and conditions as may be specifically agreed upon, added and/or amended in writing by the Parties.
- 4.        SCOPE OF SERVICES.** The Contractor shall provide Assessments, as required by and consistent with R.C. § 2951.041(A)(1), to be used by the Court for the purpose of determining an offender’s eligibility for



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intervention in lieu of conviction and recommending an appropriate intervention plan (collectively "Services"). The Services shall include the following:

- a. The Contractor shall provide the Services pursuant to an Order of the Court ordering an Assessment.
- b. The Court shall notify the Contractor immediately upon ordering an Assessment. The Court shall email the Order to the Contractor's designated recipient. If the Contractor's designated recipient agrees to provide the Services, that determination shall be provided via email to the Court's designated recipient within three (3) business days of receipt of the Court's email requesting Services.
- c. If the Contractor determines not to provide the Services, the Contractor shall notify the Court's designated recipient via email of such determination and the reason(s) for such determination within three (3) business days of receipt of the Court's email requesting Services. The Court shall then be free to make alternative arrangements for the Services.
- d. The Services shall be provided by the Contractor at the Contractor's facilities under the terms and conditions as contained in this Contract.
- e. The Contractor shall be a community addiction services provider as defined in R.C. § 2951.041(G)(1)).
- f. The Contractor shall maintain at least one or more of the following individuals on staff: psychiatrist, psychologist (as defined in R.C. § 2951.041(G)(7)), independent social worker, licensed professional clinical counselor, or independent marriage and family therapist.
- g. If the offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the offender shall be assessed by the Contractor, as a community addiction services provider (as defined in R.C. § 2951.041(G)(1)) or a properly credentialed professional, for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan.
- h. If an offender alleges that, at the time of committing the criminal offense with which the offender is charged, the offender had a mental illness, was a person with an intellectual disability, or was a victim of a violation of R.C. § 2905.32 (Trafficking in Persons) and that the mental illness, status as a person with an intellectual disability, or fact that the offender was a victim of a violation of R.C. § 2905.32 was a factor leading to that offense, the offender shall be assessed by a psychiatrist, psychologist (as defined in R.C. § 2951.041(G)(7)), independent social worker, licensed professional clinical counselor, or independent marriage and family therapist for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan.
- i. The Contractor warrants that it and the individuals/professionals providing the Services possess all required Licenses (defined in Sec. 15 of this Contract), qualifications, expertise, and experience necessary to perform the Services.
- j. All Services shall be performed in a diligent, timely, and professional manner.
- k. All Services shall be performed at an out-patient level.
- l. The individual(s) performing the Services and providing the Assessment shall personally meet with each offender for whom Services are being provided and for whom an Assessment will be prepared. If the offender does not appear for the Services/Assessment, the requirement of this subsection does not apply and the Contractor shall provide a report to the Court explaining the notice to appear provided to the offender, any attempts made to get the offender to appear, and the fact that the offender did not appear.
- m. All Assessments shall be provided to the Court in writing.
- n. Upon performing the Services, the Contractor shall prepare and provide to the Court a written Assessment of the offender consistent with the requirements of R.C. § 2951.041(A)(1). The Assessment shall be written so as to assist the Court in determining an offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan. In addition to meeting the statutory requirements, the Assessment shall include any additional information requested by the Court.
- o. The Services shall be provided and the Assessment shall be delivered to the Court within four (4) weeks of the Court's Order ordering the Assessment, unless some other period of time is provided by such Order.
- p. The Contractor shall submit the Assessment to the Court as follows:

For Judge David M. Gormley – Electronically:

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

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For Judge Everett H. Krueger - Electronically:

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

- q. Ownership of all clinical documentation (e.g., initial assessment, notes, etc . . .) will remain with the Contractor.
  - r. Upon receipt, the Court shall have and maintain ownership of the Assessment.
  - s. If desired by the Court and upon receipt of a subpoena, the Contractor shall cause the subpoenaed person to appear at the designated time and place and provide expert witness testimony about the Services and the contents of the Assessment.
5. **NO EXCLUSIVITY.** The Contractor shall not be the exclusive provider of the Services to the Court. The Court, in its sole discretion, may utilize other contractors to perform the same or similar Services.
6. **COMPETITIVE BIDDING NOT REQUIRED.** Consistent with R.C. § 307.86, this Contract is not required to be competitively bid. The Court does not desire to competitively bid this Contract.
7. **AUTHORITY.** The County is authorized by R.C. § 2951.041 to enter this Contract.
8. **COMPENSATION FOR SERVICES.** In exchange for the Contractor providing the Services and Assessments pursuant to the terms and conditions of this Contract and in a manner satisfactory to the Court, payment shall be made to the Contractor as follows:

**OFFENDER IS A RESIDENT OF DELAWARE COUNTY, OHIO**

	<b>PAYMENT TYPE</b>	<b>RESPONSIBLE PARTY</b>	<b>RATE</b>
1	Insurance	Offender/Insurance	Co-pay/Balance
2	No Insurance	Offender	Sliding Scale
3	Medicaid	Medicaid	100%
4	Hardship	Contractor	n/a

Consistent with the above chart, the County shall have no responsibility to pay for Services when the offender is a resident of Delaware County, Ohio.

**OFFENDER IS NOT A RESIDENT OF DELAWARE COUNTY, OHIO**

	<b>PAYMENT TYPE</b>	<b>RESPONSIBLE PARTY</b>	<b>RATE</b>
1	Insurance	Offender/Insurance	Co-pay/Balance
2	No Insurance	County	\$300.00 per Assessment
3	Medicaid	Medicaid	100%
4	Hardship	Contractor	n/a

Unless otherwise ordered by the Court, the Court shall order the offender to reimburse the County any and all costs and/or expenses paid by the County for the Services and Assessments provided by the Contractor to the offender pursuant to this Contract.

For purposes of determining applicability of the above charts, the Court shall determine the residency of the offender and shall include the offender’s county of residence in its Order ordering the Assessment and/or shall otherwise provide the offender’s county of residency to the Contractor.

Contractor shall also complete a Federal W-9 form.

9. **MAXIMUM PAYMENT.** The Contractor agrees to accept as full payment for the Services and Assessments, all rendered in a manner satisfactory to the Court, the lesser of the following: (1) the maximum amount of Twenty Thousand Dollars and No Cents (\$20,000.00) or (2) the dollar amount equal to the number of actual completed Assessments provided by the Contractor to the Court multiplied by the dollar amount per Assessment, as provided by the charts in Sec. 8 of this Contract, for which Assessments the County is responsible for payment. It is expressly understood and agreed that in no event shall the total amount to be paid to the Contractor for Services and Assessments exceed the maximum of Twenty Thousand Dollars and No Cents (\$20,000.00).

10. **PAYMENT FOR SERVICES.** The Contractor shall only submit an invoice to the Court where the offender is not a resident of Delaware County, Ohio and has no insurance and, if applicable, Medicaid has been denied.

The Contractor shall determine whether the offender has insurance. If the offender does not have insurance, the Contractor shall determine the offender’s eligibility for Medicaid and, if eligible, shall submit to Medicaid invoices for the Services and Assessments performed under this Contract for such offender. The Contractor shall bear the cost of all Medicaid determinations and submissions. If the Contractor receives Medicaid reimbursement for the offender, the County shall not be liable for the cost of the Contractor providing Services to the offender under this Contract. If Medicaid is denied and the offender is not a resident of Delaware

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County, Ohio and has no insurance, the Contractor may then submit an invoice to the County.

The Contractor shall also determine hardship.

To receive payment, the Contractor shall submit to the Court a proper invoice for Services actually rendered ("Proper Invoice"). Proper Invoices shall be itemized and shall include documentation, satisfactory to the Court, supporting the Services actually provided. At a minimum, a Proper Invoice shall include the following:

- a. Contractor's name,
- b. Offender's name,
- c. Dates of Service,
- d. Name of individual providing the Services,
- e. Type/Description of Services,
- f. Detailed cost break-out by Service,
- g. Total invoice amount,
- h. Due date for payment,
- i. Information on where to submit payment,
- j. Contact information for an individual that can answer questions regarding the Services/invoice.

The Contractor shall submit Proper Invoices to the Court as follows:

For Judge David M. Gormley - Electronically:

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

For Judge Everett H. Krueger - Electronically:

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

The Contractor shall submit a Proper Invoice to the Court within thirty (30) days of providing the Services, unless the invoice was first submitted for Medicaid reimbursement that was denied, in which case the Contractor shall submit the Proper Invoice within thirty (30) days of Medicaid reimbursement being denied. The County shall not be liable for payment of any invoice submitted more than thirty (30) days after providing the Service or more than thirty (30) days after Medicaid reimbursement being denied, whichever is applicable.

Upon receipt of a timely submitted invoice, the Court shall review the invoice and shall pay a Proper Invoice. The Contractor agrees that the County shall have no less than Forty-Five (45) days after receipt of a Proper Invoice by the Court to pay the invoice. The date of the warrant issued in payment shall be considered the date of payment. Payment shall not be initiated before a Proper Invoice is received.

Defective invoices shall be returned to the Contractor noting areas for correction. When such notification of defect is sent, the required payment date shall be no less than Forty-Five (45) days after receipt of a corrected and Proper Invoice.

The County will only pay for those Services authorized by and referred to the Contractor by the Court and consistent with the terms and conditions of this Contract.

**11. TAXES.** The County, including the Court, is a political subdivision and tax exempt. The Contractor therefore agrees to be responsible for all tax liability that accrues as a result of this Contract and the Services that the Contractor provides to the Court pursuant to this Contract.

**12. OVERPAYMENT.** In the event of overpayment, the Contractor agrees to reimburse or repay the County the amount of any overpayment and that to which it is entitled.

**13. NO PUBLICITY.** The Contractor shall not use the names of either the County or Court in any advertising, promotional material, publication, or press or publicity release without the express prior written consent of the County.

**14. TRANSPORTATION.** All Service-related transportation of the offender is to be provided by the offender. If for any reason the Contractor provides transportation of the offender, any persons who transport the offender by motor vehicle on behalf of the Contractor must have a current and valid driver's license and the Contractor shall conduct appropriate due diligence on the individual's driving record. The Contractor agrees that any motor vehicle used by the Contractor in transporting the offender under this Contract must have full and proper automotive insurance coverage as required by law and this Contract. The Contractor shall be solely liable and shall indemnify and hold free and harmless the County for all actions, claims, suits, demands, judgments, damages, losses, costs, fines, fees, penalties, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type

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or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to the Contractor's or any subcontractor's provision of transportation of the offender regardless of the means of transportation.

**15. LICENSES.** The Contractor certifies and warrants that it and/or all of the Contractor's employees and/or subcontractors performing the Services has/have obtained and maintain current all authorizations, qualifications, consents, credentials, approvals, orders, certifications, licenses, operator's licenses, and/or registrations (collectively "Licenses") necessary to provide and perform all the Services required of the Contractor by this Contract, to conduct business in the state of Ohio, and/or , if applicable, to drive a motor vehicle. The Contractor further certifies and warrants that all such Licenses are current, operative, and active and have not been revoked or are not currently suspended for any reason. The Contractor agrees to provide proof of such Licenses upon request from the County.

**16. INDEPENDENT RECORDS.** The Contractor shall maintain independent books, records, documents, and papers involving transactions related to the performance of this Contract and which reflect all direct and indirect costs and financial transactions of any nature related to the performance of this Contract.

**17. ACCESS TO RECORDS.** At any time, during regular business hours, with reasonable notice, and as often as the County or any other agency or individual authorized by the County may deem necessary, the Contractor shall make available to the County and/or any such agency or authorized individual 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 (collectively "Records"). The County and/or any other agency or individual authorized by the County shall be permitted by the Contractor to inspect, audit, photograph, make excerpts, photocopies, and/or transcripts of any and all such Records.

**18. RETENTION OF RECORDS.** The Contractor 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 Records. If an audit, litigation, or other action is initiated during the term of this Contract or the retention period, the Contractor shall retain and maintain, and assure that all of its subcontractors retain and maintain, the Records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever is later.

**19. NON-DISCLOSURE OF INFORMATION.** The Contractor agrees that it will not use or disclose any information concerning Court clients for any purpose unless necessary to the administration of the County's or Contractor's responsibilities under this Contract. The Contractor specifically agrees that it shall obtain prior written approval from the Court before permitting either of the following:

- a. Any videotaping, audio taping or photography of Court clients for any purpose that will primarily benefit the Contractor or will be used by print, broadcast, or electronic media;
- b. The use of the names or identities of Court clients for the primary benefit of the Contractor or for use by print, broadcast, or electronic media.

**20. CONFIDENTIALITY/PRIVACY OF MEDICAL RECORDS.** The Parties shall adhere to and abide by all applicable privacy and confidentiality laws and regulations, including, but not limited to, all Federal, state, and local laws and regulations governing the confidentiality of patient, health information, protected health information ("PHI"), and/or medical records, including, but not limited to, HIPAA, 42 CFR Part 2, 45 CFR Parts 160 and 164, and any and all other applicable, Federal, state, or local laws or regulations which relate to the privacy and confidentiality of patient, health information, PHI, or medical records. If applicable and/or necessary, the Contractor agrees and shall enter into a proper Business Associate Agreement with the County for the protection of such information.

**21. TERMINATION.**

This Contract may be terminated as follows:

A. Termination for Convenience

The County may terminate this Contract at any time and for any reason by giving at least thirty (30) days advance written notice to the Contractor.

**OR**

The Parties, upon mutual written agreement, may terminate this Contract at any time and for any reason upon terms and conditions agreeable to the Parties.

B. Breach or Default

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

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time period, this Contract may, at the election of the aggrieved Party, be immediately terminated. The Parties may, without limitation, exercise any available administrative, contractual, equitable or legal remedies.

C. Waiver of Breach or Default

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

Termination pursuant to this Section shall relieve the Parties of further obligation under this Contract, except that the Contractor shall be entitled to receive compensation for any Services satisfactorily performed hereunder through the date specified on the notice or writing as the effective date of termination.

If the Contract is terminated pursuant to this Section, the Contractor shall have no cause of action against the County except for a cause of action for non-payment for contract Services rendered prior to the date of termination. In no event shall the County be obligated to pay for any Services not actually performed by the Contractor.

**22. INDEPENDENT CONTRACTOR.** The Contractor agrees that it shall act in performance of this Contract as an independent contractor. No agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Contract.

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

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

**23. INDEPENDENT CONTRACTOR ACKNOWLEDGEMENT/NO CONTRIBUTION TO OPERS.**

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

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

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Shawn D. Holt  
President and CEO  
Maryhaven, Inc.

**24. NOTICE OF RECEIPT OF OPERS BENEFIT/FORM SR-6.** If the Contractor is, or during the term of this Agreement becomes, an age and service retirement or disability benefit recipient through OPERS, then the Contractor shall immediately provide written notice to the County that the Contractor is a benefit recipient and shall complete OPERS Form SR-6. The Contractor acknowledges that rendering services under this Agreement as an independent contractor may result in a forfeiture and/or suspension of any or all of the Contractor's OPERS benefit during the term of this Agreement. The Contractor shall indemnify the County and hold the County harmless against and from any liability the County may incur for overpaid OPERS benefits due to the Contractor's failure to provide written notice or complete OPERS Form SR-6 as required herein, and the Contractor authorizes the County to withhold any such amount from the compensation due the Contractor under this Agreement.

**25. INDEMNIFICATION.**

The Contractor shall provide indemnification as follows:

- A. To the fullest extent of the law and without limitation, the Contractor agrees to and shall indemnify and hold free and harmless the Court, Board, and 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,

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costs, fines, fees, penalties, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to the Contractor's or any subcontractor's performance of this Contract or the actions, inactions, or omissions of the Contractor or any subcontractor, including, but not limited to the performance, actions, inactions, or omissions of the Contractor's or any subcontractor's boards, officers, officials, employees, volunteers, agents, servants, or representatives (collectively "Contracted Parties".) The Contractor agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that the Contractor 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. The Contractor further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that the Contractor shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, fines, fees, penalties, and expenses, including, but not limited to attorney's fees.

- B. The Contractor shall assume full responsibility for, pay for, and shall indemnify and hold free and harmless the Indemnified Parties from any harm, damage, destruction, injury, or loss, regardless of type or nature, known or unknown, realized or unrealized, to any property, real or personal, belonging to the Indemnified Parties or others, including but not limited to real estate, buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts arising out of or resulting in whole or in part from any actions, inactions, or omissions negligent or accidental, actual or threatened, intentional or unintentional of the Contracted Parties.

**26. INSURANCE.** The Contractor shall carry and maintain current throughout the life of the Contract and until the Services are complete, without lapse, 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 and shall include coverage for indemnification as described above.

Prior to commencement of this Contract, the Contractor shall present to the Court current certificates of insurance. The insurance company 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 company to bind coverage on its behalf.

Such insurance shall, at a minimum, be of a type which is customary in the industry or is required by law, whichever is the greater standard. Such insurance shall provide coverage in an amount that is required by law or is both standard in the industry and adequate to protect the Contractor and the Indemnified Parties against any and all liability or damages arising from the Services provided under the Contract, whichever is greater.

The County shall be named as "Additional Insured" on all such policies of insurance.

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 respects 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.

If there is any change in insurance carrier or liability amounts, a new certificate of insurance must be provided to the Court within seven (7) calendar days of change.

The Contractor shall be responsible for any and all premiums for such policy(ies) of insurance.

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

**27. AUTO/MOTOR VEHICLE INSURANCE (If Applicable).** If a motor vehicle is in any way used in connection with providing the Services or in transporting any offender in connection with the Services, the Contractor shall carry and maintain auto/motor vehicle liability insurance covering all owned, leased, non-owned, and/or hired vehicles used in providing the Services, used in connection with the Services, transporting an offender, and/or otherwise used for the County with coverage in an amount equal to that required by law and covering all sums which the Contractor may or shall become legally obligated to pay as damages, but in an amount providing for minimum coverage of at least one million dollars (\$1,000,000.00) (Combined Single Limit) or, five hundred thousand dollars (\$500,000.00) per person and one million dollars (\$1,000,000.00) per accident for bodily injury and five hundred thousand dollars (\$500,000.00) 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 Contractor shall carry and maintain current such insurance, without lapse, while any transportation related to providing the Services or transportation of offenders is being provided by the Contractor.

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Prior to providing any transportation related to the Services or transporting offenders, the Contractor shall present to the Court current certificates of insurance for the required auto/motor vehicle insurance. The insurance company 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 company to bind coverage on its behalf.

The County shall be named as "Additional Insured" on all such policies of insurance.

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 respects 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.

If there is any change in insurance carrier or liability amounts, a new certificate of insurance must be provided to the Court within seven (7) calendar days of change.

The Contractor shall be responsible for any and all premiums for such policy(ies) of insurance.

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

**28. PROFESSIONAL INSURANCE.** Throughout the life of the Contract, the Contractor shall provide and maintain current, without lapse, professional liability insurance for it and its employees providing Services under this Contract. Such insurance shall provide coverage in an amount that is both standard in the industry and adequate to protect the Contractor and the Indemnified Parties against any and all liability or damages arising from the professional Services provided under the Contract.

At any time throughout the life of the Contract, the Court may request proof of such insurance. Proof of such insurance shall be promptly provided upon request.

The County shall be named as "Additional Insured" on all such policies of insurance.

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 Contractor shall be responsible for any and all premiums for such policy(ies).

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

**29. WORKERS' COMPENSATION INSURANCE.** The Contractor shall carry Workers' Compensation Liability Insurance as required by applicable Ohio law for any work to be performed within the state of Ohio. The Contractor shall be responsible for any and all premiums for such policy(ies).

**30. CONFLICT OF INTEREST.** No personnel of the Contractor, Board, Court, County, or member of the governing body of any locality or other public official or employee of any such locality in which, the work under this Contract is being carried out, and who exercises any functions or responsibilities in connection with the review or approval of the understanding or carrying out of any such work, shall prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Contract, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to the Court in writing.

Thereafter, he or she shall not participate in any action affecting the work under this Contract, unless the Court shall determine that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to public interest.

**31. WAIVER.** The waiver of any provision or term of this Contract shall be limited to the particular failure(s) so waived and shall not be deemed to waive other failure(s). Waiver by either Party shall be authorized in writing and signed by an authorized person or a quorum of the authorized board.

**32. 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:

**County:**

Kristin Schultz  
Court Administrator  
Delaware County Common Pleas Court  
91 North Sandusky Street, 3<sup>rd</sup> Floor

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Delaware, Ohio 43015

Facsimile: (740) 833-2549

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

**Contractor:**

Shawn D. Holt  
President and CEO  
Maryhaven, Inc.  
1791 Alum Creek Drive  
Columbus, Ohio 43207

Facsimile: (614) 445-7808

Email: [sholt@maryhaven.com](mailto:sholt@maryhaven.com)

**33. ANTI-DISCRIMINATION.**

The Contractor warrants and agrees as follows:

- A. That in the hiring of employees for the performance of work under this Contract or any subcontract, the Contractor shall not, by reason of race, color, religion, sex, sexual orientation, Vietnam-era veteran status, age, handicap, national origin, or ancestry, discriminate against any citizen of this state in the employment of a person qualified to perform the work to which this Contract relates; and,
- B. That neither the Contractor nor any of its subcontractors or any person acting on behalf of the Contractor shall, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Contract on account of race color, religion, sex, sexual orientation, Vietnam-era veteran status, age, handicap, national origin or ancestry; and,
- C. That neither the Contractor nor any of its subcontractors or any person acting on behalf of the Contractor shall, in any manner, discriminate against, intimidate, or retaliate against any person receiving Services under this Contract on account of race color, religion, sex, sexual orientation, Vietnam-era veteran status, age, handicap, national origin or ancestry; and,
- D. The Contractor warrants that it has a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as defined in R.C. § 122.71. Annually, the Contractor shall file a description of the affirmative action program and a progress report on its implementation with the Ohio Civil Rights Commission and the Minority Business Development Office established under R.C. § 122.92.
- E. The Contractor and all of its subcontractors shall comply with all Federal, state, and/or local laws and shall not discriminate.

**34. ACCESSABILITY.** The Contractor shall make all Services provided pursuant to this Contract accessible to the disabled/handicapped. The Contractor shall comply with any and all federal and state laws mandating accessibility, including Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), all requirements imposed by the applicable HHS regulations (45 CFR 8;4) and all guidelines and interpretations issued pursuant thereto.

**35. WARRANTY AGAINST AN UNRESOLVED FINDING FOR RECOVERY.** Ohio Revised Code (O.R.C.) §9.24 prohibits the County from awarding a contract to any party against whom the Auditor of the State has issued a finding for recovery if the finding for recovery is “unresolved” at the time of the award. By signature of its authorized representative below, the Contractor certifies that it is not subject to any current unresolved findings for recovery pending or issued against it by the State of Ohio.

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Shawn D. Holt  
President and CEO  
Maryhaven, Inc.

**36. DELINQUENT PERSONAL PROPERTY TAXES.** By signature of its authorized representative below, the Contractor 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.

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Shawn D. Holt  
President and CEO  
Maryhaven, Inc.



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- 37. COUNTY POLICY.** The Contractor shall be bound by, conform to, comply with, and abide by all current applicable Delaware County policies, including, but not limited to, the Contractor Safety Policy, Computer Use Policy, Social Media Policy, and Internet Use Policy (collectively "County Policy") and shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Contract and/or for or on behalf of the County to comply with County Policy and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Contract for failure of the Contractor or any of its employees or subcontractors to comply with County Policy. Copies of County Policy are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind County Policy at any time and without notice.
- 38. CAMPAIGN FINANCE – COMPLIANCE WITH ORC § 3517.13.** Ohio Revised Code Section 3517.13 I(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 R.C. § 3517.13. The Contractor, 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 Contract will prohibit the County from entering, proceeding with, and/or performing the Contract. Such certification is attached to this Contract as "Exhibit B" and by this reference made a part of this Contract.
- 39. DRUG FREE ENVIRONMENT.** The Contractor 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. The Contractor 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.
- 40. ASSIGNMENT.** The Contractor shall not assign this Contract.
- 41. SUBCONTACTING.** The Contractor may, with prior written approval of the Court, subcontract any portion of this Contract. The Court approval of a subcontract can be withheld in the Court's sole and absolute discretion. If Services are subcontracted, the Contractor shall cause the subcontractor to agree to all the terms and conditions of this Agreement. The Contractor shall also continue to act as the prime contractor for all subcontracted Services and shall assume full responsibility for the performance of the Services. The Contractor will remain the sole point of contact and shall be ultimately responsible and liable for the performance of the Services provided pursuant to this Contract.
- 42. NO AUTHORITY TO BIND OTHER PARTY.** Neither Party shall have the authority or right to bind or obligate the other Parties in any manner.
- 43. GOVERNING LAW/VENUE.** This Contract shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Contract shall be filed in and heard before the courts of Delaware County, Ohio and such courts shall be deemed to have jurisdiction. The Contractor hereby irrevocable consents to such applicable law, venue, and jurisdiction.
- 44. MODIFICATIONS.** This Contract may be modified by mutual agreement of the Parties. Such modifications shall be in writing and signed by the County and Contractor.
- 45. SEVERABILITY.** The provisions of this Contract are severable and independent, and if any such provision shall be unenforceable in whole or in part, the remaining provisions and any partially enforceable provisions, to the extent enforceable, shall nevertheless be binding and enforceable.
- 46. 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.
- 47. DRAFTING.** This Contract shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 48. COUNTERPARTS.** This Contract may be executed in counterparts.
- 49. ENTIRE AGREEMENT.** This Contract (and its Attachments) shall constitute the entire understanding and agreement between the Parties, shall supersede all prior understandings and agreements, whether written or oral, between the Parties relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the Parties.
- 50. 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.

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

**16**

**RESOLUTION NO. 17-443**

**IN THE MATTER OF APPROVING A CONTRACT FOR RECOVERY AND PREVENTION RESOURCES OF DELAWARE AND MORROW COUNTIES, INC. (R.P.R.) TO PERFORM SERVICES AND PROVIDE ASSESSMENTS TO BE USED BY THE DELAWARE COUNTY COMMON PLEAS COURT TO DETERMINE ELIGIBILITY FOR INTERVENTION IN LIEU OF CONVICTION:**

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

Whereas, The Delaware County Common Pleas Court Judges and Staff recommend approval of the following contract;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the following contract with Recovery And Prevention Resources Of Delaware And Morrow Counties, Inc. (R.P.R.) to perform services and provide assessments to be used by The Delaware County Common Pleas Court to determine eligibility for intervention in lieu of conviction:

**CONTRACT FOR RECOVERY AND PREVENTION RESOURCES OF DELAWARE AND MORROW COUNTIES, INC. (R.P.R.) TO PERFORM SERVICES AND PROVIDE ASSESSMENTS TO BE USED BY THE DELAWARE COUNTY COMMON PLEAS COURT TO DETERMINE ELIGIBILITY FOR INTERVENTION IN LIEU OF CONVICTION**

This Contract is entered into this 27th day of April 2017 by and between the Board of Delaware County Commissioners (“Board”), whose principal place of business is located at 101 North Sandusky Street, Delaware, Ohio 43015, the Delaware County Common Pleas Court (“Court”), whose principal place of business is located at 91 North Sandusky Street, Delaware, Ohio 43015 (Board and Court collectively “County”) and Recovery and Prevention Resources of Delaware and Morrow Counties, Inc. (R.P.R.) (“Contractor”), whose principal place of business is located at 118 Stover Drive, Delaware, Ohio 43015 (Individually “Party,” collectively “Parties”).

**PRELIMINARY STATEMENTS**

**WHEREAS**, for the purpose of determining an offender’s eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan, the Court is required by R.C. § 2951.041(A)(1) to obtain an assessment of the offender (“Assessment”); and,

**WHEREAS**, the Contractor provides such Assessments; and,

**WHEREAS**, the Court desires to engage the Contractor to perform such Assessments and the Contractor agrees to provide such Assessments to the Court upon the terms and conditions of this Contract.

**AGREEMENT**

**NOW, THEREFORE**, for good and valuable consideration and in consideration of the mutual promises and agreements of the Parties contained herein, it is agreed as follows:

1. **PURPOSE.** The purpose of this Contract is for the Contractor to perform services and provide to the Court an Assessment of certain offenders, pursuant to, R.C. § 2951.041(A)(1), for the purpose of the Court determining the offender’s eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan.
2. **TERM.** The term of this Contract shall begin on and be inclusive of the date the last Party signs this Contract and continue through June 30, 2018, unless otherwise terminated as provided in this Contract.
3. **RENEWAL.** Upon written agreement of the Parties, this Contract may be renewed for successive one (1) year periods subject to the same terms and conditions provided herein and upon any such terms and conditions as may be specifically agreed upon, added and/or amended in writing by the Parties.
4. **SCOPE OF SERVICES.** The Contractor shall provide Assessments, as required by and consistent with R.C. § 2951.041(A)(1), to be used by the Court for the purpose of determining an offender’s eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan (collectively “Services”). The Services shall include the following:
  - a. The Contractor shall provide the Services pursuant to an Order of the Court ordering an Assessment.
  - b. The Court shall notify the Contractor immediately upon ordering an Assessment. The Court shall email the Order to the Contractor’s designated recipient. If the Contractor’s designated recipient

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agrees to provide the Services, that determination shall be provided via email to the Court's designated recipient within three (3) business days of receipt of the Court's email requesting Services.

- c. If the Contractor determines not to provide the Services, the Contractor shall notify the Court's designated recipient via email of such determination and the reason(s) for such determination within three (3) business days of receipt of the Court's email requesting Services. The Court shall then be free to make alternative arrangements for the Services.
- d. The Services shall be provided by the Contractor at the Contractor's facilities under the terms and conditions as contained in this Contract.
- e. The Contractor shall be a community addiction services provider as defined in R.C. § 2951.041(G)(1)).
- f. The Contractor shall maintain at least one or more of the following individuals on staff: psychiatrist, psychologist (as defined in R.C. § 2951.041(G)(7)), independent social worker, licensed professional clinical counselor, or independent marriage and family therapist.
- g. If the offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the offender shall be assessed by the Contractor, as a community addiction services provider (as defined in R.C. § 2951.041(G)(1)) or a properly credentialed professional, for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan.
- h. If an offender alleges that, at the time of committing the criminal offense with which the offender is charged, the offender had a mental illness, was a person with an intellectual disability, or was a victim of a violation of R.C. § 2905.32 (Trafficking in Persons) and that the mental illness, status as a person with an intellectual disability, or fact that the offender was a victim of a violation of R.C. § 2905.32 was a factor leading to that offense, the offender shall be assessed by a psychiatrist, psychologist (as defined in R.C. § 2951.041(G)(7)), independent social worker, licensed professional clinical counselor, or independent marriage and family therapist for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan.
- i. The Contractor warrants that it and the individuals/professionals providing the Services possess all required Licenses (defined in Sec. 15 of this Contract), qualifications, expertise, and experience necessary to perform the Services.
- j. All Services shall be performed in a diligent, timely, and professional manner.
- k. All Services shall be performed at an out-patient level.
- l. The individual(s) performing the Services and providing the Assessment shall personally meet with each offender for whom Services are being provided and for whom an Assessment will be prepared. If the offender does not appear for the Services/Assessment, the requirement of this subsection does not apply and the Contractor shall provide a report to the Court explaining the notice to appear provided to the offender, any attempts made to get the offender to appear, and the fact that the offender did not appear.
- m. All Assessments shall be provided to the Court in writing.
- n. Upon performing the Services, the Contractor shall prepare and provide to the Court a written Assessment of the offender consistent with the requirements of R.C. § 2951.041(A)(1). The Assessment shall be written so as to assist the Court in determining an offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan. In addition to meeting the statutory requirements, the Assessment shall include any additional information requested by the Court.
- o. The Services shall be provided and the Assessment shall be delivered to the Court within four (4) weeks of the Court's Order ordering the Assessment, unless some other period of time is provided by such Order.
- p. The Contractor shall submit the Assessment to the Court as follows:
  - For Judge David M. Gormley – Electronically:
  - [Gormleycourt@co.delaware.oh.us](mailto:Gormleycourt@co.delaware.oh.us)
  - For Judge Everett H. Krueger - Electronically:
  - [KOS@co.delaware.oh.us](mailto:KOS@co.delaware.oh.us)
- q. Ownership of all clinical documentation (e.g., initial assessment, notes, etc . . .) will remain with the Contractor.

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- r. Upon receipt, the Court shall have and maintain ownership of the Assessment.
  - s. If desired by the Court and upon receipt of a subpoena, the Contractor shall cause the subpoenaed person to appear at the designated time and place and provide expert witness testimony about the Services and the contents of the Assessment.
5. **NO EXCLUSIVITY.** The Contractor shall not be the exclusive provider of the Services to the Court. The Court, in its sole discretion, may utilize other contractors to perform the same or similar Services.
6. **COMPETITIVE BIDDING NOT REQUIRED.** Consistent with R.C. § 307.86, this Contract is not required to be competitively bid. The Court does not desire to competitively bid this Contract.
7. **AUTHORITY.** The County is authorized by R.C. § 2951.041 to enter this Contract.
8. **COMPENSATION FOR SERVICES.** In exchange for the Contractor providing the Services and Assessments pursuant to the terms and conditions of this Contract and in a manner satisfactory to the Court, payment shall be made to the Contractor as follows:

**OFFENDER IS A RESIDENT OF DELAWARE COUNTY, OHIO  
OR MORROW COUNTY, OHIO**

	<b>PAYMENT TYPE</b>	<b>RESPONSIBLE PARTY</b>	<b>RATE</b>
1	Insurance	Offender/Insurance	Co-pay/Balance
2	No Insurance	Offender	Sliding Scale
3	Medicaid	Medicaid	100%

Consistent with the above chart, the County shall have no responsibility to pay for Services when the offender is a resident of Delaware County, Ohio or Morrow County, Ohio.

**OFFENDER IS NOT A RESIDENT OF DELAWARE COUNTY, OHIO  
OR MORROW COUNTY, OHIO**

	<b>PAYMENT TYPE</b>	<b>RESPONSIBLE PARTY</b>	<b>RATE</b>
1	Insurance	Offender/Insurance	Co-pay/Balance
2	No Insurance	County	\$350.00 per Assessment
3	Medicaid	Medicaid	100%

Unless otherwise ordered by the Court, the Court shall order the offender to reimburse the County any and all costs and/or expenses paid by the County for the Services and Assessments provided by the Contractor to the offender pursuant to this Contract.

MACSIS residency guidelines shall be used to determine an offender’s county of residence and the applicability of the above charts. These guidelines may be found at:

<http://mha.ohio.gov/Default.aspx?tabid=391>.

Based on these guidelines, the Court shall include the offender’s county of residence in its Order ordering the Assessment.

Contractor shall also complete a Federal W-9 form.

9. **MAXIMUM PAYMENT.** The Contractor agrees to accept as full payment for the Services and Assessments, all rendered in a manner satisfactory to the Court, the lesser of the following: (1) the maximum amount of Twenty Thousand Dollars and No Cents (\$20,000.00) or (2) the dollar amount equal to the number of actual completed Assessments provided by the Contractor to the Court multiplied by the dollar amount per Assessment, as provided by the charts in Sec. 8 of this Contract, for which Assessments the County is responsible for payment. It is expressly understood and agreed that in no event shall the total amount to be paid to the Contractor for Services and Assessments exceed the maximum of Twenty Thousand Dollars and No Cents (\$20,000.00).
10. **PAYMENT FOR SERVICES.** The Contractor shall only submit an invoice to the Court where the offender is not a resident of Delaware County, Ohio or Morrow County, Ohio and has no insurance and, if applicable, Medicaid has been denied.

The Contractor shall determine whether the offender has insurance. If the offender does not have insurance, the Contractor shall determine the offender’s eligibility for Medicaid and, if eligible, shall submit to Medicaid invoices for the Services and Assessments performed under this Contract for such offender. The Contractor shall bear the cost of all Medicaid determinations and submissions. If the Contractor receives Medicaid reimbursement for the offender, the County shall not be liable for the cost of the Contractor providing Services to the offender under this Contract. If Medicaid is denied and the offender is not a resident of Delaware County, Ohio or Morrow County, Ohio and has no insurance, the Contractor may then submit an invoice to the County.

To receive payment, the Contractor shall submit to the Court a proper invoice for Services actually rendered (“Proper Invoice”). Proper Invoices shall be itemized and shall include documentation, satisfactory to the Court, supporting the Services actually provided. At a minimum, a Proper Invoice shall include the following:

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- a. Contractor's name,
- b. Offender's name,
- c. Dates of Service,
- d. Name of individual providing the Services,
- e. Type/Description of Services,
- f. Detailed cost break-out by Service,
- g. Total invoice amount,
- h. Due date for payment,
- i. Information on where to submit payment,
- j. Contact information for an individual that can answer questions regarding the Services/invoice.

The Contractor shall submit Proper Invoices to the Court as follows:

For Judge David M. Gormley - Electronically:

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

For Judge Everett H. Krueger - Electronically:

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

The Contractor shall submit a Proper Invoice to the Court within thirty (30) days of providing the Services, unless the invoice was first submitted for Medicaid reimbursement that was denied, in which case the Contractor shall submit the Proper Invoice within thirty (30) days of Medicaid reimbursement being denied. The County shall not be liable for payment of any invoice submitted more than thirty (30) days after providing the Service or more than thirty (30) days after Medicaid reimbursement being denied, whichever is applicable.

Upon receipt of a timely submitted invoice, the Court shall review the invoice and shall pay a Proper Invoice. The Contractor agrees that the County shall have no less than Forty-Five (45) days after receipt of a Proper Invoice by the Court to pay the invoice. The date of the warrant issued in payment shall be considered the date of payment. Payment shall not be initiated before a Proper Invoice is received.

Defective invoices shall be returned to the Contractor noting areas for correction. When such notification of defect is sent, the required payment date shall be no less than Forty-Five (45) days after receipt of a corrected and Proper Invoice.

The County will only pay for those Services authorized by and referred to the Contractor by the Court and consistent with the terms and conditions of this Contract.

**11. TAXES.** The County, including the Court, is a political subdivision and tax exempt. The Contractor therefore agrees to be responsible for all tax liability that accrues as a result of this Contract and the Services that the Contractor provides to the Court pursuant to this Contract.

**12. OVERPAYMENT.** In the event of overpayment, the Contractor agrees to reimburse or repay the County the amount of any overpayment and that to which it is entitled.

**13. NO PUBLICITY.** The Contractor shall not use the names of either the County or Court in any advertising, promotional material, publication, or press or publicity release without the express prior written consent of the County.

**14. TRANSPORTATION.** All Service-related transportation of the offender is to be provided by the offender. If for any reason the Contractor provides transportation of the offender, any persons who transport the offender by motor vehicle on behalf of the Contractor must have a current and valid driver's license and the Contractor shall conduct appropriate due diligence on the individual's driving record. The Contractor agrees that any motor vehicle used by the Contractor in transporting the offender under this Contract must have full and proper automotive insurance coverage as required by law and this Contract. The Contractor shall be solely liable and shall indemnify and hold free and harmless the County for all actions, claims, suits, demands, judgments, damages, losses, costs, fines, fees, penalties, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to the Contractor's or any subcontractor's provision of transportation of the offender regardless of the means of transportation.

**15. LICENSES.** The Contractor certifies and warrants that it and/or all of the Contractor's employees and/or subcontractors performing the Services has/have obtained and maintain current all authorizations, qualifications, consents, credentials, approvals, orders, certifications, licenses, operator's licenses, and/or registrations (collectively "Licenses") necessary to provide and perform all the Services required of the Contractor by this

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Contract, to conduct business in the state of Ohio, and/or , if applicable, to drive a motor vehicle. The Contractor further certifies and warrants that all such Licenses are current, operative, and active and have not been revoked or are not currently suspended for any reason. The Contractor agrees to provide proof of such Licenses upon request from the County.

**16. INDEPENDENT RECORDS.** The Contractor shall maintain independent books, records, documents, and papers involving transactions related to the performance of this Contract and which reflect all direct and indirect costs and financial transactions of any nature related to the performance of this Contract.

**17. ACCESS TO RECORDS.** At any time, during regular business hours, with reasonable notice, and as often as the County or any other agency or individual authorized by the County may deem necessary, the Contractor shall make available to the County and/or any such agency or authorized individual 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 (collectively "Records"). The County and/or any other agency or individual authorized by the County shall be permitted by the Contractor to inspect, audit, photograph, make excerpts, photocopies, and/or transcripts of any and all such Records.

**18. RETENTION OF RECORDS.** The Contractor 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 Records. If an audit, litigation, or other action is initiated during the term of this Contract or the retention period, the Contractor shall retain and maintain, and assure that all of its subcontractors retain and maintain, the Records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever is later.

**19. NON-DISCLOSURE OF INFORMATION.** The Contractor agrees that it will not use or disclose any information concerning Court clients for any purpose unless necessary to the administration of the County's or Contractor's responsibilities under this Contract. The Contractor specifically agrees that it shall obtain prior written approval from the Court before permitting either of the following:

- c. Any videotaping, audio taping or photography of Court clients for any purpose that will primarily benefit the Contractor or will be used by print, broadcast, or electronic media;
- d. The use of the names or identities of Court clients for the primary benefit of the Contractor or for use by print, broadcast, or electronic media.

**20. CONFIDENTIALITY/PRIVACY OF MEDICAL RECORDS.** The Parties shall adhere to and abide by all applicable privacy and confidentiality laws and regulations, including, but not limited to, all Federal, state, and local laws and regulations governing the confidentiality of patient, health information, protected health information ("PHI"), and/or medical records, including, but not limited to, HIPAA, 42 CFR Part 2, 45 CFR Parts 160 and 164, and any and all other applicable, Federal, state, or local laws or regulations which relate to the privacy and confidentiality of patient, health information, PHI, or medical records. If applicable and/or necessary, the Contractor agrees and shall enter into a proper Business Associate Agreement with the County for the protection of such information.

**21. TERMINATION.**

This Contract may be terminated as follows:

D. Termination for Convenience

The County may terminate this Contract at any time and for any reason by giving at least thirty (30) days advance written notice to the Contractor.

**OR**

The Parties, upon mutual written agreement, may terminate this Contract at any time and for any reason upon terms and conditions agreeable to the Parties.

E. Breach or Default

Upon breach or default of any of the provisions, obligations, or duties embodied in this Contract, the aggrieved Party shall provide written notice of the breach or default to the breaching or defaulting Party and permit the breaching or defaulting Party to remedy the breach or default within a specified reasonable period of time. If the breach or default is not satisfactorily remedied within the specified time period, this Contract may, at the election of the aggrieved Party, be immediately terminated. The Parties may, without limitation, exercise any available administrative, contractual, equitable or legal remedies.

F. Waiver of Breach or Default

The waiver of any occurrence of breach or default is not and should not be interpreted as a waiver of any such subsequent occurrences. The Parties, without limitation, retain the right to exercise all

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available administrative, contractual, equitable or legal remedies. If either Party fails to perform an obligation or obligations under this Contract and such failure(s) is (are) waived by the other Party, such waiver shall be limited to the particular failure(s) so waived and shall not be deemed to waive other failure(s). Waiver by either Party shall be authorized in writing and signed by an authorized person or a quorum of the authorized board.

Termination pursuant to this Section shall relieve the Parties of further obligation under this Contract, except that the Contractor shall be entitled to receive compensation for any Services satisfactorily performed hereunder through the date specified on the notice or writing as the effective date of termination.

If the Contract is terminated pursuant to this Section, the Contractor shall have no cause of action against the County except for a cause of action for non-payment for contract Services rendered prior to the date of termination. In no event shall the County be obligated to pay for any Services not actually performed by the Contractor.

**22. INDEPENDENT CONTRACTOR.** The Contractor agrees that it shall act in performance of this Contract as an independent contractor. No agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Contract.

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

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

**23. INDEPENDENT CONTRACTOR ACKNOWLEDGEMENT/NO CONTRIBUTION TO OPERS.**

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

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

\_\_\_\_\_  
Tony Williams  
Chief Executive Officer  
RPR, Inc.

**24. NOTICE OF RECEIPT OF OPERS BENEFIT/FORM SR-6.** If the Contractor is, or during the term of this Agreement becomes, an age and service retirement or disability benefit recipient through OPERS, then the Contractor shall immediately provide written notice to the County that the Contractor is a benefit recipient and shall complete OPERS Form SR-6. The Contractor acknowledges that rendering services under this Agreement as an independent contractor may result in a forfeiture and/or suspension of any or all of the Contractor's OPERS benefit during the term of this Agreement. The Contractor shall indemnify the County and hold the County harmless against and from any liability the County may incur for overpaid OPERS benefits due to the Contractor's failure to provide written notice or complete OPERS Form SR-6 as required herein, and the Contractor authorizes the County to withhold any such amount from the compensation due the Contractor under this Agreement.

**25. INDEMNIFICATION.**

The Contractor shall provide indemnification as follows:

- C. To the fullest extent of the law and without limitation, the Contractor agrees to and shall indemnify and hold free and harmless the Court, Board, and 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, fines, fees, penalties, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to the Contractor's or any subcontractor's performance of this Contract or the actions, inactions, or omissions of the Contractor or any subcontractor, including, but not limited to the performance, actions, inactions, or omissions of the Contractor's or any subcontractor's boards, officers, officials, employees, volunteers, agents, servants, or representatives (collectively "Contracted Parties".) The

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Contractor agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that the Contractor 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. The Contractor further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that the Contractor shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, fines, fees, penalties, and expenses, including, but not limited to attorney's fees.

- D. The Contractor shall assume full responsibility for, pay for, and shall indemnify and hold free and harmless the Indemnified Parties from any harm, damage, destruction, injury, or loss, regardless of type or nature, known or unknown, realized or unrealized, to any property, real or personal, belonging to the Indemnified Parties or others, including but not limited to real estate, buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts arising out of or resulting in whole or in part from any actions, inactions, or omissions negligent or accidental, actual or threatened, intentional or unintentional of the Contracted Parties.

**26. INSURANCE.** The Contractor shall carry and maintain current throughout the life of the Contract and until the Services are complete, without lapse, 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 and shall include coverage for indemnification as described above.

Prior to commencement of this Contract, the Contractor shall present to the Court current certificates of insurance. The insurance company 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 company to bind coverage on its behalf.

Such insurance shall, at a minimum, be of a type which is customary in the industry or is required by law, whichever is the greater standard. Such insurance shall provide coverage in an amount that is required by law or is both standard in the industry and adequate to protect the Contractor and the Indemnified Parties against any and all liability or damages arising from the Services provided under the Contract, whichever is greater.

The County shall be named as "Additional Insured" on all such policies of insurance.

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 respects 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.

If there is any change in insurance carrier or liability amounts, a new certificate of insurance must be provided to the Court within seven (7) calendar days of change.

The Contractor shall be responsible for any and all premiums for such policy(ies) of insurance.

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

**27. AUTO/MOTOR VEHICLE INSURANCE (If Applicable).** If a motor vehicle is in any way used in connection with providing the Services or in transporting any offender in connection with the Services, the Contractor shall carry and maintain auto/motor vehicle liability insurance covering all owned, leased, non-owned, and/or hired vehicles used in providing the Services, used in connection with the Services, transporting an offender, and/or otherwise used for the County with coverage in an amount equal to that required by law and covering all sums which the Contractor may or shall become legally obligated to pay as damages, but in an amount providing for minimum coverage of at least one million dollars (\$1,000,000.00) (Combined Single Limit) or, five hundred thousand dollars (\$500,000.00) per person and one million dollars (\$1,000,000.00) per accident for bodily injury and five hundred thousand dollars (\$500,000.00) 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 Contractor shall carry and maintain current such insurance, without lapse, while any transportation related to providing the Services or transportation of offenders is being provided by the Contractor.

Prior to providing any transportation related to the Services or transporting offenders, the Contractor shall present to the Court current certificates of insurance for the required auto/motor vehicle insurance. The insurance company 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 company to bind coverage on its behalf.

The County shall be named as "Additional Insured" on all such policies of insurance.

All insurance shall be written by insurance companies licensed to do business in the State of Ohio and in good



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standing with the Ohio Department of Insurance.

The above required insurance coverage shall be primary insurance as respects 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.

If there is any change in insurance carrier or liability amounts, a new certificate of insurance must be provided to the Court within seven (7) calendar days of change.

The Contractor shall be responsible for any and all premiums for such policy(ies) of insurance.

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

**28. PROFESSIONAL INSURANCE.** Throughout the life of the Contract, the Contractor shall provide and maintain current, without lapse, professional liability insurance for it and its employees providing Services under this Contract. Such insurance shall provide coverage in an amount that is both standard in the industry and adequate to protect the Contractor and the Indemnified Parties against any and all liability or damages arising from the professional Services provided under the Contract.

At any time throughout the life of the Contract, the Court may request proof of such insurance. Proof of such insurance shall be promptly provided upon request.

The County shall be named as "Additional Insured" on all such policies of insurance.

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 Contractor shall be responsible for any and all premiums for such policy(ies).

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

**29. WORKERS' COMPENSATION INSURANCE.** The Contractor shall carry Workers' Compensation Liability Insurance as required by applicable Ohio law for any work to be performed within the state of Ohio. The Contractor shall be responsible for any and all premiums for such policy(ies).

**30. CONFLICT OF INTEREST.** No personnel of the Contractor, Board, Court, County, or member of the governing body of any locality or other public official or employee of any such locality in which, the work under this Contract is being carried out, and who exercises any functions or responsibilities in connection with the review or approval of the understanding or carrying out of any such work, shall prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Contract, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to the Court in writing.

Thereafter, he or she shall not participate in any action affecting the work under this Contract, unless the Court shall determine that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to public interest.

**31. WAIVER.** The waiver of any provision or term of this Contract shall be limited to the particular failure(s) so waived and shall not be deemed to waive other failure(s). Waiver by either Party shall be authorized in writing and signed by an authorized person or a quorum of the authorized board.

**32. 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:

**County:**

Kristin Schultz  
Court Administrator  
Delaware County Common Pleas Court  
91 North Sandusky Street, 3<sup>rd</sup> Floor  
Delaware, Ohio 43015

Facsimile: (740) 833-2549

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

**Contractor:**

Tony Williams

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Chief Executive Officer  
RPR, Inc.  
118 Stover Drive.  
Delaware, Ohio 43015

Facsimile: (740) 363-8742

Email: [tw@rprdm.org](mailto:tw@rprdm.org)

**33. ANTI-DISCRIMINATION.**

The Contractor warrants and agrees as follows:

- A. That in the hiring of employees for the performance of work under this Contract or any subcontract, the Contractor shall not, by reason of race, color, religion, sex, sexual orientation, Vietnam-era veteran status, age, handicap, national origin, or ancestry, discriminate against any citizen of this state in the employment of a person qualified to perform the work to which this Contract relates; and,
- B. That neither the Contractor nor any of its subcontractors or any person acting on behalf of the Contractor shall, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Contract on account of race color, religion, sex, sexual orientation, Vietnam-era veteran status, age, handicap, national origin or ancestry; and,
- C. That neither the Contractor nor any of its subcontractors or any person acting on behalf of the Contractor shall, in any manner, discriminate against, intimidate, or retaliate against any person receiving Services under this Contract on account of race color, religion, sex, sexual orientation, Vietnam-era veteran status, age, handicap, national origin or ancestry; and,
- D. The Contractor warrants that it has a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as defined in R.C. § 122.71. Annually, the Contractor shall file a description of the affirmative action program and a progress report on its implementation with the Ohio Civil Rights Commission and the Minority Business Development Office established under R.C.§ 122.92.
- E. The Contractor and all of its subcontractors shall comply with all Federal, state, and/or local laws and shall not discriminate.

**34. ACCESSABILITY.** The Contractor shall make all Services provided pursuant to this Contract accessible to the disabled/handicapped. The Contractor shall comply with any and all federal and state laws mandating accessibility, including Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), all requirements imposed by the applicable HHS regulations (45 CFR 8;4) and all guidelines and interpretations issued pursuant thereto.

**35. WARRANTY AGAINST AN UNRESOLVED FINDING FOR RECOVERY.** Ohio Revised Code (O.R.C.) §9.24 prohibits the County from awarding a contract to any party against whom the Auditor of the State has issued a finding for recovery if the finding for recovery is “unresolved” at the time of the award. By signature of its authorized representative below, the Contractor certifies that it is not subject to any current unresolved findings for recovery pending or issued against it by the State of Ohio.

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Tony Williams  
Chief Executive Officer  
RPR, Inc.

**36. DELINQUENT PERSONAL PROPERTY TAXES.** By signature of its authorized representative below, the Contractor 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.

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Tony Williams  
Chief Executive Officer  
RPR, Inc.

**37. COUNTY POLICY.** The Contractor shall be bound by, conform to, comply with, and abide by all current applicable Delaware County policies, including, but not limited to, the Contractor Safety Policy, Computer Use Policy, Social Media Policy, and Internet Use Policy (collectively “County Policy”) and shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Contract and/or for or on behalf of the County to comply with County Policy and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Contract for failure of the Contractor or any of its employees or subcontractors to comply with County Policy. Copies of

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County Policy are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind County Policy at any time and without notice.

**38. CAMPAIGN FINANCE – COMPLIANCE WITH ORC § 3517.13.** Ohio Revised Code Section 3517.13 I(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 R.C. § 3517.13. The Contractor, 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 Contract will prohibit the County from entering, proceeding with, and/or performing the Contract. Such certification is attached to this Contract as “Exhibit B” and by this reference made a part of this Contract.

**39. DRUG FREE ENVIRONMENT.** The Contractor 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. The Contractor 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.

**40. ASSIGNMENT.** The Contractor shall not assign this Contract.

**41. SUBCONTACTING.** The Contractor may, with prior written approval of the Court, subcontract any portion of this Contract. The Court approval of a subcontract can be withheld in the Court’s sole and absolute discretion. If Services are subcontracted, the Contractor shall cause the subcontractor to agree to all the terms and conditions of this Agreement. The Contractor shall also continue to act as the prime contractor for all subcontracted Services and shall assume full responsibility for the performance of the Services. The Contractor will remain the sole point of contact and shall be ultimately responsible and liable for the performance of the Services provided pursuant to this Contract.

**42. NO AUTHORITY TO BIND OTHER PARTY.** Neither Party shall have the authority or right to bind or obligate the other Parties in any manner.

**43. GOVERNING LAW/VENUE.** This Contract shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Contract shall be filed in and heard before the courts of Delaware County, Ohio and such courts shall be deemed to have jurisdiction. The Contractor hereby irrevocable consents to such applicable law, venue, and jurisdiction.

**44. MODIFICATIONS.** This Contract may be modified by mutual agreement of the Parties. Such modifications shall be in writing and signed by the County and Contractor.

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

**46. 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.

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

**48. COUNTERPARTS.** This Contract may be executed in counterparts.

**49. ENTIRE AGREEMENT.** This Contract (and its Attachments) shall constitute the entire understanding and agreement between the Parties, shall supersede all prior understandings and agreements, whether written or oral, between the Parties relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the Parties.

**50. 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.

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

**17**

**RESOLUTION NO. 17-444**

**IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS; THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES AND SPEAKWRITE, LLC. FOR VERBAL TRANSCRIPTION SERVICES:**

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

Whereas, the Director of Jobs & Family Services recommends approval of the following contract with SpeakWrite LLC.;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the following contract with SpeakWrite LLC. for Verbal Transcription Services:

**CONTRACT  
for  
VERBAL TRANSCRIPTION SERVICES  
BETWEEN THE DELAWARE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
and  
SPEAKWRITE, LLC.**

This Contract is entered into this 1<sup>st</sup> day of May , 2017 by and between the Delaware County Board of County Commissioners (hereinafter, "Board"), whose address is 101 North Sandusky Street, Delaware, Ohio 43015 on behalf of Delaware County Department of Job and Family Services (hereinafter, "DCDJFS), whose address is 140 North Sandusky Street, Delaware, Ohio 43015, and SpeakWrite, LLC. (hereinafter, "PROVIDER") whose address is 6011 West Courtyard Drive, Suite 450, Austin, Texas, 78730 (hereinafter singly "Party," collectively, "Parties").

**PRELIMINARY STATEMENTS**

**WHEREAS**, PROVIDER provides verbal transcription services to citizens in Ohio; and,

**WHEREAS**, DCDJFS has accepted federal funds to pay for verbal transcription services using the following funding streams:

- CFDA Title and Number: IV-E Admin & Training – Foster Care, 93.658
- CFDA Title and Number: IV-E Admin & Training – Adoption Assistance, 93.569
- CFDA Title and Number: XX Base, 93.667
- CFDA Title and Number: IV-B, 93.645
- CFDA Title and Number: Transfer Subsidy, 93.667

**WHEREAS**, PROVIDER is willing to provide such services; and,

**WHEREAS**, PROVIDER is willing to provide those services at an agreed-upon price.

**STATEMENT OF THE AGREEMENT**

**NOW, THEREFORE**, the Parties mutually agree as follows:

**1. PURPOSE OF CONTRACT**

The purpose of this Contract is to state the covenants and conditions under which PROVIDER, for and on behalf of DCDJFS, will provide verbal transcription services (hereinafter collectively "Services") for DCDJFS caseworkers. Services to be provided, the budget, and forms to be used for such Services are respectively described in detail and/or set forth in:  
Provider’s Completed RFQ # 03-CY17 Quote Form

**2. TERM**

This Agreement shall be effective May 1, 2017 through April 30, 2018.  
DCDJFS may exercise an option to extend the contract for an additional year from May 1, 2018 through April 30, 2019.

**3. SCOPE OF SERVICES/DELIVERABLES**

Provider’s Completed RFQ # 03-CY17 Quote Form

**4. FINANCIAL AGREEMENT**

**A. PAYMENT PROCEDURES:**

DCDJFS shall reimburse PROVIDER in accordance with the following:

To receive reimbursement, PROVIDER shall submit to DCDJFS proper monthly invoices for Services actually provided.

The PROVIDER shall provide a monthly invoice to the DCDJFS no later than 30 days past the service month. Failure to provide the invoice within the 30 days may delay payment of the invoice. If the invoice is not received by DCDJFS within the 30-day deadline, the Provider agrees to be bound

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by the removal rates listed below:

- 31-45 days           10% of the total invoice amount
- 46-60 days          20% of the total invoice amount
- 61+ days            30% of the total invoice amount

Any removal rate amounts applied toward an invoice in accordance with these terms shall count toward the remaining Contract balance. The final invoice must be submitted in accordance with the above terms except that the final invoice must be submitted no later than 60 days of the end of Contract period. In the event that Contractor fails to submit the final invoice within 60 days, a removal rate shall apply toward the final invoice in the amount of 100% of the final invoice. Contractor agrees that said credits represent liquidated damages and are not a penalty. Contractor acknowledges and agrees that these percentages are a genuine estimate of Board's damages for late submission of invoices and are reasonable in light of the harm that will be caused by late submission, the difficulty of proving the extent of monetary loss, and the inconvenience of otherwise obtaining an adequate remedy at law.

**B. MAXIMUM PAYMENT:**

PROVIDER agrees to accept as full payment for Services rendered in a manner satisfactory to DCDJFS, the lesser of the following: (1) The maximum amount of Thirty Five Thousand Dollars and No Cents (\$35,000.00) or (2) the amount of actual expenditures made by PROVIDER for purposes of providing the Services. It is expressly understood and agreed that in no event shall the total compensation to be reimbursed exceed the maximum of Thirty Five Thousand Dollars and No Cents (\$35,000.00).

**5. AWARD INFORMATION**

CFDA Title and Number: IV-E Admin & Training – Foster Care, 93.658  
 CFDA Title and Number: IV-E Admin & Training – Adoption Assistance, 93.569  
 CFDA Title and Number: XX Base, 93.667  
 CFDA Title and Number: IV-B, 93.645  
 CFDA Title and Number: Transfer Subsidy, 93.667

**6. LIMITATION OF SOURCE OF FUNDS**

PROVIDER warrants that any costs incurred pursuant to this Contract will not be allowable to or included as a cost of any other federally or state financed program in either the current or a prior period.

**7. DUPLICATE BILLING/OVERPAYMENT**

PROVIDER warrants that claims made to DCDJFS for payment, shall be for actual services rendered and do not duplicate claims made by PROVIDER to other sources of funding for the same services. In case of overpayments, PROVIDER agrees to repay DCDJFS the amount of overpayment and that to which it is entitled.

**8. INFORMATION REQUIREMENTS**

PROVIDER will provide such information to DCDJFS as is necessary to meet the specific fiscal and program requirements contained in this Contract. This shall include regular reports, at intervals to be determined by the Parties, of services provided and outcomes achieved.

**9. AVAILABILITY AND RETENTION OF RECORDS**

At any time, during regular business hours, with reasonable notice and as often as DCDJFS, the Comptroller General of the United States, the State, or other agency or individual authorized by DCDJFS may deem necessary, PROVIDER shall make available to any or all the above named parties or their authorized representatives, all subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. DCDJFS and the above named parties shall be permitted by PROVIDER to inspect, audit, make excerpts, photo static copies and/or transcripts of any and all documents relating to all matters covered by this Contract.

PROVIDER, for a minimum of three (3) years after reimbursement/compensation for services rendered under this Contract, agrees to retain and maintain, and assure that all of its subcontractors retain and maintain, all records, documents, writings and/or other information related to performance of this Contract. If an audit, litigation, or other action is initiated during the time period of this Contract, PROVIDER shall retain and maintain, and assure that all of its subcontractors retain and maintain, such records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever is later.

Prior to the destruction of any records related to performance of this Contract, regardless of who holds such records, PROVIDER shall contact DCDJFS in writing to obtain written notification that such records may be destroyed. Such request for destruction of records must specifically identify the records to be destroyed.

**10. INDEPENDENT FINANCIAL RECORDS**

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PROVIDER shall maintain independent books, records, payroll, documents, and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Such records shall at all reasonable times be subject to inspection, review, and/or audit by duly authorized federal, state, local, or DCDJFS personnel.

PROVIDER shall allow access by the Ohio Department of Job and Family Services (ODJFS), the CFSA and the local WIOA area, the federal grantor agency, the comptroller general of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

**11. SERVICE DELIVERY RECORDS**

PROVIDER shall maintain records of services provided under this contract. Such records shall be subject at all reasonable times to inspection, review or audit by duly authorized federal, state, local, and/or DCDJFS personnel.

**12. RESPONSIBILITY OF AUDIT EXCEPTIONS**

PROVIDER agrees to accept responsibility for receiving, replying to, and/or complying with any audit exception by any appropriate federal, state, local, or independent audit authority that is in any way associated with this Contract. PROVIDER agrees to reimburse DCDJFS for the amount of any such audit exception.

**14. INDEPENDENT CONTRACTORS**

PROVIDER shall act in performance of this Contract as an independent contractor. As an independent contractor, PROVIDER and/or its officers, employees, representatives, agents, volunteers and/or servants are not entitled to any of the benefits enjoyed by employees of DCDJFS and Delaware County.

PROVIDER certifies that all approvals, licenses, or other qualifications necessary to conduct business in Ohio have been obtained, are operative, and are current.

DCDJFS and Delaware County are public employers as defined in R.C. § 145.01(D). The Parties acknowledge and agree that PROVIDER 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. PROVIDER also agrees that, as an independent contractor, PROVIDER 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.

Because PROVIDER has been designated as an independent contractor or another classification other than public employee, no contributions will be made to the Ohio Public Employees Retirement System ("OPERS") for or on behalf of the PROVIDER and/or any of his/her officers, officials, employees, representatives, agents, and/or volunteers for services and/or deliverables rendered and/or received under or pursuant to this Contract. The PROVIDER 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 the PROVIDER is an individual or has less than five (5) employees, the PROVIDER, in support of being so informed and pursuant to R.C. § 145.038, agrees to and shall complete an OPERS Independent Contractor Acknowledgement Form ("Form"). DCDJFS shall retain the completed Form(s) and immediately transmit a copy(ies) of it/them to OPERS.

**PROVIDER hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**

**16. INDEMNIFICATION**

PROVIDER shall provide indemnification as follows:

- E. To the fullest extent of the law and without limitation, PROVIDER agrees to indemnify and hold free and harmless the Delaware County, the Board, DCDJFS, and the State (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 the parties performance of this Contract or their actions or omissions. PROVIDER agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that PROVIDER shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, and expenses. PROVIDER further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that PROVIDER 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.

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- F. PROVIDER shall assume full responsibility for, pay for, and shall indemnify and hold free and harmless the Indemnified Parties from any harm, damage, destruction, injury, or loss, regardless of type or nature, known or unknown, realized or unrealized, to any property, real or personal, belonging to the Indemnified Parties or others, including but not limited to real estate, buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts to the extent 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 to this agreement.
- G. To the fullest extent of the law and without limitation, PROVIDER agrees to indemnify and hold free and harmless the Indemnified Parties from any and all actions, claims, suits, demands, judgments, damages, losses, costs, penalties, fines, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any violation of governmental laws, regulations, any spoilage, harm, damage, injury, or loss of or upon the environment, including, but not limited to land, water, or air, or any adverse effect on the environment, including, but not limited to land, water, or air, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to the contracted parties performance of this Contract or their actions or omissions. PROVIDER agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that PROVIDER shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, and expenses. PROVIDER further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that PROVIDER shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, penalties, fines, and expenses, including, but not limited to attorney's fees.

**17. INSURANCE**

PROVIDER shall carry and maintain current 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, PROVIDER shall present to the Board and DCDJFS current certificates of insurance, and shall maintain current such insurance during and throughout the entire term of this Contract. 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:

Worker's Compensation Insurance as required by Ohio law and any other state in which work will be performed, or letter of exemption.

Commercial General Liability Insurance for a minimum of \$1,000,000 per occurrence with an annual aggregate of at least \$2,000,000, including coverage for subcontractors, if any are used.

Umbrella or Excess Liability\* insurance (over and above Commercial General Liability and Auto Liability) with a limit of at least \$2,000,000.

Auto Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work of Delaware County, or its departments, with limits of at least \$1,000,000 Combined Single Limit.

The Board of Delaware County Commissioners (not the Department of Job & Family Services) must be named as "Additional Insured". The Board of Delaware County Commissioners must also be named as the Certificate Holder.

\*Note: Umbrella/Excess Liability coverage may be waived if the following limits are carried for Commercial General Liability and Auto Liability:

Commercial General Liability Insurance for a minimum of \$3,000,000 per occurrence with an annual aggregate of at least \$4,000,000, including coverage for subcontractors, if any are used.

Auto Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work of Delaware County, or its departments, with limits of at least \$3,000,000 Combined Single Limit

The Board and DCDJFS must be named as "Additional Insured" on the policies listed in paragraphs above.

The insurance company 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 company to bind coverage on its behalf.

All insurance shall be written by insurance companies licensed to do business in the State of Ohio.

The insurer shall provide thirty (30) days written notice to DCDJFS 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 and DCDJFS within seven (7) calendar days of change.

During the life of the Contract, the Board or DCDJFS may require PROVIDER 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 DCDJFS shall retain any and all such other and further rights and remedies as are available at law or in equity.

Provider's failure to maintain current insurance certificates at any time during the duration of the contract

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awarded pursuant to this RFP shall be deemed a breach of the contract. In the event of such breach, the County shall have the right to withhold any further payment(s) due to Provider and to terminate the contract immediately without liability for any such payment(s).

In lieu of termination, the County may, at its option, choose to withhold any further payment(s) due to the Provider until the Provider presents current certificates. In the event that the Provider fails to present current certificates to the County's satisfaction, the County may exercise its right to terminate the contract in accordance with the above paragraph.

**18. CONFLICT OF INTEREST**

The PROVIDER covenants that, to the best of its knowledge, no person under its employ, including subcontractors, who presently exercises any functions or responsibilities in connection with the Board, the DCDJFS, or projects or programs funded by the Board or the DCDJFS, has any personal financial interest, direct or indirect, in this contract. The PROVIDER further covenants that in the performance of this Contract, no person having such conflicting interest shall knowingly be employed by the PROVIDER. Any such interest, on the part of the Contractor or its employees, when known, must be disclosed in writing to the DCDJFS.

**19. RESPONSIBILITY FOR BOARD / DCDJFS PROPERTY**

PROVIDER shall assume full responsibility for any damage to or loss of any DCDJFS and/or County property, including but not limited to, buildings, structures, vehicles, fixtures, furnishings, equipment, supplies, accessories and/or parts resulting in whole or part from any acts or omissions, seen or unforeseen, intentional or unintentional, known or unknown, of PROVIDER or any board members, officials, officers, employees, agents, representatives, volunteers, and/or servants of PROVIDER as related to this contract or services provided thereunder.

**20. TERMINATION**

**A. TERMINATION FOR THE CONVENIENCE:**

The Parties may terminate this Contract at any time and for any reason by giving at least thirty (30) days advance notice, in writing, to the other Parties. PROVIDER shall be entitled to receive compensation for any services satisfactorily performed hereunder through the date specified on the notice as the effective date for such termination.

**B. BREACH OR DEFAULT:**

Upon breach or default of any of the provisions, obligations, or duties embodied in this contract, the aggrieved Party shall provide thirty (30) days written notice of the breach or default to the breaching or defaulting Party and permit the breaching or defaulting Party to remedy the breach or default within a specified reasonable period of time. If the breach or default is not satisfactorily remedied within the specified time period, this contract may, at the election of the aggrieved Party, be immediately terminated. The Parties may, without limitation, exercise any available administrative, contractual, equitable or legal remedies. In the event of such a breach or default, PROVIDER shall be entitled to receive compensation for any services satisfactorily performed hereunder through the date of termination.

**C. WAIVER:**

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

**D. LOSS OF FUNDING:**

It is understood by PROVIDER that availability of funds for this contract and thus this contract is contingent on appropriations made by the Local, State and/or Federal governments. In the event that the Local, State and/or Federal reimbursement is no longer available to DCDJFS, PROVIDER understands that changes and/or termination of this contract will be required and necessary. To the extent permitted by law, PROVIDER agrees to hold harmless DCDJFS and the Board for any such changes and/or termination. Such changes and/or termination shall be effective on the date that the Local, State and/or Federal reimbursement is no longer available, or later as otherwise stipulated in writing by DCDJFS.

**21. SAFEGUARDING OF CLIENT**

The Parties agree that the use or disclosure by any Party of any information concerning any individual eligible for services provided pursuant to this contract for any purpose not directly related with the administration of this contract is strictly prohibited except upon the written consent of



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DCDJFS and the individual or, if a minor, his/her responsible parent or guardian.

**22. CIVIL RIGHTS**

DCDJFS and PROVIDER agree that as a condition of this contract, there shall be no discrimination against any client or any employee because of race, color, sex, religion, national origin, handicap, sexual orientation, or any other factor as specified in Title VI of the Civil Rights Act of 1964, Rehabilitation Act of 1973, and subsequent amendments. It is further agreed that PROVIDER will comply with all appropriate federal and state laws regarding such discrimination and the right to and method of appeal will be made available to all persons under this contract. Any agency found to be out of compliance with this paragraph may be subject to investigation by the Office of Civil Rights of the Department of Health and Human Services and termination of this contract.

**23. ACCESSIBILITY OF PROGRAMS TO THE DISABLED/HANDICAPPED**

PROVIDER agrees as a condition of this contract to make all services provided pursuant to this contract accessible to the disabled/handicapped. PROVIDER further agrees as a condition of this contract to comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), all requirements imposed by the applicable HHS regulations (45 CFR 8;4) and all guidelines and interpretations issued pursuant thereto. Any agency found to be out of compliance with this paragraph may be subject to investigation by the Office of Civil Rights of the Department of Health and Human Services and termination of this contract.

**24. FAIR HEARING**

In accordance with state regulations, DCDJFS is charged with fulfilling responsibilities relative to appeals and/or state hearings brought or initiated by those receiving and/or participating in the services. PROVIDER, its respective officials, officers, employees, agents, representatives, volunteers, and/or servants agree to and shall be under the direction of DCDJFS relative to any such appeals and/or state hearings. Additionally, PROVIDER, its respective officials, officers, employees, agents, representatives, volunteers, and/or servants agree to assist in the informational gathering and support processes related to the appeals and/or state hearing process and participation in the state hearing and/or appeal itself.

**25. DRUG-FREE WORKPLACE**

PROVIDER agrees to comply and certifies compliance with all applicable state and federal laws regarding drug-free workplace and shall have established and have in place a drug free workplace policy. PROVIDER shall make a good faith effort to ensure that all of its and any of its officials, officers, employees, agents, representatives, volunteers, and/or servants will not purchase, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way.

**26. CAMPAIGN FINANCE – COMPLIANCE WITH ORC § 3517.13**

Ohio Revised Code Section 3517.13 I(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. The Contractor/PROVIDER, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13." Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the DCDJFS from entering, proceeding, and/or performing the Contract. Such certification is attached to this Contract and by this reference made a part thereof.

**27. FINDINGS FOR RECOVERY**

PROVIDER certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

**28. ASSURANCES AND CERTIFICATIONS**

PROVIDER assures and certifies that:

It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.

Appropriate standards for health and safety in work and training situations will be maintained.

It recognizes and accepts its responsibility to maintain easily accessible and auditable financial and programmatic records.

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Neither it nor any other units planned for participation in the activities to be funded hereunder, are listed on the debarred list due to violations of Titles VI or VII of the Civil Rights Act of 1964, nor are any proposed parties to Contract, or any subcontract resulting therefrom, aware of any pending action which might result in such debarment.

It will comply with any applicable minimum wage and maximum hour provisions of the Fair Labor Standards Act.

It agrees to comply with 42 U.S.C. Sections 1320d through 1320d-8, and implementing regulations at 45 C.F.R. Section 164.502(e) and Sections 164.504(e) regarding disclosure of protected health information under the Health Insurance Portability and Accountability Act of 1996.

Nothing in this Contract shall be interpreted to prohibit concurrent use of multiple sources of public funds to serve participants as long as the funds from Contract supplement and do not supplant existing services. Supplanting of funds is considered material breach of this Contract, permitting DCDJFS to terminate the Contract.

It agrees to cooperate with the Ohio Department of Job and Family Services and any Ohio Child Support Enforcement Agency in ensuring that its employees meet child support obligations established under state law.

It is bound by all of the confidentiality, disclosure and safeguarding requirements of the Ohio Revised Code and the Ohio Department of Job & Family Services, including, but not limited to those stated in the Ohio Revised Code Sections 5101.26, 5101.27, 5101.272, 5101.28, 5160.45, 42 Code of Federal Regulations Sections 431.300 through 431.307 and Ohio Administrative Code Section 5101:1-1-03 and 5160:1-1-01.1. Disclosure of information in a manner not in accordance with all applicable federal and state laws and regulations is deemed a breach of the Contract and subject to the imposition of penalties, including, but not limited to, the penalties found in Revised Code Section 5101.99.

By signing this Contract, PROVIDER certifies that it is currently in compliance with, and will continue to adhere to the requirements of the Ohio Ethics Law as provided by Ohio Revised Code chapter 102 and the related provisions of chapter 2921.

It will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Any lobbying with non-Federal funds that takes place in connection with obtaining any federal award will be disclosed.

It will comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act 42 USC 1857(h), Section 508 of the Clean Water Act 33 USC 1368, Executive Order 11738, and Environmental Protection Agency regulations 40 CFR Part 15, which prohibit the use under nonexempt federal contracts, grants, or lands of facilities included in the EPA List of Violating Facilities. Violations shall be reported to the State/county agency and to the US EPA Assistant Administrator for Enforcement (EN-329).

It is not listed in the non-procurement portion of the General Services Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders 12549 and 12689. Endorsement of this Contract certifies its exclusion status and that of its principals. PROVIDER shall immediately notify Board of any delinquent federal debt, and in the event of such delinquent debt, the Government wide commercial purchase card shall not be authorized as a method of payment under the Contract. In the event that PROVIDER is placed on the excluded party list at any time, BOARD or DCDJFS shall have the right to terminate this Contract immediately without additional payment for any services rendered. PROVIDER shall reimburse Board for any loss, costs, or expenses resulting from PROVIDER's inclusion on the excluded parties list or PROVIDER's delinquent federal debt.

It shall report any suspected public assistance fraud to the Fraud and Benefit Recovery Unit of the Ohio Department of Job and Family Services.

It will comply with "Rights to Inventions" clause 37 C.F.R. part 401 pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

It will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 3145) as supplemented by DOL regulations (29 C.F.R. part 3).

It will comply with sections 3702 and 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C 3701-3708) as supplemented by DOL regulations (29 C.F.R. part 5).

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**29. SUB-CONTRACTING**

Sub-Contracting by the Provider is permitted under this contract. All sub-contractors performing the work described in this contract must be held to the same standards and obligations as the Provider has agreed to.

Prior to the commencement of this contract, PROVIDER shall submit a written request to DCDJFS for approval of the use of any subcontractor who will perform work under this contract. The request must include the subcontractor's name, address, and phone number, and a statement of the work to be performed by that subcontractor. PROVIDER agrees not to permit any subcontractor to begin work under this contract, and that no substitutions will be made, without prior written approval. PROVIDER further agrees not to grant any unapproved subcontractor access to any DCDJFS or county facility, equipment, client, or client records.

With respect to any subcontractor and any other person or entity PROVIDER will use to do work under this contract, PROVIDER shall have an ongoing duty to notify DCDJFS of any known or suspected quality or safety issues, criminal activity, or violations of state or federal law, whether occurring in the past, present, or foreseeable future. PROVIDER shall use good faith, reasonable efforts to resolve any such issues to DCDJFS's satisfaction. DCDJFS, in its sole discretion, may deny or revoke approval of any subcontractor, the use of which could adversely affect the quality or safety of the work, create a risk of harm to persons or property, or result in liability or loss of funds for the County, including, but not limited to, liability under state or federal law.

PROVIDER's failure to comply with any of the obligations of this section shall be deemed a material breach of the contract. In the event of such breach, DCDJFS shall provide notice of the breach and may immediately withhold any further payments due and terminate the contract without liability for any such payments. In lieu of termination, DCDJFS may, at its option, choose to withhold any further payments due until PROVIDER complies with the obligations of this section. Nothing in this contract shall be construed as giving DCDJFS the right to direct or control the work of PROVIDER or its employees, agents, or subcontractors.

**30. PROGRAM EVALUATION AND MONITORING**

Programmatic Monitoring is required by ORC 5101:2-47-23.1. Such monitoring will take place during the contract service period, utilizing a monitoring format and checklist developed by the DCDJFS. The checklist will be used to sign-off and confirm agreement on the items that are non-compliant with contract terms and deliverables. Contractor will be required to develop a plan, approved by the DCDJFS, to correct noncompliance issues within a term defined by the DCDJFS.

DCDJFS shall conduct Risk Assessment monitoring during the contract service period and annually for contracts where the service period (and its related service period extensions) exceeds 12 months. Results of the Risk Assessment will determine the frequency of monitoring.

**30. NOTICES**

All notices which may be required by this contract or by operation of any rule of law shall be sent via United States certified mail, return receipt requested, and/or personally delivered to the following individuals at the following addresses and shall be effective on the date received:

<b>PROVIDER:</b> Justin Ruiz VP of Business Development SpeakWrite, LLC. 6011 West Courtyard Drive Suite 450 Austin, Texas 78730	<b>Delaware County Job and Family Services</b> David S. Dombrosky Director Delaware County Job and Family Services 140 North Sandusky Street, 2 <sup>nd</sup> Floor Delaware, Ohio 43015
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**31. PUBLICITY**

In any publicity release or other public reference, including media release, information pamphlets, etc. on the services provided under this contract, it will be clearly stated that the project is partially funded by ODJFS, through the Delaware County Commissioners and DCDJFS.

**32. GOVERNING LAW**

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

**33. SEVERABILITY**

If any item, condition, portion, or section of this contract 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 contract and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and be complied with.

**34. ENTIRE AGREEMENT**

This contract, along with all of its attachments, shall constitute the entire understanding and agreement

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between the Parties, 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.

**35. 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.

**36. EFFECT OF SIGNATURE**

The signatures of the Parties below indicate that the signers and the entities that they represent agree to be bound by all the terms and conditions of this contract.

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

**18  
RESOLUTION NO. 17-445**

**IN THE MATTER OF SETTING THE DATE AND TIME FOR PUBLIC HEARING #1 FOR 2017  
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING:**

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

WHEREAS, Delaware County, by and through the Delaware County Board of Commissioners (the "Board") is a designated recipient of Community Development Block Grant ("CDBG") funding; and

WHEREAS, the citizen participation requirements within the Housing and Community Development Act and applicable federal regulations require two public hearings to allow public input regarding the use of CDBG funding; and

WHEREAS, the first public hearing is conducted at the initial stage of application preparation and is intended to provide information and seek input regarding the funds available and the general scope of eligible projects;

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

Section 1. The Board hereby sets the First Public Hearing for Friday, May 19, 2017, at 10:00 AM, at 101 North Sandusky Street in Delaware, Ohio as the date, time, and place for public hearing #1 for 2017 CDBG funding.

Section 2. The Economic Development Coordinator is hereby directed to cause public notice to be issued via alternative options per Ohio Development Services Agency Policy Notice OCD 07-01, notifying the public of the hearing.

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

**19  
RESOLUTION NO. 17-446**

**IN THE MATTER OF APPROVING THE SANITARY SEWER SUBDIVIDER'S AGREEMENT FOR  
OLENTANGY FALLS EAST SECTION 2:**

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

WHEREAS, the Sanitary Engineer recommends approval of the Sanitary Subdivider's Agreement;

THEREFORE, BE IT RESOLVED that the Board of Commissioners approve the Sanitary Sewer Subdivider's Agreement for Olentangy Falls East Section 2.

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

**SECTION I: INTRODUCTION**

This Agreement is entered into on this 1<sup>st</sup> day of May 2017, by and between **Rockford Homes**, hereinafter called "Subdivider", and the Delaware County Board of Commissioners (hereinafter called "County Commissioners" or "County") as evidenced by the **Olentangy Falls East Section 2** Subdivision Plat filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, and is governed by the following considerations and conditions, to wit:

The Subdivider is to construct, install or otherwise make all public improvements (the "Improvements") shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for **Sanitary Improvement Plans For Olentangy Falls East Section 2**, dated

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Dec 2015, and approved by the County on **January 28, 2016**, all of which are a part of this Agreement. The Subdivider shall pay the entire cost and expense of the Improvements.

As a deferred requirement for Olentangy Falls East Section 2 and as stated on the Offsite Tributary Area Map located on sheet 3 of the **Sanitary Improvement Plans For Olentangy Falls East Section 2**, the Subdivider agrees to construct a 10" sanitary sewer extension from existing manhole 14 to the eastern property line, parallel to Hyatts Road to a maximum invert of 910.00 as part of Olentangy Falls East Section 5. A sanitary wye and service for the Greif parcel, depicted on the **Sanitary Improvement Plans For Olentangy Falls East Section 2** as 12.85 AC. POD 23, shall be installed as part of this construction. The Subdivider shall provide to the County all necessary easements or rights-of-way required to complete the Improvements, all of which shall be obtained at the expense of the Subdivider.

**SECTION II: CAPACITY**

There are **21** single family residential equivalent connections approved with this Agreement. Capacity shall be reserved for one year from the date of this Agreement, unless the County Commissioners grant an extension in writing. Capacity is not guaranteed until the final Subdivision Plat is recorded. If the final Subdivision Plat is not recorded prior to expiration of the reservation deadline as set forth herein, the Subdivider agrees and acknowledges that capacity shall not be guaranteed.

**SECTION III: FINANCIAL WARRANTY**

OPTIONS:

- (1) Should the Subdivider elect to record the plat prior to beginning construction, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$149,392.00**) which is acceptable to the County Commissioners to insure faithful performance of this Agreement and the completion of all Improvements in accordance with the Subdivision Regulations of Delaware County, Ohio.
- (2) Should the Subdivider elect to proceed with construction prior to recording the plat, no approved financial warranties are necessary until such time as Subdivider elects to record the plat. At that time, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction remaining to be completed as determined by the Delaware County Sanitary Engineer.

The Subdivider hereby elects to use Option 2 for this project.

Initials \_\_\_\_\_ Date \_\_\_\_\_

The Subdivider shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the Delaware County Sanitary Engineer a five (5) year maintenance bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The Subdivider further agrees that any violations of or noncompliance with any of the provisions and stipulations of this Agreement shall constitute a breach of contract, and the County shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the Improvements for **Sanitary Improvement Plans For Olentangy Falls East Section 2**.

**SECTION IV: FEES**

It is further agreed that upon execution of this Agreement, the Subdivider shall pay the Delaware County Sanitary Engineer three and one-half percent (3½%) of the estimated construction cost of the Improvements for plan review of **Sanitary Improvement Plans For Olentangy Falls East Section 2 (\$5,228.72)**. The Subdivider shall also deposit with the Delaware County Sanitary Engineer the sum of **\$12,750.00** estimated to be necessary to pay the cost of inspection for **Olentangy Falls East Section 2** by the Delaware County Sanitary Engineer. The Delaware County Sanitary Engineer shall in his or her sole discretion inspect, as necessary, the Improvements being installed or constructed by the Subdivider and shall keep accurate records of the time spent by his or her employees and agents in such inspections for which the Delaware County Sanitary Engineer shall be reimbursed from charges against the deposit. At such time as the fund has been depleted to a level of \$600.00 or less, as a result of charges against the fund at the rate of:

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

for time spent by the Delaware County Sanitary Engineer or his or her staff, the Subdivider shall make an additional deposit of \$600.00 to the fund. Upon completion of all Improvements provided herein and acceptance of Improvements by the County, any unused portions of the inspection fund shall be repaid to the Subdivider less an amount equal to \$0.75 per foot of sewer which will be deducted to cover re-inspection.

In addition to the charges above, the Subdivider shall pay the cost of any third party inspection services for **Sanitary Improvement Plans For Olentangy Falls East Section 2** as required by the County.

**SECTION V: CONSTRUCTION**

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

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

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

If, due to unforeseen circumstances during construction activities, the Subdivider must install any of the Improvements to a different location than shown on the approved and signed construction plans, the Subdivider shall request a revision to the construction plans and the Delaware County Sanitary Engineer shall evaluate this request. If the request for a revision is approved in writing by the Delaware County Sanitary Engineer, then the Subdivider shall provide and record a revised, permanent, exclusive sanitary easement prior to the County's acceptance of the sewer. The language and dimensions of the revised, permanent, exclusive sanitary easements shall be subject to the approval of the Delaware County Sanitary Engineer.

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

The Subdivider shall obtain all other necessary utility services incident to the construction of the Improvements and for their continued operation. The Subdivider shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the Subdivider and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the County.

**SECTION VI: EASEMENTS**

The Subdivider shall provide to the County all necessary easements or rights-of-way required to complete the Improvements, all of which shall be obtained at the expense of the Subdivider. All Improvements, including, but not limited to, public sanitary sewers, force mains, manholes, and private laterals to offsite properties shall be located within a recorded, permanent, exclusive sanitary easement on file at the Delaware County Recorder's Office, the language of which shall be subject to approval by the Delaware County Sanitary Engineer. The dimensions of all easements shall be as shown on the approved engineering drawings. If any onsite easement or necessary right of way is not to be recorded as part of a subdivision plat, such easements and rights-of-way shall be recorded and provided to the Delaware County Sanitary Engineer before a preconstruction meeting will be permitted and before construction may begin on the Improvements. All offsite easements must be recorded prior to signing the plans unless otherwise permitted, in writing, by the Delaware County Sanitary Engineer.

**SECTION VII: COMPLETION OF CONSTRUCTION**

The County shall, upon certification in writing from the Delaware County Sanitary Engineer that all construction is complete according to the plans and specifications, by Resolution, accept the Improvements described herein and accept and assume operations and maintenance of the Improvements.

The Subdivider shall within thirty (30) days following completion of construction of the Improvements, and prior to final acceptance, furnish to the County as required:

- (1) "As built" drawings of the Improvements which plans shall become the property of the County and shall remain in the office of the Delaware County Sanitary Engineer and Delaware County Engineer and/or the City of Powell. The drawings shall be on reproducible Mylar (full size), two paper copies (one full size & one 11"x17"), and a Compact Diskette with the plans in .DWG format & .PDF format.
- (2) An Excel spreadsheet, from a template as provided by the Delaware County Sanitary Engineer, shall accompany the plan submittal showing the locations of the manholes in Ohio State Plane North Coordinates NAD 1983 (NAVD 1988 datum) and other miscellaneous project data.
- (3) An itemized statement showing the cost of the Improvements.



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Single transaction limit: \$1,500  
 Daily number of transactions per card: 5  
 Monthly number of transactions per card: 50

Department Coordinator: Gina DeWitt

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

**22**

**RESOLUTION NO. 17-449**

**IN THE MATTER OF APPROVING A SERVICES AGREEMENT WITH MASTER LIGHTING SERVICE, INC. FOR AS-NEEDED LIGHTING REPAIRS AT SEWER DISTRICT FACILITIES:**

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

Whereas, the Sanitary Engineer recommends approval of an agreement with Master Lighting Service, Inc. to perform the work;

Therefore, be it resolved that the Board of Commissioners of Delaware County, Ohio, execute the following agreement with Master Lighting Service, Inc.:

**DIVISION OF ENVIRONMENTAL SERVICES  
REGIONAL SEWER DISTRICT  
SERVICES AGREEMENT**

This Agreement is made and entered into this 1st day of May, 2017, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Master Lighting Service, Inc., 5460 Franklin St., PO Box 878, Hilliard, Ohio 43026 (“Contractor”), hereinafter collectively referred to as the “Parties.”

**1 SERVICES PROVIDED BY CONTRACTOR**

1.1 The Contractor will provide “Services” in connection with the following “Project”:  
*Contractor shall provide service to the County Sewer District facilities, including Alum Creek WRF, OECC, Lower Scioto WRF, Tartan Fields WWTP, Scioto Reserve WWTP and North Star WWTP.*

*Service shall be provided on an as needed basis for the repairs of facility lighting including, pole lighting, ballasts, bulbs, photo cells and/or installation or repair of new lighting fixtures.*

1.2 The Contractor shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.

1.3 Services shall be rendered by the Contractor in accordance with the following documents, by this reference made part of this Agreement:  
***Exhibit A***

**2 SUPERVISION OF SERVICES**

2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Sanitary Engineer (“Sanitary Engineer”) as the Project Manager and agent of the County for this Agreement.

2.2 The Sanitary Engineer shall have authority to review and order changes, commencement, suspension or termination of the Services performed under this Agreement

**3 AGREEMENT AND MODIFICATIONS**

3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Contractor, shall supersede all prior understandings and agreements relating to the Project, and may only be modified or amended in writing with the mutual consent and agreement of the parties.

**4 FEES AND REIMBURSABLE EXPENSES**

4.1 Compensation for Services provided under this Agreement shall be in accordance with Exhibit A.

4.2 Total compensation under this Agreement shall not exceed ***\$50,000.00*** without subsequent modification.



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- 4.3 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Services.

**5 NOTICES**

- 5.1 "Notices" issued under this Agreement shall be served to the parties listed below in writing. The parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.

County:

Name: Mark Chandler  
Address: 10333 Olentangy River Rd  
Telephone: 614-436-7999  
Email: mchandler@co.delaware.oh.us

Contractor:

Name of Principal in Charge: Karl Barkhurst  
Address of Firm: 5460 Franklin St. PO Box 878  
City, State, Zip: Hilliard Ohio 43026  
Telephone: 614-876-9771  
Email: kbarkhurst@master-lighting.com

**6 PAYMENT**

- 6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Contractor and approved by the Sanitary Engineer and shall be in accordance with the Contractor's Price Proposal.
- 6.2 Invoices shall be submitted to the Project Manager by the Contractor on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Contractor shall promptly submit documentation as needed to substantiate said invoices.
- 6.3 The County shall pay invoices within thirty (30) days of receipt.

**7 NOTICE TO PROCEED, COMPLETION OF SERVICES, DELAYS AND EXTENSIONS**

- 7.1 The Contractor shall commence Services upon written Notice to Proceed ("Authorization") of the Sanitary Engineer and shall complete the Services in accordance with the Proposal.
- 7.2 Contractor shall not proceed with any "If Authorized" tasks without written Authorization.
- 7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Contractor may make a written request for time extension, and the Sanitary Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

**8 SUSPENSION OR TERMINATION OF AGREEMENT**

- 8.1 The County, upon written Notice as specified in Section 5, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Contractor shall immediately suspend or terminate Services, as ordered by the County.
- 8.2 In the case of Termination, the Contractor shall submit a final invoice within sixty (60) days of receiving Notice of Termination for Services completed up to the date of termination. The County is not liable for payment for Services performed after the date of termination.

**9 CHANGE IN SCOPE OF SERVICES**

- 9.1 In the event that significant changes to the Scope of Services are required during performance of the Services, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall be approved by both parties.

**10 OWNERSHIP**

- 10.1 Upon completion or termination of the Agreement, the Contractor shall provide copies, if so requested, to the County of all documents or electronic files produced under this Agreement

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10.2 The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed surveys, calculations, reports, schematics, drawings and any other tangible written or electronic work produced in accordance with the Agreement.

10.3 This section does not require unauthorized duplication of copyrighted materials.

**11 CHANGE OF KEY CONTRACTOR STAFF; ASSIGNMENT**

11.1 The Contractor shall immediately notify the County, in writing, of any change to key Contractor staff or subcontractors assigned to the Services as contemplated at the time of executing this Agreement.

11.2 The Contractor shall not assign or transfer this Agreement, or any of the rights, responsibilities, or remedies contained herein, to any other party without the express, written consent of the County.

**12 INDEMNIFICATION**

12.1 The Contractor shall indemnify and hold free and harmless Delaware County and its 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 therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

**13 INSURANCE**

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

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

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

13.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 13.1 and 13.2. Contractor shall require all of its subcontractors to provide like endorsements.

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

**14 MISCELLANEOUS TERMS AND CONDITIONS**

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

14.2 Independent Contractor: The Parties acknowledge and agree that Contractor 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. Contractor also agrees that, as an independent contractor, Contractor 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. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**

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

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- 14.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 14.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 14.6 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.
- 14.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 14.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 14.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing Services under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 14.10 Drug-Free Workplace: The Contractor agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the Services being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 14.11 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of Services under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the Services to which the Agreement relates.
- Contractor 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 Services under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.
- Contractor certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.
- Contractor certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.
- 14.12 Campaign Finance – Compliance with R.C. 3517.13: Ohio Revised Code Section 3517.13 I(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 Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the

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aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13." **Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract.** Such certification is attached to this Contract and by this reference made a part thereof.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

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

**23**  
RESOLUTION NO. 17-450

**IN THE MATTER OF APPROVING A TRANSFER OF FUNDS AND SUPPLEMENTAL APPROPRIATIONS FOR CLERK OF COURTS:**

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

**Transfer of Funds**

<b>From</b>	<b>To</b>	
24820101-5801	10020201-4601	50,000.00
Title Administration/Misc Cash Transfer	Clerk of Courts/Interfund Revenue	

**Supplemental Appropriation**

10020201-5450	Clerk of Courts/Capital Equipment	50,000.00
24820101-5801	Title Administration/Misc Cash Transfer	50,000.00

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

**24**  
ADMINISTRATOR REPORTS

Ferzan Ahmed, County Administrator  
-Kudos to Jenna Jackson for submitting two site to the Jobs Ready site. Both are in Orange Township

**25**  
COMMISSIONERS' COMMITTEES REPORTS

Commissioner Merrell  
-No reports

Commissioner Lewis  
-Had the opportunity to speak to the Delaware County Historical Society on Thursday evening. Was happy to inform them of the grant amount they were awarded.

Commissioner Benton  
-Met with legislatures last Friday at SourcePoint. Some of the highlights of conversation were:  
-Prevailing wage options at the local level  
-Career center levy options  
- Indigent defense reimbursement  
-The Competitive Advantage Project is moving ahead  
-The Finance Authority is having their meeting tomorrow night.

**26**  
RESOLUTION NO. 17-451

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION FOR CONSIDERATION OF EMPLOYMENT; COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL; TO CONSIDER THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSES:**

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It was moved by Mr. Merrell, seconded by Mrs. Lewis to adjourn into Executive Session at 10:20 AM.

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

**\*Commissioner Merrell had to leave prior to adjourning the executive session due to a previous engagement.**

**RESOLUTION NO. 17-452**

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

It was moved by Mrs. Lewis, seconded by Mr. Benton to adjourn out of Executive Session at 12:22 PM.

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

**27**  
**RECESS 12:22 PM/RECONVENE 1:30 PM**

**28**  
**RESOLUTION NO. 17-453**

**1:30PM FINAL HEARING FOR THE HAVEN’S 503 DRAINAGE IMPROVEMENT PETITION PROJECT:**

It was moved by Mr. Merrell, seconded by Mrs. Lewis to open the hearing at 1:31 PM.

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

**28 Continued**  
**RESOLUTION NO. 17-454**

**IN THE MATTER OF CLOSING THE PUBLIC HEARING TO ADDRESS THE HAVEN’S 503 DRAINAGE IMPROVEMENT PETITION PROJECT:**

It was moved by Mr. Merrell, seconded by Mrs. Lewis to close the hearing at 2:30 PM.

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

**28 Continued**  
**RESOLUTION NO. 17-455**

**IN THE MATTER OF FINDING IN FAVOR OF THE IMPROVEMENT AND AFFIRMING THE ORDER FOR THE HAVEN’S 503 DRAINAGE IMPROVEMENT PETITION PROJECT:**

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

Whereas, on **March 18, 2014** , a Drainage Improvement Petition for Haven’s 503 Drainage Improvement Petition Project Drainage Improvement Petition Project was filed with the Board of Commissioners of Delaware County (the “Board”); and

Whereas, the Board on **June 16, 2014** with Resolution #14-696 found in favor of the improvement and directed The Delaware County Engineer To Proceed With Preparation Of Plans, Reports, And Schedules For The Haven’s 503 Drainage Improvement Petition Project, and

Whereas, the Board on Monday **May 1, 2017** , held a final public hearing to determine if the action is necessary, conducive to the public welfare, and the benefits derived exceed the cost incurred for The Haven’s 503 Drainage Improvement Petition Project; and

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

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

The Board hereby finds that the proposed improvement is necessary and that it will be conducive to the public welfare. The Board also finds that it is reasonably certain that the cost of the proposed improvement will be less than the benefits. Accordingly, the Board hereby affirms its order granting the prayer of the petition and approves the maps, profiles, plans, schedules and reports prepared by the Delaware County Engineer, and

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This Board finds and determines that all formal actions taken by this Board concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in said formal actions were in meetings open to the public, in compliance with the laws of the State of Ohio.

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

**28 Continued**

**RESOLUTION NO. 17-456**

**IN THE MATTER OF COMMISSIONERS CONFIRMING THE ASSESSMENTS; APPROVING THE PAYMENT SCHEDULE AND ORDERING THE LETTING OF THE CONTRACTS FOR THE HAVEN’S 503 DRAINAGE IMPROVEMENT PETITION PROJECT:**

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

Whereas, the Board on **Monday May 1, 2017**, held a final public hearing and with resolution **NO. 17-455** found affirming order for The Haven’s 503 Drainage Improvement Petition Project; and

Whereas, after hearing testimony from property owners on the assessments for the improvement, the Board is prepared to issue its findings on the assessments.

Therefore, Be It Resolved, by the Board of Commissioners of Delaware County, Ohio as follows:

The Board hereby approves The Haven’s 503 Drainage Improvement Petition Project assessments prepared by the Delaware County Engineer, and

FURTHER BE IT RESOLVED, That once the water shed is confirmed, the Delaware County Engineer’s estimated assessments are hereby approved and confirmed, and the Engineer is ordered to receive bids for the construction of the improvement, and

FURTHER BE IT RESOLVED, The County Engineer is hereby directed to prepare the necessary bid documents and legal advertisements; and

FURTHER BE IT RESOLVED, That the County Engineer be and he is hereby directed to give at least two weeks public notice as required by law of the time when and the place where bids will be received for furnishing any material for the improvement, or for the construction of the improvement, and

FURTHER BE IT RESOLVED, That the Board fixes month-day-year as the date and time for the County Engineer to receive bids for the construction of the improvement , and all bids shall be received at the office of the Delaware County Engineer, 50 Channing Street, Delaware, Ohio, and

FURTHER BE IT RESOLVED, That county borrow funds to pay for the improvement, and that eight years shall be the period of time, in semi-annual installments, as taxes are paid, given the owners of land benefited, to pay the assessments that may be made for the improvement, and that interest shall be charged on the installments at the same rate charged to the Commissioners for the borrowing of the money, if after the deadline for the landowners to pay their assessments upfront passes and the total remaining construction cost to be borrowed is less than \$10,000.00 then the County will up front the remaining cost of the Construction and Commissioners will no longer borrow the money.

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

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**SIGN-IN SHEET FOR MAY 1, 2017**

**1:30 PM THE FINAL HEARING BY THE COMMISSIONERS  
 FOR THE HAVEN'S 503 DRAINAGE IMPROVEMENT  
 PETITION PROJECT**

	NAME	ADDRESS
1	SCOTT STEPHENS	DELAWARE SWCD
2	Robert Riley	Del. Co. Eng.
3	BRET BACON	SWCD
4	Brett Bingham	DCEd
5	Barbara Sherman	1169 Africa Rd 43021
6	Don Sherman	"
7	Kevin M. Cudley	6689 Dublin Central Drive
8	Bob Golen	1241 Peach Blossom Act
9	John Gennaccia	957 Poppleblow Rd
10	Aric Hochstetler	Prosecutor's Office
11	Sarah Jensen	101 N. Sandusky
12		

There being no further business, the meeting adjourned.

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

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

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

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