

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1306

Adopted Date September 22, 2020

AUTHORIZE THE POSTING OF THE "WASTEWATER TREATMENT SYSTEM CHIEF OPERATOR NORTH" POSITION WITHIN THE WATER AND SEWER DEPARTMENT, IN ACCORDANCE WITH WARREN COUNTY PERSONNEL POLICY MANUAL, SECTION 2.02(a)

WHEREAS, there exists one opening for a "Wastewater Treatment System Chief Operator North" position within the Water and Sewer Department; and

NOW THEREFORE BE IT RESOLVED, to authorize the posting of the position of "Wastewater Treatment System Chief Operator North", in accordance with Warren County Personnel Policy Manual, Section 2.02(A); posting to occur for a period of at least seven (7) consecutive calendar days beginning September 18, 2020.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

H/R

cc: Water/ Sewer (File)
OMB-Sue Spencer
Theresa Reier

Resolution

Number 20-1307

Adopted Date September 22, 2020

AUTHORIZE THE POSTING OF THE "COMMUNITY MANAGER" POSITION, WITHIN THE WARREN COUNTY TELECOMMUNICATIONS DEPARTMENT, IN ACCORDANCE WITH WARREN COUNTY PERSONNEL POLICY MANUAL, SECTION 2.02(A)

WHEREAS, there exists an opening for the "Community Manager" position within the Telecommunications Department; and

NOW THEREFORE BE IT RESOLVED, to authorize the posting of the position of "Community Manager" in accordance with Warren County Personnel Policy Manual, Section 2.02(A); posting to occur for a period of at least seven (7) consecutive calendar days beginning September 18, 2020.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Telecom (file)
OMB – Sue Spencer

*BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO*

Resolution

Number 20-1308

Adopted Date September 22, 2020

ACCEPT RESIGNATION, DUE TO RETIREMENT, OF JAMES VOLKERDING, CARPENTER II, WITHIN THE WARREN COUNTY FACILITIES MANAGEMENT DEPARTMENT, EFFECTIVE OCTOBER 30, 2020

BE IT RESOLVED, to accept the resignation, due to retirement, of James Volkerding, Carpenter II, within the Warren County Facilities Management Department, effective October 30, 2020.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Facilities Management (file)
James Volkerding's Personnel File
OMB – Sue Spencer
Tammy Whitaker

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1309

Adopted Date September 22, 2020

HIRE LINDA PETERS AS POLICY COORDINATOR WITHIN THE WARREN COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, CHILDREN SERVICES DIVISION

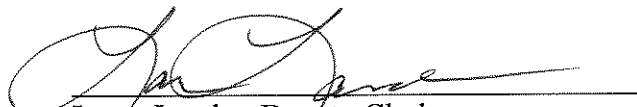
BE IT RESOLVED, to hire Linda Peters as Policy Coordinator, within the Warren County Department of Job and Family Services, Children Services Division, classified, part-time permanent, non-exempt status (20-25 hours per week), Pay Grade #9, \$25.00 per hour, under the Warren County Job and Family Services compensation plan, effective October 5, 2020, subject a negative drug screen and a 365 day probationary period.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

H/R

cc: Children Services (file)
L. Peters' Personnel file
OMB – Sue Spencer

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1310

Adopted Date September 22, 2020

**HIRE PAIGE BARTON AS EMERGENCY COMMUNICATIONS OPERATOR WITHIN THE
WARREN COUNTY EMERGENCY SERVICES DEPARTMENT**

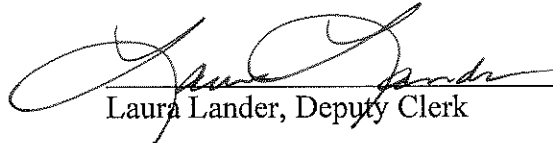
BE IT RESOLVED, to hire Paige Barton as Emergency Communication Operator within the Warren County Emergency Services Department, classified, full-time permanent, hourly status (40 hours per week), effective October 19, 2020, at starting rate of, \$18.29 per hour, subject to a negative background check and drug screen and a 365 day probationary period.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

HR

cc: Emergency Services (file)
Paige Barton's Personnel file
OMB- Sue Spencer

BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO

Resolution

Number 20-1311

Adopted Date September 22, 2020

HIRE JESSICA BUTLER AS EMERGENCY COMMUNICATIONS OPERATOR, WITHIN THE WARREN COUNTY EMERGENCY SERVICES DEPARTMENT

WHEREAS, pursuant to a memorandum of understanding when filling a vacancy the department is able to hire a candidate with four years of experience at the current 37-48 month rate of pay and Ms. Butler has more than six years of experience in emergency dispatching; and

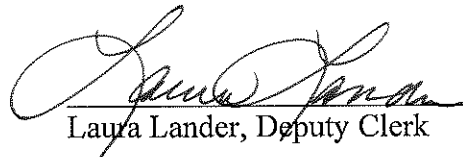
NOW THEREFORE BE IT RESOLVED, to hire Jessica Butler, as Emergency Communications Operator within the Warren County Emergency Services Department, classified, full-time permanent, hourly status (40 hours per week), effective October 19, 2020, at starting rate of, \$24.81 per hour, subject to a negative background check, drug screen and a 365 day probationary period.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

HR

cc: Emergency Services (file)
Jessica Butler's Personnel file
OMB- Sue Spencer

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1312

Adopted Date September 22, 2020

**HIRE BRANDY COOPER AS EMERGENCY COMMUNICATIONS OPERATOR, WITHIN
THE WARREN COUNTY EMERGENCY SERVICES DEPARTMENT**

WHEREAS, pursuant to a memorandum of understanding when filling a vacancy the department is able to hire a candidate with four years of experience at the current 37-48 month rate of pay and Ms. Cooper has more than six years of experience in emergency dispatching; and

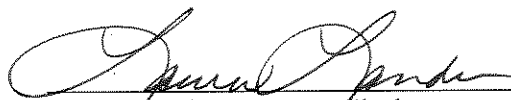
NOW THEREFORE BE IT RESOLVED, to hire Brandy Cooper, as Emergency Communications Operator within the Warren County Emergency Services Department, classified, full-time permanent, hourly status (40 hours per week), effective October 19, 2020, at starting rate of, \$24.81 per hour, subject to a negative background check, drug screen and a 365 day probationary period.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

HR

cc: Emergency Services (file)
Brandy Cooper's Personnel file
OMB- Sue Spencer

*BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO*

Resolution

Number 20-1313

Adopted Date September 22, 2020

HIRE GERTRUDE JONES, AS EMERGENCY COMMUNICATIONS OPERATOR WITHIN THE WARREN COUNTY EMERGENCY SERVICES DEPARTMENT

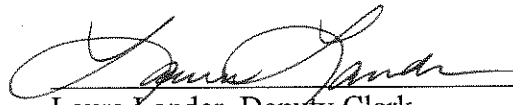
BE IT RESOLVED, to hire Gertrude Jones, as Emergency Communication Operator within the Warren County Emergency Services Department, classified, full-time permanent, hourly status (40 hours per week), effective October 19, 2020, at starting rate of, \$18.29 per hour, subject to a negative background check, drug screen and a 365 day probationary period.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

HR

cc: Emergency Services (file)
G. Jones' Personnel file
OMB- Sue Spencer

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1314

Adopted Date September 22, 2020

CANCEL REGULARLY SCHEDULED COMMISSIONERS' MEETING OF THURSDAY
SEPTEMBER 24, 2020

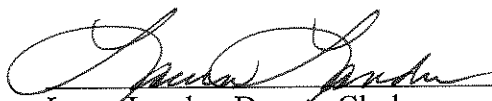
BE IT RESOLVED, to cancel the regularly scheduled Commissioners' Meeting of Thursday,
September 24, 2020.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

/tao

cc: Auditor ✓
Commissioners file
Press ✓

Resolution

Number 20-1315

Adopted Date September 22, 2020

AUTHORIZE PUBLICATION OF A NOTICE OF PUBLIC REVIEW FOR WARREN COUNTY'S CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) RELATIVE TO THE WARREN COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM ENTITLEMENT PROGRAM

WHEREAS, Community Development Block Grant (CDBG) Entitlement Communities are required to annually develop a CAPER, which reviews the activities, accomplishments, and expenditures of HUD Entitlement Program funds; and

WHEREAS, each entitlement community is required to give citizens an opportunity to comment on said CAPER; and

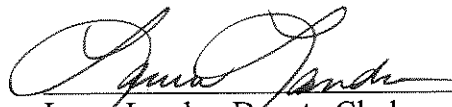
NOW THEREFORE BE IT RESOLVED, to authorize and direct the Clerk to publish a Notice of Public Review for Warren County's CAPER for Program Year 2019 relative to the Community Development Block Grant (CDBG) Entitlement Program; said publication to appear in Today's Pulse newspaper on October 4, 2020.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS


Laura Lander, Deputy Clerk

/sm

cc: OGA (file)

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1316

Adopted Date September 22, 2020

**ADVERTISE FOR BIDS FOR WARREN COUNTY JAIL & SHERIFF'S OFFICE
CORRECTIONS FURNITURE PROJECT**

BE IT RESOLVED, to advertise for bids for the Warren County Jail & Sheriff's Office Corrections Furniture Project; and

BE IT FURTHER RESOLVED, to advertise said bid for one (1) week in a newspaper of general circulation and for two consecutive weeks on the County Website, beginning the week of October 4, 2020; bid opening to be October 20, 2020 at 10:00 a.m.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

KH\

cc: Facilities Management (file)
OMB Bid file

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20- 1317

Adopted Date September 22, 2020

ENTER INTO CONTRACT WITH PANETTA EXCAVATING, INC. FOR THE FY19 HARVEYSBURG STORM & SANITARY IMPROVEMENT CDBG PROJECT AND AUTHORIZE COUNTY ADMINISTRATOR TO SIGN DOCUMENTS RELATIVE THERETO

WHEREAS, pursuant to Resolution #20-1217, adopted September 01, 2020, this Board approved a Notice of Intent to Award Bid for the FY19 Harveysburg Storm & Sanitary Improvement CDBG Project to Panetta Excavating, Inc., for a total bid price of \$239,197.00; and

WHEREAS, all documentation, including performance bonds, insurance certificates, etc., has been submitted by the contractor; and


NOW THEREFORE BE IT RESOLVED, to enter into contract with Panetta Excavating, Inc., 232 St. Rt. 28, Blanchester, Ohio, for a total bid price of \$239,197.00 and authorize County Administrator to sign documents relative thereto. Copy of agreement is attached hereto and made a part hereof.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

KH\

cc: c/a— Panetta Excavating, Inc.
OGA (file)
OMB Bid file

CONTRACT

THIS AGREEMENT, made this 2nd day of September, 2020, by and between the Warren County Board of Commissioners, 406 Justice Drive, Lebanon, Ohio, hereinafter called "Owner" and Panetta Excavating, Inc., doing business as a corporation, hereinafter called "Contractor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Owner, the Contractor hereby agrees with the Owner to commence and complete the construction described as follows:

"FY2019 Harveysburg Storm & Sanitary Sewer Improvement CDBG Project"

hereinafter called the project, for the sum of two hundred thirty nine thousand, one hundred ninety seven Dollars (\$239,197) and all work in connection therewith, under the terms as stated in the Conditions of the Contract; and at his (its or their) own proper cost and expense furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, Conditions of the Contract, the specifications and Contract Documents. "Contract Documents" means and includes the following:

- A. Invitation to Bid
- B. Instructions to Bidders
- C. General Contract Conditions
- D. Technical Specifications
- E. Proposal Forms
 - Affidavit of Non-Delinquency of Personal Property Taxes
 - Bid Guarantee and Contract Bond
 - Non-collusion Affidavit
- F. Contract Forms
 - Notice of Award and Acceptance
 - Notice to Proceed and Acceptance
 - Change Order
- G. Conflict of Interest
 - Special Conditions Pertaining to Hazards Safety
 - Standards and Accident Prevention
 - Special Equal Opportunity Provisions (Section 3 Compliance)
 - Certifications of Compliance with Air and Water Acts
 - Architects Certification of Compliance with Minimum Standards for Accessibility by the Physically Handicapped
 - Designers Certification of Compliance with Minimum Standards or Accessibility by the Physically Handicapped
- H. Federal Labor Standards
 - Prevailing Wage Rates

The CONTRACTOR hereby agrees to commence work under this contract on or before a date to be specified in a Written "Notice to Proceed" of the OWNER and to fully complete the project by within sixty days of date of Notice to Proceed. The Contractor further agrees to pay, as liquidated damages, the sum of \$100.00 for each consecutive calendar day thereafter until such time as work is completed.

Upon completion of said project, the CONTRACTOR shall submit an invoice to the OWNER. Upon approval by the Project Engineer, the submittal of a contractor's affidavit, and all prevailing wage reports, the OWNER shall make payment to the CONTRACTOR.

This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. The nonperforming party shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

OWNER may terminate or suspend performance of this Agreement for OWNER'S convenience upon written notice to CONTRACTOR. CONTRACTOR shall terminate or suspend performance of the services/work on a schedule acceptable to the OWNER.

The CONTRACTOR will indemnify and save the OWNER, their officers and employees, harmless from loss, expenses, costs, reasonable attorney fees, litigation expenses, suits at law or in equity, causes of actions, actions, damages, and obligations arising from (a) negligent reckless or willful and wanton acts, errors, omissions by CONTRACTOR, its agents, employees, licensees, consultants or subconsultants; (b) the failure of the CONTRACTOR, its agents, employees, licensees, consultants or subconsultants to observe the applicable standard of care providing services pursuant to this agreement; (c) the intentional misconduct of the CONTRACTOR, its agents, employees, licensees, consultants or subconsultants that result in injury to persons or damage to property for which the OWNER may be held legally liable.

The CONTRACTOR does hereby agree to indemnify and hold the OWNER harmless for any and all sums for which the OWNER may be required to pay or for which the OWNER may be held responsible for failure of the CONTRACTOR or any subcontractor to pay the prevailing wage upon this project.

The OWNER agrees to pay the CONTRACTOR in the manner and at such times as set forth in the General Provisions such amounts as required by the Contract Documents.

This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

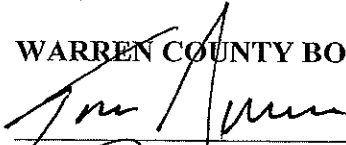
CONTRACTOR shall bind every subcontractor to, and every subcontractor must agree to be bound by the terms of this Agreement, as far as applicable to the subcontractor's work particularly pertaining to Prevailing Wages and Equal Employment Opportunity (EEO) requirements. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and OWNER, nor create any obligations on the part of the OWNER to pay or see to the payment of any sums to any subcontractor.

VI-A(2)

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in two counterparts, each of which shall be deemed an original on the date first above written.

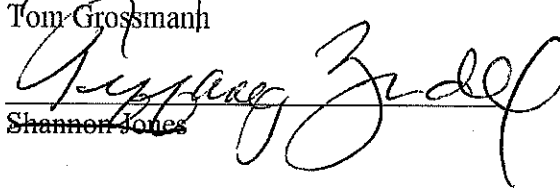
(Seal)

WARREN COUNTY BOARD OF COMMISSIONERS



Tom Grossman

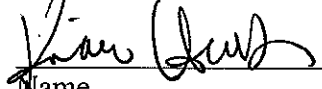
Tom Grossman



Shannon Jones

David G. Young

ATTEST:



Name

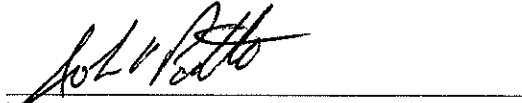
(Seal)

CONTRACTOR

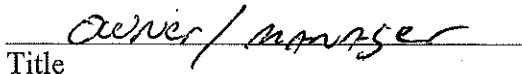
ATTEST:



Name

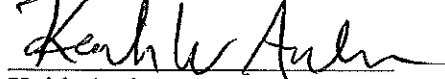


Name



Title

APPROVED AS TO FORM:



Keith Anderson
Assistant County Prosecutor

Resolution

Number 20-1318

Adopted Date September 22, 2020

ACKNOWLEDGE EXECUTION BY THE COUNTY ADMINISTRATOR OF CHANGE ORDER NO 12 TO THE GUARANTEED MAXIMUM PRICE AGREEMENT WITH THE CONSTRUCTION MANAGER AT RISK GRANGER CONSTRUCTION COMPANY FOR THE NEW JAIL AND SHERIFF'S ADMINISTRATION OFFICE PROJECT ("PROJECT")

WHEREAS, pursuant to Resolution #18-0856, this Board of County Commissioners (the "Board") entered into an agreement with Granger Construction Co., Inc. (the "CMR") for preconstruction services for the Project, with the understanding that a guaranteed maximum price ("GMP") for construction of the Project was anticipated to be added to the agreement by amendment; and

WHEREAS, pursuant to Resolution #19-1094, adopted August 20, 2019, this Board authorized the County Administrator to execute the documents relative to the final Guaranteed Maximum Price; and

WHEREAS, Granger has also presented change order no12 to accommodate various changes relative to the steel soffits in Area A, B and C as well as credits for changes to hollow metal doors and casework; and


NOW THEREFORE BE IT RESOLVED, to acknowledge the execution of change order no 12, by the County Administrator, for an increase of \$23,218.28 to the Guaranteed Maximum Price, creating a new Guaranteed Maximum Price of \$49,388,906.66; said amendment agreement and change orders with supporting/open book pricing are attached hereto and made a part hereof.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

Tz/

cc: C/A— Granger Construction Co., Inc
Project file
Granger Construction Co. J. Woehrl

Sheriff (file)
Martin Russell/Tiffany Zindel
Facilities Management (file)



OWNER CHANGE ORDER

Granger Construction Company
1822- 00 Warren County Jail

CHANGE ORDER DATE:
09/11/2020
CHANGE ORDER #: 12

TO (CONTRACTOR): Granger Construction Company
6267 Aurelius Road
Lansing, MI 48911

DISTRIBUTION: Granger Construction Company
 Wachtel & McAnally Architects/Planners, Inc
 OFFICE
 FIELD
 OTHER

CHANGE ORDER INFORMATION

You are directed to make the following changes to this Contract:

- PCO 99 - Area A, B, & C Soffit Changes
- PCO 100 - Change Hallow Metal to Wood Doors Credit
- PCO 102 Casework Submittal Changes Credit

PROJECT	ACO	DESCRIPTION	PCO TYPE	PCO	CONTRACT CHANGE
1822- 00	99	Miscellaneous Steel Soffits Areas A, B, & C	PCO	99	\$28,962.79
1822- 00	100	Change Hallow Metal Doors to Wood Doors	PCO	100	(\$1,537.57)
1822- 00	102	Casework Submittal Credits	PCO	102	(\$4,206.94)


TOTAL: \$ 23,218.28

Not valid until signed by both the Owner and Architect. Signature of the Contractor indicates the Contractor's agreement herewith, including any adjustment in the Contract Sum or Contract Time.

The original Contract Sum was	\$ 49,341,225.00
The net change by previously authorized Change Orders was	\$ 24,463.38
The Contract Sum prior to this Change Order was	\$ 49,365,688.38
The Contract Sum will be increased by this Change Order	\$ 23,218.28
The new Contract Sum will be	\$ 49,388,906.66
The Contract Time will be decreased by 0 days	

AUTHORIZED BY OWNER:

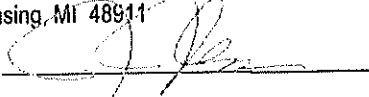
Warren County
406 Justice Drive
Lebanon, OH 45036

By: 

Date: 9-16-2020

ACCEPTED BY CONTRACTOR

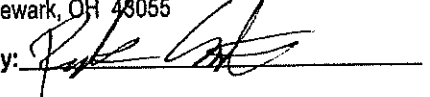
Granger Construction Company
6267 Aurelius Road
Lansing, MI 48911

By: 

Date: 09/11/2020

ARCHITECT/ENGINEER

Wachtel & McAnally Architects/Planners, Inc
35 South Park Place, Ste 350
Newark, OH 48055

By: 

Date: 9.14.20



**MOUND
TECHNOLOGIES INC**

A Subsidiary of Heartland, INC

25 Mound Park Dr.
Springboro, OH. 45066
(937) 748-2937
(937) 748-9763 Fax

May 9, 2020

Jason Kaminski
Megen Construction Company
11130 Ashburn Road
Cincinnati, Ohio 45240

While reviewing the bid drawings versus the latest plans from Triton, we have deducted the following breakdown of the added material as well as the omitted material:

Added amount of L 1-1/2x1-1/2x3/16 angle = 1,277 linear feet
Added amount of 3/16" thick steel plate = 1,487 square feet

Deleted amount of L 1-1/2x1-1/2x3/16 angle = 115 linear feet
Deleted amount of 3/16" thick steel plate = 102 square feet

The amounts that you see on the attached change order form are the NET amounts after crediting the material that was deleted. As you will also see, a good amount of this change order request is in the detailing. Our detailer is going to have to re-model these soffits and bulkheads which will take many hours. I have included their work order to us which details all of the changes along with the number of pieces affected and the hours it will take. We also figured in the shop labor involved in the revised soffits. With subtracting the 40 shop hours for the fabrications that were deleted plus the 400 hours of added labor for the new soffits and the many revisions to all of the soffits that were in our original bid, the net total of shop hours for this change order request is 360 hours.

We are submitting this change order request (with applicable backup) in the amount of **\$43,730** to cover all of these changes.

Please contact me if you have any questions regarding this. Thank you.

Michael Copenhaver
Project Manager
Mound Technologies

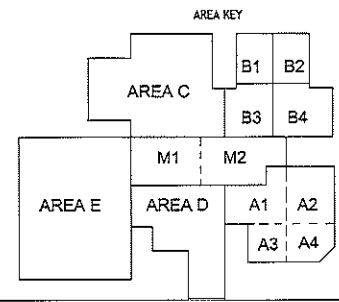
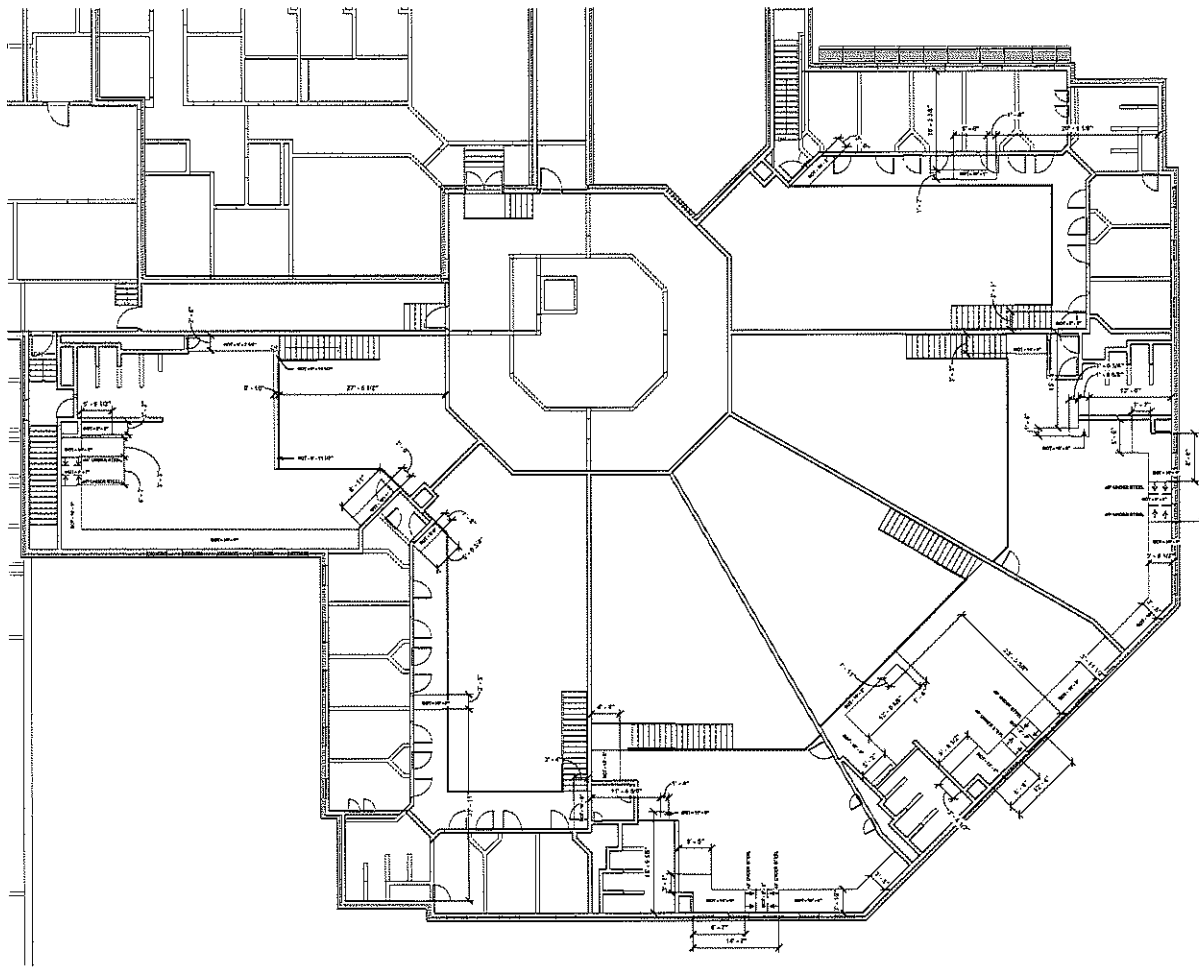
Bill of Matl - Parts/Assembly

Job #19-523D Warren County Jail - Soffit Revisions
 Property of Mound Technologies, Inc.

Page # 1
 05/11/20 06:26:43

<i>Item</i>	<i>Mark</i>	<i>Quan</i>	<i>Type & Size</i>	<i>Grade</i>	<i>Length</i>	<i>Weight/Pc</i>	<i>Finish & Notes</i>										
<div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <table border="0" style="width: 100%;"> <tr> <td style="width: 20%;">Assembly 1-ANGLE</td> <td style="width: 40%;">L 1-1/2x1-1/2x3/16</td> <td style="width: 20%; text-align: right;">2 Required</td> <td colspan="3"></td> </tr> <tr> <td colspan="4" style="text-align: center;">Each requires the following Parts</td> </tr> </table> </div>								Assembly 1-ANGLE	L 1-1/2x1-1/2x3/16	2 Required				Each requires the following Parts			
Assembly 1-ANGLE	L 1-1/2x1-1/2x3/16	2 Required															
Each requires the following Parts																	
1	1-ANGLE	1	L 1-1/2x1-1/2x3/16	A36	581' 0"	1,045.80#	1										
		2 Assemblies		0 PcMark	581.00 SF	2,091.60#											
<div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <table border="0" style="width: 100%;"> <tr> <td style="width: 20%;">Assembly 1-PLATE</td> <td style="width: 40%;">PL 3/16x12</td> <td style="width: 20%; text-align: right;">2 Required</td> <td colspan="3"></td> </tr> <tr> <td colspan="4" style="text-align: center;">Each requires the following Parts</td> </tr> </table> </div>								Assembly 1-PLATE	PL 3/16x12	2 Required				Each requires the following Parts			
Assembly 1-PLATE	PL 3/16x12	2 Required															
Each requires the following Parts																	
2	1-PLATE	1	PL 3/16x12	A36	692' 6"	5,304.55#	1										
		2 Assemblies		0 PcMark	2,770.00 SF	10,609.10#											
				Totals													
		4 Assemblies		0 PcMark	3,351.00 SF	12,700.70#											

6	Coordinated Soffit drawings S2C-MEP SOFFITS	4/28/2019	<p>As per this coordinated soffit drawing S2C, Dimension for widths of all bulkhead framings get revised also there is change in underside elevation of these framings as per A177 ceiling height for AB,AC,AS,AT framings are 9'-2",10'6",10'6" & 9'2" respectively those are now changed to10'-5,10'-4",10'-8"and various per S2C.. Also 4 soffit are newly added per this drawing.These changes impacts every frame fixed per architecture drawings</p> <p>After fixing 181 assemblies in model those are impacted due to this change we need to update respective 72 assembly drawings of these frames and related 42 multidrawings.Due to addition new soffits approx 12 assembly drawings need to create and respective multi drawings.as well as GA will get updated</p>	181	PENDING	62
					TOTAL HOURS	244



TRITON

COORDINATED
BIM
SOLUTIONS

DATE: 11/11/2022
PROJECT: 2022022

DATE	DESCRIPTION

PRECAST
MEP SOFFITS LEVEL 2
AREA A

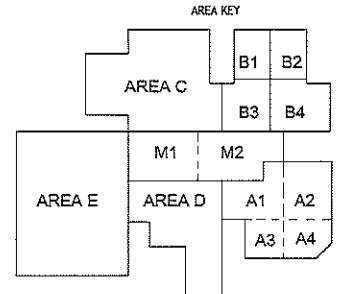
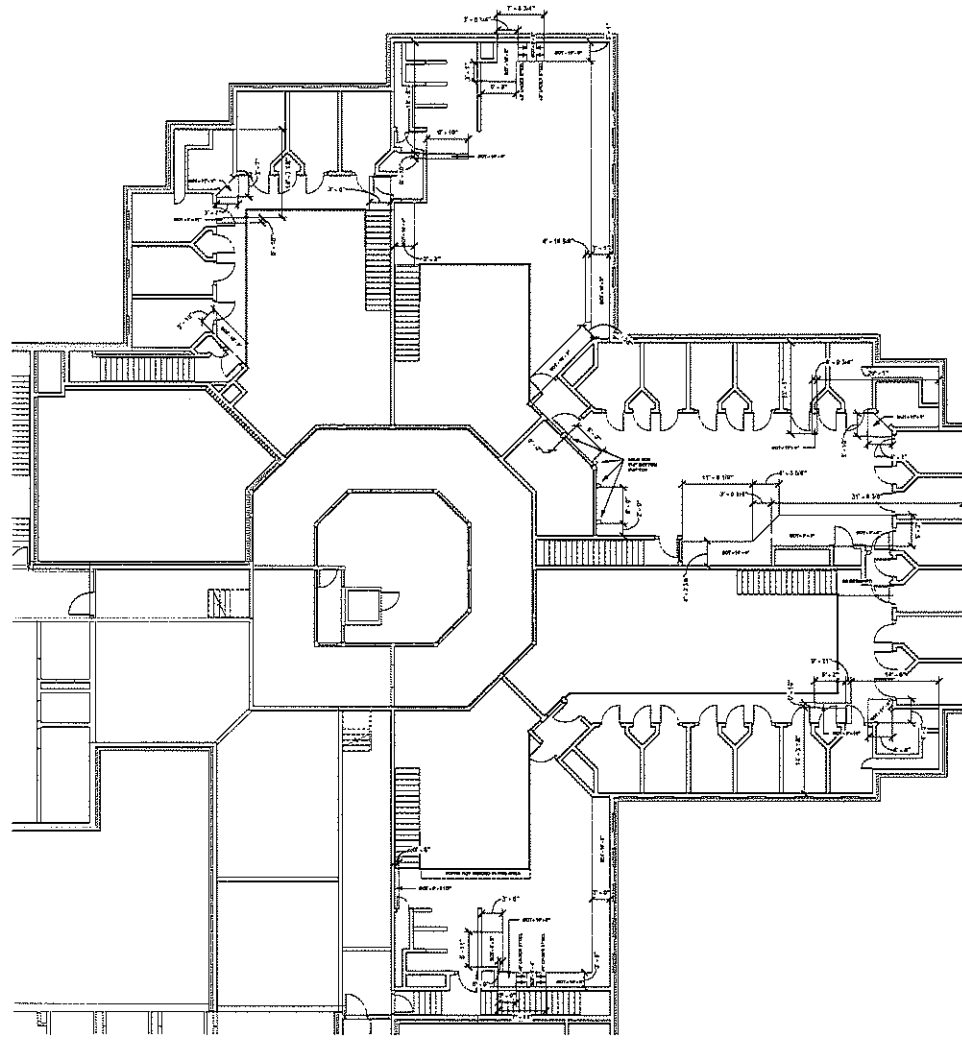
NO.	DESCRIPTION	DATE

REVISIONS

Warren County Jail



SCALE
1/8" = 1'-0"
DRAWING #
SZ A



TRITON

COORDINATED
BIM
SOLUTIONS

DATE	DESCRIPTION

PRECAST
MEP SOFFITS LEVEL 2
AREA B

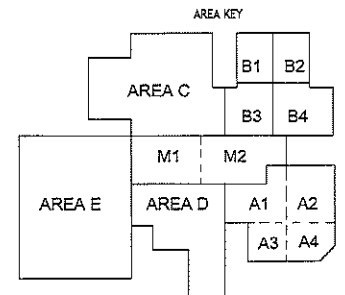
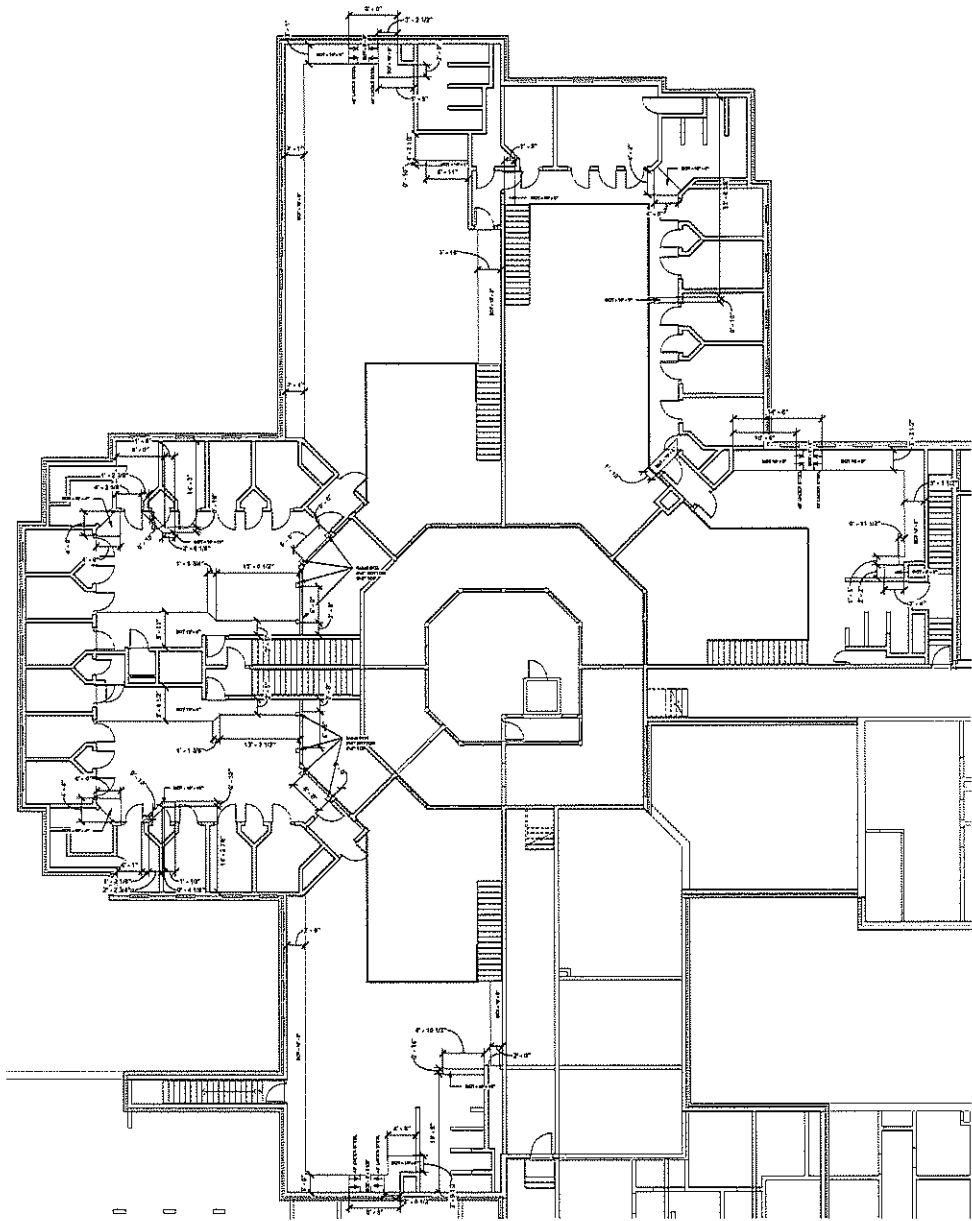
NO.	DATE	DESCRIPTION

REVISIONS

Warren County Jail



SCALE
1/8" = 1'-0"
DRAWING #
S2B



TRITON

COORDINATED
BIM
SOLUTIONS

DATE: 01/11/2017

TIME: 10:00 AM

USER: JSM

PROJECT: WARREN COUNTY JAIL

LEVEL: 2

VIEW: MECHANICAL

SCALE: 1/8" = 1'-0"

DRAWING #

S2C

DATE: 01/11/2017

TIME: 10:00 AM

USER: JSM

PROJECT: WARREN COUNTY JAIL

LEVEL: 2

VIEW: MECHANICAL

SCALE: 1/8" = 1'-0"

DRAWING #

S2C

DATE: 01/11/2017

TIME: 10:00 AM

USER: JSM

PROJECT: WARREN COUNTY JAIL

LEVEL: 2

VIEW: MECHANICAL

SCALE: 1/8" = 1'-0"

DRAWING #

S2C

DATE: 01/11/2017

TIME: 10:00 AM

USER: JSM

PROJECT: WARREN COUNTY JAIL

LEVEL: 2

VIEW: MECHANICAL

SCALE: 1/8" = 1'-0"

DRAWING #

S2C

DATE: 01/11/2017

TIME: 10:00 AM

USER: JSM

PROJECT: WARREN COUNTY JAIL

LEVEL: 2

VIEW: MECHANICAL

SCALE: 1/8" = 1'-0"

DRAWING #

S2C

DATE: 01/11/2017

TIME: 10:00 AM

USER: JSM

PROJECT: WARREN COUNTY JAIL

LEVEL: 2

VIEW: MECHANICAL

SCALE: 1/8" = 1'-0"

DRAWING #

S2C

PRECAST
MEP SOFFITS LEVEL 2
AREA C

REVISIONS

Warren County Jail

N
E
S
W

SCALE
1/8" = 1'-0"

DRAWING #
S2C

1950 Waycross Rd.
Cincinnati, Ohio 45240
chris.strassell@queencitymech.com
(513) 964-6313 desk
(513) 353-1430 x121 Office
(513) 673-8722 Cell



CHANGE ORDER REQUEST

DATE: 07/20/2020

PCO#: 100

Granger Construction Company
1822- 00 - Warren County Jail

To: Tiffany Zindel
Warren County
406 Justice Drive
Lebanon, OH 45036
Phone: 513-695-1241
Fax:
Email: Tiffany.Zindel@co.warren.oh.us
CC:

From: Jason Woehrle
Granger Construction Company
6267 Aurelius Road
Lansing, MI 48911
Phone:
Fax:
Email: jwoehrle@grangerconstruction.com

Below is the detail for our proposal to complete the following changes in contract work:

Default for PCO: Change Hallow Metal Doors to Wood Doors
Proposed Scope of Work: Change Hallow Metal Doors to Wood Doors

The prices below are valid until **07/31/2020**.

Funding Source for Change Order:
Granger/Megen GMP: (\$1,537.57)
Owner Contingency: \$1,537.57

PCO Item	Status	Change (In Days)	Contract Line	Notes	Amount
1 : Change Hallow Metal Doors to Wood Doors Bonds	New		0000610-00		(\$8.83)
2 : Change Hallow Metal Doors to Wood Sub Bond Risk	New		0000620-00		(\$14.72)
3 : Change Hallow Metal Doors to Wood Doors CM Fee	New		0000092-00		(\$37.50)
4 : Change Hallow Metal Doors to Wood Doors Insurances	New		0000620-02		(\$4.42)
5 : Change Hallow Metal Doors to Wood Doors Graybach	New		0006300-00		(\$1,472.10)

Total: (\$1,537.57)

Submitted By:

Approved By:

Jason Woehrle
Date 07/20/2020

Tiffany Zindel
Warren County
Date



ADVANCE THE ART OF BUILDING

CHANGE ORDER REQUEST

DATE: 08/04/2020

PCO#: 102

Granger Construction Company
1822- 00 - Warren County Jail

To: Tiffany Zindel
Warren County
406 Justice Drive
Lebanon, OH 45036
Phone: 513-695-1241
Fax:
Email: Tiffany.Zindel@co.warren.oh.us
CC:

From: Jason Woehrle
Granger Construction Company
6267 Aurelius Road
Lansing, MI 48911
Phone:
Fax:
Email: jwoehrle@grangerconstruction.com

Below is the detail for our proposal to complete the following changes in contract work:

Default for PCO: Casework Submittal Credits
Proposed Scope of Work: Casework Submittal Credits

The prices below are valid until **08/18/2020**.

Funding Source for Change Order:
Granger/Megen GMP: (\$4,206.94)
Owner Contingency: \$4,206.94

PCO Item	Status	Change (in Days)	Contract Line	Notes	Amount
1 : Casework Submittal Credits Bond	New		0000610-00		(\$24.17)
2 : Casework Submittal Credits Sub	New		0000620-00		(\$40.28)
Bond Risk					
3 : Casework Submittal Credits CM	New		0000092-00		(\$102.61)
Fee					
4 : Casework Submittal Credits	New		0000620-02		(\$12.08)
Insurances					
5 : Casework Submittal Credits	New		0006300-00		(\$4,027.80)
Graybach					

Total: (\$4,206.94)

Submitted By:

Approved By:

08/04/2020

Jason Woehrle

Date

Tiffany Zindel
Warren County

Date

COST SUMMARY
PROJECT CHANGE ORDER REQUEST



Project: **Warren County Jail**
RFC No: **11**

SUBCONTRACT	Number	SUB RFC	Total
Casework Subcontractor			-3,836.00
		SUBTOTAL	-3,836.00

SUMMARY	AMOUNT
Subcontracts	\$-3,836.00
CHANGE ORDER COSTS	\$-3,836.00
Profit	5% \$-191.80
REVISED CONTRACT AMOUNT	\$-4,027.80

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1319

Adopted Date September 22, 2020

APPROVE ADDENDUM TO AGREEMENT FOR INTAKE, ASSESSMENT, AND CASE MANAGEMENT FUNCTIONS WITH COUNCIL ON AGING OF SOUTHWESTERN OHIO ON BEHALF OF WARREN COUNTY ELDERLY SERVICES

WHEREAS, the Warren County Commissioners and the Council on Aging of Southwestern Ohio wish to add Fast Track Home Case Management services for the senior citizen (elderly) residents of Warren County; and

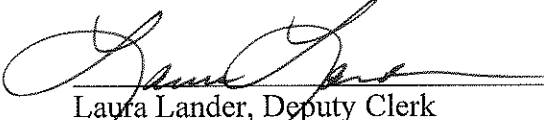
NOW THEREFORE BE IT RESOLVED, to approve an addendum to the agreement for Intake, Assessment, and Case Management Functions with Council on Aging of Southwestern Ohio to add Fast Track Home Case Management. Copy of addendum is attached hereto and made a part hereof.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: c/a—Council on Aging of Southwestern Ohio
Council on Aging of SW Ohio
Elderly Services file

**ADDENDUM TO INTAKE, ASSESSMENT AND CASE MANAGEMENT AGREEMENT BETWEEN
THE WARREN COUNTY BOARD OF COMMISSIONERS AND COUNCIL ON AGING OF
SOUTHWESTERN OHIO**

This Addendum is entered into on the date last signed below by and between the Warren County Board of Commissioners, 406 Justice Drive, Lebanon, Ohio (County), and Council on Aging of Southwestern Ohio, , an Ohio corporation for non-profit, 175 Tri County Parkway, Cincinnati, Ohio 45246 ("Council").

Whereas, the Parties first entered into an Agreement for Intake Assessment and Casement Management Function with Council on Aging of Southwestern Ohio on or about September 8, 2015, pursuant to Board of County Commissioners' Resolution Number 15-1378, and extended said Agreement annually thereafter,

Whereas, the Parties wish to add additional services for the senior citizen residents of Warren County,

Now Therefore, the Parties hereby mutually agree to add Fast Track Home Case Management services for the senior citizen (elderly) residents of Warren County to the Services Provided under the Agreement for Intake Assessment and Casement Management Function with Council on Aging of Southwestern Ohio entered into on September 8, 2015, pursuant to Board of County Commissioners' Resolution Number 15-1378, and the parties agree to review the provision of these services after a period of one year, unless the Agreement is otherwise terminated or amended in writing; program details are attached hereto and made a part hereof (appendix 2) of the addendum,

Further, the parties hereby mutually agree that all other terms and conditions of the September 8, 2015, Agreement for Intake Assessment and Casement Management Function with Council on Aging of Southwestern Ohio, shall remain in full force and effect.

In witness hereof the parties have executed this Addendum effective as of the date last signed below,

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY**



President / Vice President

Tom Grossmann

Name

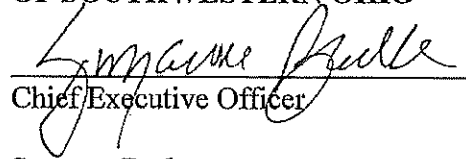
9.22.20

Date

20-1319

Resolution Number

**COUNCIL ON AGING
OF SOUTHWESTERN OHIO**



Chief/Executive Officer

Suzanne Burke

Name

9/9/2020

Date

APPROVED AS TO FORM



Adam M. Nice
Asst. Prosecuting Attorney

Appendix 2: Warren County Elderly Services Program Guidelines

1. Copayments do not apply for seniors while enrolled in Fast Track Home which is limited to 60 days.

2. Eligibility for Fast Track Home:
 - a. Warren County Resident.
 - b. Client must be age 60 and older.
 - c. Client must be currently admitted or discharged within 7 days from a hospital, emergency room, nursing or rehabilitation facility.
 - d. Client is impaired in two or more ADLs/IADLS.

*BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO*

Resolution

Number 20-1320

Adopted Date September 22, 2020

APPROVE ADDENDUM TO AGREEMENT FOR ADMINISTRATIVE FUNCTIONS WITH COUNCIL ON AGING OF SOUTHWESTERN OHIO ON BEHALF OF WARREN COUNTY ELDERLY SERVICES

WHEREAS, the Warren County Commissioners and the Council on Aging of Southwestern Ohio wish to add Fast Track Home Case Management services for the senior citizen (elderly) residents of Warren County; and

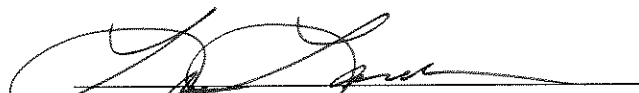
NOW THEREFORE BE IT RESOLVED, to approve an addendum to the agreement for Administrative Functions with Council on Aging of Southwestern Ohio to add Fast Track Home Case Management. Copy of addendum is attached hereto and made a part hereof.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: c/a—Council on Aging of Southwestern Ohio
Council on Aging of SW Ohio
Elderly Services file

ADDENDUM TO AGREEMENT FOR ADMINISTRATIVE FUNCTIONS BETWEEN THE WARREN COUNTY BOARD OF COMMISSIONERS AND COUNCIL ON AGING OF SOUTHWESTERN OHIO

This Addendum is entered into on the date last signed below by and between the Warren County Board of Commissioners, 406 Justice Drive, Lebanon, Ohio (County), and Council on Aging of Southwestern Ohio, an Ohio corporation for non-profit, 175 Tri County Parkway, Cincinnati, Ohio 45246 ("Council").

Whereas, the Parties first entered into an Agreement for Administrative Functions with Council on Aging of Southwestern Ohio, on or about September 8, 2015, pursuant to the authority of Warren County Commissioners Resolution Number 15-1379, and extended said Agreement annually thereafter,

Whereas, the Parties wish to add additional services for the senior citizen residents of Warren County,

Now Therefore, the Parties hereby mutually agree to add to Paragraph 2.(B). Fast Track Home Case Management services, and the provision for home medical equipment for the senior citizen (elderly) residents of Warren County to the Services Provided by the Agreement for Administrative Functions with Council on Aging of Southwestern Ohio entered into on September 8, 2015, pursuant to Board of County Commissioners' Resolution Number 15-1379, and the parties agree to review the provision of these services after a period of one year, unless the Agreement is otherwise terminated or amended in writing, program details are attached hereto and made a part hereof (appendix 2) to the addendum,

Further, the parties hereby mutually agree that all other terms and conditions of the September 8, 2015, Agreement for Administrative Functions with Council on Aging of Southwestern Ohio, shall remain in full force and effect.

In witness hereof the parties have executed this Addendum effective as of the date last signed below,

BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY

COUNCIL ON AGING
OF SOUTHWESTERN OHIO



President / Vice President



Chief Executive Officer

Tom Grossmann

Name

Suzanne Burke

Name

9.22.20

Date

9/9/2020

Date

20-1319

Resolution Number

APPROVED AS TO FORM



Adam M. Nice
Asst. Prosecuting Attorney

Appendix 2: Warren County Elderly Services Program Guidelines

1. Copayments do not apply for seniors while enrolled in Fast Track Home which is limited to 60 days.

2. Eligibility for Fast Track Home:
 - a. Warren County Resident.
 - b. Client must be age 60 and older.
 - c. Client must be currently admitted or discharged within 7 days from a hospital, emergency room, nursing or rehabilitation facility.
 - d. Client is impaired in two or more ADLs/IADLS.

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1321

Adopted Date September 22, 2020

**AUTHORIZE AND ACCEPT AMENDMENT TO THE PRESCRIPTION DRUG BENEFIT
ADMINISTRATION AGREEMENT WITH OPTUMRX, INC**

WHEREAS, Warren County entered into an original agreement with OptumRX, Inc for prescription benefit management services effective January 1, 2014 through December 31, 2016, and a subsequent renewal amendment effective January 1, 2017 through December 31, 2019; and

WHEREAS, it is the desire of the Board to authorize and accept the renewal amendment for period effective January 1, 2020 through December 31, 2022; and


NOW THEREFORE BE IT RESOLVED, to authorize and accept the renewal amendment effective January 1, 2020 through December 31, 2022. Copy of said amendment attached hereto and made a part hereof.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

HR/

cc: c/a—OptumRX, Inc.
Benefits File
T Whitaker, OMB
Horan and Assoc
Optum RX

**AMENDMENT II TO
PRESCRIPTION DRUG BENEFIT ADMINISTRATION AGREEMENT**

This **AMENDMENT II TO PRESCRIPTION DRUG BENEFIT ADMINISTRATION AGREEMENT**, dated and effective as of January 1, 2020 ("Amendment"), is made and entered into by and between Warren County ("Client") and OptumRx, Inc. ("Administrator"), with respect to the following facts:

RECITALS

WHEREAS, Administrator and Client entered into that certain Prescription Drug Benefit Administration Agreement ("Agreement") on January 1, 2014, as amended, pursuant to which Client engaged Administrator to provide certain of its services to assist Client in the administration of its Pharmacy Benefit Program; and

WHEREAS, Client and Administrator desire to amend the Agreement as more fully described below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Administrator and Client hereby agree to amend the Agreement as follows:

1. Any capitalized terms used in this Amendment, which are not otherwise defined herein, shall have the same meanings ascribed to them in the Agreement. All other terms and conditions of the Agreement shall remain in full force and effect. In the event there is any inconsistency or conflict between the provisions in this Amendment and those in the Agreement, the provisions in this Amendment shall supersede and control.
2. Section 2.1, Term, shall be deleted in its entirety and restated as follows:

"2.1. **Term.** The initial term of this agreement begins on the Effective Date and expires on December 31, 2016. On January 1, 2017, this agreement renewed for a three (3) year term, expiring on December 31, 2019 (the "First Renewal Term"). On January 1, 2020, this agreement shall renew for an additional three (3) year term, expiring on December 31, 2022 (the "Second Renewal Term"). Upon expiration of the Second Renewal Term, this agreement may be renewed for successive 12-month renewal periods on each applicable anniversary date upon mutual written and executed agreement of the parties."
3. Section 3.9, Market Check, shall be added to the Agreement as follows:

"3.9 **Market Check.** One market check is permitted during the Initial Term of the agreement. The market check can be initiated at any time after the first 12 months of the agreement. Client may conduct a market check analysis to confirm its financial terms are competitive with those of substantially similar customers. Substantially similar customers include those with a similar number of enrolled individuals and comparable demographics (for example, age, sex, and geographic location), utilization patterns, prescription claim volume, and call volume. Substantially similar pharmacy benefit management services include those covering similar lines of business (for example, commercial, Medicaid, Medicare) and types of services (for example, retail, home delivery, and specialty); and those based upon similar assumptions (for example, formulary and network attributes, service levels, and contract term comparable to the remaining Term of this Agreement). Client submits to Administrator a market check report providing information that allows Administrator to evaluate in sufficient detail the comparable customers and the other financial offers (summarized or names redacted) to substantiate the market check conclusion. Administrator responds to Client within 30 days of receipt of the market check report. If the market check report validates an aggregate annualized savings of greater than one percent, the parties negotiate in good faith to revise the pricing. Any revisions to pricing resulting from the parties' negotiations are effective the first day of the following agreement year, subject to the parties having executed an amendment to the agreement at least 60 days prior to the effective date."
4. Exhibit A, Schedule of Definitions, shall be deleted in its entirety and replaced with the information in Attachment I, attached hereto and incorporated by reference.

5. Section 1.1.7, Data Exchange, shall be added to Exhibit B, Services, as follows:

"1.1.7 Data Exchange. Administrator agrees to support the REAL-TIME update and transmission of Eligibility, Combined Maximum OOP (Medical and Rx), and Deductible information to Client at no additional cost. Administrator agrees to integrate with Munis, the solution utilized by the Client to manage their in-house data warehouse, at no additional cost. Administrator agrees to provide claims data to Munis on a monthly basis."

6. Section 1.1.8, Web/Mobile Application Services. Exhibit B, Services, as follows:

"1.1.8. Web/Mobile Application Services

Administrator agrees to provide to Client and Members a website to look up Copayments for each Covered Product, which will display both the actual Member Copayment and Client cost based on actual claims adjudication logic, including the U&C price for such Covered Product applicable at a Participating Pharmacy.

Administrator agrees to provide to Members a mobile application to look up Copayments for each Covered Product that is supported on common mobile phone operating systems (e.g. Apple IOS and Android).

Administrator agrees to provide comparison functionality on the web-based Member portal to all Members to look up lower cost therapeutic alternatives to Covered Products.

Administrator agrees to provide costs comparison functionality on the web-based Member portal to allow Members to compare prices for Covered Products between Participating Pharmacies and Mail Order Pharmacies.

Administrator agrees to provide on the web-based Member portal an updated list of Participating Pharmacies including all current Participating Pharmacies, pharmacy addresses, and telephone numbers."

7. Exhibit C, Compensation, shall be deleted in its entirety and replaced with the information in Attachment II, attached hereto and incorporated by reference.
8. Exhibit E, Performance Guarantees, shall be deleted in its entirety and replaced with the information in Attachment III, attached hereto and incorporated by reference.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

OptumRx, Inc.
1600 McConnor Parkway
Schaumburg, IL 60173-6801

Warren County
406 Justice Drive
Lebanon, OH 45036

Signature: 

Print Name: Jeffrey Grosklags

Print Title: CFO

Date: 7/15/20

Internal Control No.: 00596792.0


Signature: 

Print Name: Tom Grassmann

Print Title: Member

Date: 9.22.20

APPROVED AS TO FORM


Kathryn M. Horvath
Asst. Prosecuting Attorney

ATTACHMENT I

EXHIBIT A

Schedule of Definitions

"Administrative Fee" means the amount that the Administrator charges to Client as compensation for Administrator to perform Services, based on a per Paid Claim, PEPM, and/or PMPM basis set forth in the Pricing Proposal.

"Administrator Data" means: (a) all data and information Administrator submits or transmits to Client regarding Administrator or its formulary advisory committee, Administrator's formularies, Network Pharmacies or Pharmacy Network; (b) all data, records and information generated in Administrator's business or operations; (c) all information pertaining to any programs, services or products Administrator or any of its clients market or offer; (d) all Administrator Content, Marks and Intellectual Property, together with all derivative works of the Administrator Content, Marks and Intellectual Property; (e) Administrator's software and any tangible or readable embodiments of such software, (f) Member specific information received or generated by Administrator's Mail Order or Specialty Pharmacies in connection with dispensing Prescription Drugs; and (g) for any matters referenced in the foregoing clauses (a) through (f), data, records or information occurring in any form, including written, graphic, electronic, visual or fixed in any tangible medium of expression and whether developed, generated, stored, possessed or used by Administrator, Client or a third party. Administrator Data does not include any data or information that relates exclusively to Client or its business, operations or activities or to another Client customer or contractor or the customer's or contractor's business, operations or activities.

"Affiliate" means an entity that directly, indirectly or through one or more intermediaries controls, is controlled by or is under common control with a Party. For purposes of this definition, control means the direct or indirect possession of the power to (i) elect at least fifty percent (50%) of the governing board or (ii) direct or play a significant role in the management and policies of the affiliated entity, whether through ownership of voting securities, partnership or limited liability interests, nonprofit membership, contract or otherwise.

"Authorized Generic" means an approved brand name drug that is marketed without the brand name on its label. It is the exact same drug product as the branded product. Authorized Generics are marketed and/or sold under a generic name by either the innovator or another manufacturer or distributor with the innovator drug manufacturers' permission.

"AWP" means the average wholesale price, as reported by the Pricing Source, of a Prescription Drug or other pharmaceutical products or supplies based on the NDC of the Drug on the date dispensed. Administrator will rely on the Pricing Source as updated by Administrator no less frequently than every seven (7) days to determine AWP for purposes of establishing the pricing provided to Client under this Agreement.

"Benefit Plan" means the certificate of coverage, summary plan description, or other document or agreement, whether delivered in paper, electronic, or other format, under which Client is obligated to provide Covered Prescription Services. Benefit Plan coverage includes any deductible or co- insurance provided for under the coverage.

"Brand Drug" means a Covered Product classified as a Brand Drug, which shall be based on the requirements set forth in the Drug Classification section in this Exhibit.

"Biological Product" that (a) is highly similar to a US-licensed reference Biological Product, notwithstanding minor differences in clinically inactive components, where there are no clinically meaningful differences between the Biological Product and the reference product in terms of the safety, purity, and potency of the product; and/or (b) is approved pursuant to 42 U.S.C. § 262(k).

"Claim Adjudication Rate" means the lowest unit price including the discount at which Administrator will

adjudicate each individual Claim for a Covered Product, in accordance with the terms of this Agreement.

"Client Data" means (a) all data and information Client submits or transmits to Administrator, including information about Benefit Plans, Pharmacy Plan Specifications, Members and Client's other programs, services, products and plans; (b) any data and information submitted or transmitted to Administrator by a Governmental Authority or a third party about Client or Benefit Plans; (c) data, records and information Administrator generates that relates directly to Administrator performing Services for Client under this agreement, exclusive of information or documentation Administrator generates for use in Administrator's business generally or for use with multiple clients; (d) all Client Content, Marks and Intellectual Property, together with all derivative works of the Client Content, Marks and Intellectual Property; (e) data, records and information Administrator generates about Client's business or operations; and (f) for any matters referenced in the foregoing clauses (a) through (f), data, records or information occurring in any form, including written, graphic, electronic, visual or fixed in any tangible medium of expression and whether developed, generated, stored, possessed or used by Client, Administrator or a third party. Client Data will not include data or information that is generated in or relates exclusively to: (a) Administrator or its business, operations or activities; (b) another Administrator client or contractor or the client's or contractor's business, operations or activities; (c) Administrator's or its personnel or contractor's use other than in performing this agreement; or (d) data or information disclosed, sold, assigned, leased or otherwise provided to third parties in a form that the Client Data has been aggregated with other client's data and cannot be distinguished as Client Data.

"Clinical Program" means any clinical, safety, adherence or similar programs offered by Administrator to promote cost savings for the Client and Members under the Plan, including without limitation, prior authorization, step therapy, quantity limits and other programs.

"Compound Drug" means a Prescription Drug that is prepared by a pharmacist who mixes or adjusts one or more Prescription Drugs to customize a medication to meet a Member's individual medical needs.

"Content" means any text, graphics, photographs, video, audio or other data or information, including any advertisements used by the applicable party, or in the case of Client by it or its vendors, in its business, operations or in connection with the offering of its products, services, programs or plans.

"Copayment" or "Cost-Sharing Amount" means that portion of the payment that is the responsibility of the Member (e.g., copayment, coinsurance, deductible) for a prescription fill or refill of a Covered Product dispensed to a Member, as set forth in the Plan Benefit Document.

"Covered Prescription Services" means Prescription Drugs or other pharmaceutical products, services or supplies dispensed by a pharmacy to a Member for which coverage is provided in accordance with the Member's Benefit Plan.

"Dispensed as Written" or "DAW" means an industry standard code (0 - 9) that indicates the reason why the prescription for a Covered Product was dispensed as a Brand Drug or Generic Drug.

"Dispensing Fee" means the maximum fee charged to the Client for a Participating Pharmacy to dispense a Covered Product to a Member in accordance with the terms of this Agreement.

"Drug Classification" means the agreed upon methodology to classify Brand Drugs and Generic Drugs as set forth in this Bid. For clarity, the Drug Classifications shall be incorporated into the Agreement and any future amendments and renewals entered into between the Parties unless expressly otherwise agreed to in writing.

"Drug Manufacturer" means a person or entity that manufactures, sells, markets or distributes Prescription Drugs.

"Eligibility File" means the list submitted by Client or its designee to Administrator in a reasonably accepted electronic format, indicating Members who are eligible to receive drug benefits under a Plan, as amended from time to time by Client.

"Exclusive Generic Period" means the period of time after the patent expiration of a Brand Drug that the FDA may grant exclusivity to one (1) pharmaceutical manufacturer to make the generic form of such Brand Drug (usually up to six months), where no other manufacturer is authorized by the FDA to produce the generic form of the Brand Drug during such exclusivity period.

"FDA" means the United States Food and Drug Administration or any successor Governmental Authority.

"Formulary" means the list of Prescription Drugs or other pharmaceutical products, services or supplies as developed by Administrator and approved and adopted by Customer for use with and as covered by the Benefit Plans. The Formulary will be made available to physicians, pharmacies and other healthcare persons or entities to guide the prescribing, dispensing, sale and coverage of Covered Prescription Services.

"Generic Dispense Rate" means the percentage of Paid Claims for which Generic Drugs were dispensed to Members under the Benefit Plan, as set forth in this Agreement.

"Generic Drug" means a Covered Product classified as a Generic Drug, which shall be based on the requirements set forth in the Drug Classification section of this Agreement.

"Governmental Authority" means the Federal government, any state, county, municipal or local government or any governmental department, political subdivision, agency, bureau, commission, authority, body or instrumentality or court that regulates the party's activities or operations.

"Gross Cost" means sum of amounts calculated during adjudication which will be paid by Client and Member Copayment, including without limitation Ingredient Cost, Dispensing Fee and taxes. For the avoidance of doubt and clarity, Gross Cost shall only include the adjudication fees related to processed Claims and shall not include any Administrative Fees, Rebates, Manufacturer Administrative Fees or other costs or fees referenced in this Agreement

"Guarantee" means a price, service or other metric that is Guaranteed to be met by Administrator in its provision of Services during the applicable Guarantee Period, each in accordance with the applicable terms set forth herein. Guarantees shall include without limitation, Ingredient Cost Guarantee, Dispensing Fee Guarantee, Rebate Guarantee, Specialty Guarantees, New-To-Market Guarantees and Performance Guarantees.

"Guarantee Period" means each separate time period segment used to measure the Guarantees set forth in this Bid commencing on the Effective Date, which shall be segmented as follows: (i) the agreed upon partial plan year (if any) plus the first 12-month calendar year, then (ii) each 12-month calendar year thereafter.

"House Generic" means a Brand Drug submitted with a DAW 5 code.

"Incremental Generic Dispense Rate" means the percentage difference between the Generic Dispense Rate for the prior Guarantee Period and the Generic Dispense Rate for the following Guarantee Period.

"Ingredient Cost" means the costs paid by Client for a Covered Product on a Paid Claim, after application of the lesser of logic between the Claim Adjudication Rate, MAC or UandC, excluding Administrative Fees, Copayment, Dispensing Fees and taxes, in accordance with the terms of this Bid.

"Intellectual Property" means any patent, invention, discovery, know-how, moral, technology, software, copyright, authorship, trade secret, trademark, trade dress, service mark, confidentiality, proprietary, privacy, intellectual property or similar rights (including rights in applications, registrations, filings and renewals) that are now or hereafter protected or legally enforceable under state or Federal common laws or statutory laws or under laws of foreign jurisdictions.

"Laws and Regulations" means all common law and any and all state, Federal or local statutes, ordinances, codes, rules, regulations, restrictions, orders, procedures, standards, directives, guidelines,

instructions, bulletins, policies or requirements enacted, adopted, promulgated, applied, followed or imposed by any Governmental Authority, including the Financial Modernization Act of 1999, also known as the Gramm-Leach-Bliley Act, and the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, as well as any of the preceding Laws and Regulations that from time-to-time may be amended, modified, revised or replaced, interpreted or enforced by any Governmental Authority.

"Limited Distribution Drug" means a Covered Product that is available for distribution through a limited number of pharmacy providers, as determined by the pharmaceutical manufacturer.

"Limited Supply Generic" or **"Short Supply Generic"** means a generic not available in sufficient supply in the marketplace. The drug shortages may be caused by many factors, including difficulties in acquiring raw materials, manufacturing problems, regulatory issues, and business decisions, as well as many other disturbances within the supply chain. Generic drugs will be deemed as Limited or in Short Supply if listed on the FDA or the American Society of Health-System Pharmacists (ASHP) Drug Shortages websites.

"Mail Order Pharmacy" means a facility that is duly licensed to operate as a pharmacy at its location and to dispense Prescription Drugs via postal or commercial courier delivery to individuals, including Members. Mail Order Pharmacy includes pharmacies that Administrator owns or operates.

"Manufacturer Administrative Fees" means the administrative fees paid by Drug Manufacturers to Administrator for Administrator's provision of Rebate administration services.

"Marks" means the names, logos and other proprietary symbols and phrases belonging to a person or entity.

"Maximum Allowable Cost" or **"MAC"** means the maximum allowable cost of a Prescription Drug as specified on a list established by Administrator. Administrator may have multiple MAC lists, each of which is subject to Administrator's periodic review and modification in its sole discretion.

"Member" means an eligible individual legitimately enrolled in a Benefit Plan and is indicated in the Eligibility File.

"Multi-Source Generic" means a generic drug that is interchangeable with the comparable brand product and is available from two or more pharmaceutical manufacturers.

"NCPDP" means that National Counsel for Prescription Drug Programs.

"NDC" means the National Drug Code that is the identifying Prescription Drug number maintained by the FDA.

"Network Pharmacy" means a retail pharmacy, Mail Order Pharmacy, Specialty Pharmacy or other facility that is duly licensed to operate as a pharmacy at its location and to dispense Prescription Drugs to individuals, including Members, and has entered into a Network Pharmacy Agreement. Administrator in its capacity as a Mail Order Pharmacy or Specialty Pharmacy is a Network Pharmacy of Client.

"Network Pharmacy Agreement" means the agreement between a Network Pharmacy and Administrator or Client to provide Covered Prescription Services.

"New-To-Market" means a drug or product that is newly introduced for sale by pharmaceutical manufacturers and made available for dispense at pharmacies after the Effective Date.

"Over-the-Counter" or **"OTC"** means a drug that is available to purchase by ordinary retail outlets, with no need for a prescription or license.

"Overall Effective Specialty Discount" or "OED" means the agreed upon AWP discount for certain pricing guarantees.

"Paid Claim" means a Claim that has been paid under the Plan (net of any adjustments) and not reversed, denied or voided, including Zero Balance Claims not reversed, denied, or voided.

"Party" means Client or Administrator, and together Parties.

"Patent Litigation Drug" means a Covered Drug under patent litigation within the United States court system between the drug innovator and a generic pharmaceutical company.

"PEPM" means per employee per month, which shall be determined by the then-current Eligibility File submitted by Client.

"Performance Guarantee" means each performance metric that Administrator Guarantees to meet or be subject to the applicable penalty, as set forth in the Agreement.

"Pharmacy Plan Specifications" means Client's requirements for its prescription drug benefit plan that Administrator needs to carry out its obligations under this Agreement and that are either provided by Client or prepared by Administrator and approved by Client, including written Benefit Plan descriptions, Member eligibility and identification requirements, benefit definitions, Formulary, Pharmacy Network, utilization management programs, applicable Cost-Sharing Amounts, number of days' supply for acute and maintenance medications, dispensing and other limitations, manuals and other Benefit Plan or Member information. All Pharmacy Plan Specifications will be either provided by Client or prepared by Administrator and approved by Client.

"PHI" means any information Administrator receives or provides on behalf of the Plan that is considered Protected Health Information, as defined in the privacy regulations of the Health Insurance Portability and Accountability Act of 1996.

"PMPM" means per Member per month, which shall be determined by the then-current Eligibility File submitted by Client.

"Prescription Claim" means a single request for payment for, or a bill or invoice relating to, a Covered Prescription Service that a Network Pharmacy, other health care provider or Member submits, whether the request, bill or invoice is paid or denied.

"Prescription Drug" means a Generic Drug or Brand Drug that is approved by the FDA and required under applicable Laws and Regulations to be dispensed only as authorized by a written or oral order to dispense a Prescription Drug by an appropriately licensed and qualified health care professional in accordance with applicable Laws and Regulations.

"Prescription Drug Compensation" means the applicable reimbursement, remuneration, compensation or other payment paid by Client to Administrator for the provision of Covered Prescription Services to a Member as described in **Exhibit C**.

"Pricing Source" means the Medi-Span Prescription Pricing Guide (with supplements) or another nationally recognized pricing source that is generally accepted and commonly used in the prescription drug industry to standardize drug pricing and/or classification. .

"Rebate" means any discount, rebate, or price protection amount that Administrator receives from Drug Manufacturers, in its capacity as a group purchasing organization for Client, that is contingent upon and related directly to Member use of a Prescription Drug during the Term. Rebate does not include Manufacturer Administrative Fees or any discount, price concession or other direct or indirect

compensation Administrator receives for the purchase of a Prescription Drug or for the provision of any product or service.

"Retail Pharmacy" means any chain or independent duly licensed pharmacy where a Covered Product may be filled and provided to a Member.

"Single Source Generic" means a generic drug that is interchangeable with the comparator brand product and is only available from one pharmaceutical manufacturer.

"Specialty Drugs" means the Prescription Drugs including that include at least one or more of the following: (a) biotechnology drugs; (b) orphan drugs used to treat rare diseases; (c) typically high-cost drugs; (d) drugs administered by oral or injectable routes, including infusions in any outpatient setting; (e) drugs requiring on-going frequent patient management or monitoring; or focused, in-depth Member education; (f) drugs that require specialized coordination, handling and distribution services for appropriate medication administration; (g) infusion or health care injectable professionally administered by a health care professional or in a healthcare setting (but excluding supplies or the cost of administration); or (h) therapy requiring management and/or care coordination by a health care provider specializing in the Member's condition. Specialty Drugs shall not include any Prescription Drugs that: (x) require nuclear pharmacy sourcing; (y) are preventive immunizations; or (z) are administered only in the inpatient setting.

"Specialty Pharmacy" means a facility that is duly licensed to operate as a pharmacy at its location and to dispense Specialty Drugs to individuals, including Members. Specialty Pharmacy includes pharmacies that Administrator owns or operates.

"Usual and Customary Charge" or **"U&C"** means the price, including all applicable customer discounts, such as special customer, senior citizen and frequent shopper discounts, that a cash paying customer pays a pharmacy for Prescription Drugs.

"WAC" means the wholesale acquisition cost of medication drugs or ancillary supplies, as applicable, as dispensed and set forth in the Pricing Source.

"Zero Balance Claims" mean Paid Claims where the Gross Cost associated with the Covered Product, including sales tax, is paid in full by the Member and results in no amount due to Administrator from the Client.

ATTACHMENT II

EXHIBIT C

COMPENSATION

A. Service Fees. Client will pay Administrator for the services provided herein pursuant to the following table:

Term of contract:	Year 1: 01/01/2020 to 12/31/2020
	Year 2: 01/01/2021 to 12/31/2021
	Year 3: 01/01/2022 to 12/31/2022

Traditional Year 1/Year 2/Year 3						
Base Administrative Fees	Retail 30:	\$0.00/\$0.00/\$0.00				per Net Paid Claim
	Retail 90:	\$0.00/\$0.00/\$0.00				per Net Paid Claim
	Mail Service:	\$0.00/\$0.00/\$0.00				per Net Paid Claim
	Specialty:	\$0.00/\$0.00/\$0.00				per Net Paid Claim
Paper Claim Fees		\$2.50				Per Processed Paper Claim plus the Base Admin. Fee
PreCheck MyScript with ePrescribing		\$1.25				per PreCheck MyScript Transaction
Retail 30 Pharmacy Network Year 1/Year 2/Year 3						
Brand Drugs	AWP minus	18.75%/18.75%/18.75%	plus	\$0.90/\$0.90/\$0.90		dispensing fee
Effective Overall Generic Guarantee (ingredient cost)	AWP minus	82.50%/82.70%/82.90%	plus	\$0.90/\$0.90/\$0.90		dispensing fee
Retail 90 (>83 day supply) Pharmacy Network						
Brand Drugs	AWP minus	18.75%/18.75%/18.75%	plus	\$0.00/\$0.00/\$0.00		dispensing fee
Effective Overall Generic Guarantee (ingredient cost)	AWP minus	82.50%/82.70%/82.90%	plus	\$0.00/\$0.00/\$0.00		dispensing fee
Mail Service Pharmacy Year 1/Year 2/Year 3						
Brand Drugs	AWP minus	24.25%/24.25%/24.25%	plus	\$0.00/\$0.00/\$0.00		dispensing fee
Effective Overall Generic Guarantee (ingredient cost)	AWP minus	84.50%/84.70%/84.90%	plus	\$0.00/\$0.00/\$0.00		dispensing fee
Specialty - Open w/ No Grace Fills Network						
Specialty Drugs	AWP minus	17.50%	plus	\$2.50		dispensing fee
Minimum Rebates (Select Base Formulary) Year 1/Year 2/Year 3						
Client Estimated Share	Greater of 100% or					
Retail 30 - Minimum	\$120.00/\$135.00/\$145.00	Per Net Paid Brand Claim				
Retail 90 - Minimum	\$310.00/\$345.00/\$375.00	Per Net Paid Brand Claim				
Mail Service - Minimum	\$310.00/\$345.00/\$375.00	Per Net Paid Brand Claim				
Specialty - Minimum	\$675.00/\$775.00/\$825.00	Per Net Paid Brand Claim				

B. Pricing Terms

1. Under the traditional Pricing Model, Client shall pay the fixed Retail Pharmacy rates as set forth above.
2. The discounts and Dispensing Fees set forth above shall be measured annually. Each line item discount category above is individually guaranteed and shall be measured solely with respect to the charges applicable to that category; excess discounts in one-line item category cannot be credited to another category for purposes of satisfying the guarantee applicable to another category. Any credits due to Client relating to Guarantees set forth above shall be issued ninety (90) days after the measurement period.
3. No shortfall in one (1) Guarantee (any discounts, any Dispensing Fees, any administrative fees) shall be offset by favorability in another Guarantee.
4. No shortfall in one (1) Guarantee Period shall be offset by favorability in another Guarantee Period.
5. No shortfall in one (1) dispensing channel will be used to offset by favorability in another dispensing channel.
6. Administrator agrees that no savings realized from any Clinical Program can be used to offset shortfalls in another Guarantee.
7. Administrator agrees that no savings realized from a Generic Dispensing Rate Guarantee can be used to offset shortfalls in another Guarantee.
8. Administrator agrees that no savings realized from any Clinical Drug Mix Management Guarantee can be used to offset shortfalls in another Guarantee.
9. Administrator agrees that any failure to meet any pricing guarantee will be paid on a dollar-for-dollar basis.
10. Administrator will pay monthly, subject to Client adherence with payment obligations to Administrator, an amount of \$1,250.00 to Client's Consultant, as directed by Client.
11. Administrator will pay a one-time fee, subject to Client adherence with payment obligations to Administrator, an amount of \$25,000 to Client's Consultant, as directed by Client.
12. Administrator agrees that all financial guarantees are not based on a minimum days' supply at retail, mail order, or specialty. For guarantees related to a mandatory ninety (90)-day mail or retail program, an eighty-four (84)-days' supply minimum will be permitted.
13. The Ingredient Cost Guarantee contained in this Bid will be based upon the average Ingredient Cost of all Paid Claims applicable to the Guarantee category, excluding Dispensing Fees, taxes, and Copayments.
14. For Claims paid at U&C, Ingredient Cost will be calculated as U&C minus the Dispensing Fee.
15. The information used to determine Ingredient Cost for the actual Paid Claims shall not be altered, reclassified or changed in any way for purposes of reconciliation of the Ingredient Cost Guarantees. Each Claim shall be reconciled based on the same drug classification and in the same category and channel under which such Claim was adjudicated.
16. Average Ingredient Cost for the purpose of calculating the Ingredient Cost discount Guarantee shall be calculated for each Guarantee Period as follows: $[1 - (\text{sum of actual Ingredient Cost for all Paid Claims} / \text{sum of AWP for Paid Claims on the date of dispense})]$.
17. Average Dispensing Fee shall be calculated for each Guarantee Period as: $[\text{sum of Dispensing}$

Fees / [count of Paid Claims]

18. Administrator will not charge a Dispensing Fee for Paid Claims that adjudicate at U&C and such Paid Claims will not be included in the maximum Dispensing Fee Guarantee calculation.
19. House Generic Claims
 - a. House Generic Claims shall be (i) adjudicated as Generic Drugs, including without limitation, Claim Adjudication Rate, Dispensing Fee, Copayments, (ii) included in all Generic Drug Guarantees and (iii) excluded from all Brand Drug Guarantees.
 - b. The price for House Generic Covered Products shall be the lowest price of the following: (i) the Claim Adjudication Rate for the Brand Drug dispensed; (ii) the Claim Adjudication Rate for the lowest cost Generic Drug equivalent to the Brand Drug dispensed; (iii) MAC for the Brand Drug or Generic Drug if on the MAC List; or (iv) U&C price.
 - c. Except for a DAW Claim for House Generics, no other DAW Claim shall be included in any pricing Guarantee that overrides or conflicts with its designation as a Brand Drug Claim or Generic Drug Claim based on the Drug Classification section of this Bid
 - d. Administrator agrees except for a DAW Claim for House Generics, no other DAW Claim shall be included in any rebate Guarantee that overrides or conflicts with its designation as a Brand Drug Claim or Generic Drug Claim based on the Drug Classification section of this Bid.
 - e. Administrator agrees for purposes of reconciling the Generic Drug discount guarantees, the AWP of House Generics shall be the average per unit AWP of the generic.
 - f. If using a DAW 9 as a House Generic at a pharmacy owned by the Administrator, those DAW 9 claims will be included in the definition of House Generic.
20. The following claims shall be included in the retail, mail, and specialty pricing Guarantees: U&C claims, In-House Pharmacy claims, Zero Balance Claims, Military and Veterans Administration claims, Supplies and products subject to patent litigation.
21. The following claims shall be excluded from retail, mail, and specialty pricing Guarantees: Compounds, Direct Member Reimbursements, Over the Counter Claims, Biosimilar Products, 340 B claims, Subrogation claims, Vaccines and Vaccine Administration claims, Long Term Care claims, Home Infusion Claims, COB or secondary payor claims, Claims older than one hundred eighty (180) days, Indian Health Services and/or Tribunal claims, Out of Network claims, and Ancillary Charges.
22. Administrator agrees there are no additional exclusions to the Retail Pharmacy and Mail Order Pharmacy pricing Guarantees beyond those represented herein.
23. Administrator agrees that pricing is not contingent on a minimum number of claims through the Term of the Agreement.
24. Administrator agrees to use the AWP for the original package dispensed to a Member for a Paid Claim and shall not use the AWP for a repackaged or relabeled NDC to determine pricing under this Bid at all claims (retail, mail order, and specialty).
25. Administrator agrees that the original package size for the medication dispensed will be the basis for the AWP discount calculations for all claims (retail, mail order, and specialty).
26. Administrator agrees to use the AWP from the same updated Pricing Source file for determining both the paid amount to a Participating Pharmacy and the billed amount to Client.
27. Administrator shall notify Client within thirty (30) days if the applicable Pricing Source used to calculate Ingredient Cost changes its methodology, or discontinues publishing, or replaces AWP. The Parties agree to discuss in good faith, and to thereafter implement in good faith, any pricing or Guarantee changes that may be necessary to enable the Parties to maintain economic neutrality based on such change. Either party may at its own cost, require that an independent third party review the economic neutrality from such a change. Any disputes between the parties as to the

necessity for any such change, or whether any proposed adjustment would maintain economic neutrality, shall be escalated for resolution by way of discussions between senior executives of Administrator and Client, which may include input or participation from Client's third party consultant.

28. Administrator shall charge Client up to the maximum Dispensing Fee for each Covered Product dispensed on a per Paid Claim basis, as specified within the Claim Adjudication Rates section of the Pricing Proposal.
29. Administrator's Mail Order Pharmacy MAC price shall, for each drug (at the GPI, GCN or NDC level), be equal to or lower than the MAC price on the Participating Pharmacy's MAC List.
30. At Participating Pharmacies, Members shall pay the lesser of: a) the adjudicated price of the Claim subject to the Pricing Proposal (discounted AWP or MAC list price); b) the U&C price (including the sale price set by the retail pharmacy); or c) the applicable Coinsurance/Copayment. This includes all Zero Balance Claims.
31. Administrator agrees that Mail Order Pharmacy pricing shall apply to all non-Specialty Drugs dispensed by the Specialty Pharmacy.
32. Administrator agrees that if a Covered Product is eligible for pricing on both the Specialty List and on a MAC List, then the lesser of the two (2) prices shall be used.
33. Administrator agrees that prescription drugs will be placed on the MAC drug list based on the following criteria:
 - Availability of the generic product in the marketplace;
 - Generic drug has been on the market past the Exclusive Generic timeframe;
 - Product is rated by the FDA in relation to the innovator brand drug (A-rated by the FDA Orange Book);
 - Marketable discount difference between price per unit versus what could be captured through a discount off AWP;
 - Price differences between the brand and generic products; and
 - Clinical implications of generic substitution
34. Administrator agrees to provide a copy of Administrator's current MAC List in comma-separated values (".csv") format with drug code (NDC, GCN, GPI), unit price and effective dates for each MAC drug listed to Client or its designee prior to the Effective Date and thereafter upon Client's reasonable request.
35. Administrator agrees to establish, maintain, and update one (1) MAC List for all purposes, including without limitation, Buying from Participating Pharmacies; Adjudicating Paid Claims; Billing Client for Paid Claims; and Passing Through the same Covered Drug cost, without markup, to the Client.
36. Administrator agrees to apply the same MAC List per channel throughout the contract Term.
37. Administrator agrees that Compound Drugs will adjudicate according to the NCPDP D.0 standards, with each ingredient eligible for reimbursement to the Participating Pharmacy based on Administrator's arrangement with such Participating Pharmacy charged to Sponsor at the Claim Adjudication Rates (based on the channel at which the Compound Drug is dispensed) associated with such ingredient, on a pro rata basis based on the unit quantities of each ingredient included in the Compound Drug.
38. Administrator agrees that the Claim Adjudication Rate for Generic Drugs shall be equal to or more favorable than the Claim Adjudication Rate for Brand Drugs.
39. Administrator shall charge Client Ingredient Cost for all Claims (including Specialty Drug Claims) processed by Participating Pharmacies based upon the lesser of: a) the applicable Claim Adjudication Rate (if any), c) MAC (if any), or d) U&C charge (if any) ("Lesser of Logic").

40. Administrator will not charge Client for any Zero Balance Claims (regardless of delivery channel).
41. Administrator agrees that Participating Pharmacy reimbursement rates may vary and the amount paid by Administrator to the Participating Pharmacy may not be equal to the amount billed to Client and Administrator may retain the difference.
42. Administrator agrees that all Brand Drugs will be reconciled (discount guarantees, Dispensing Fees, and Rebates) according to the following logic: Date-matched Medi-Span categorization code of M, O, or N. Brand drugs will not include any drugs with an original MediSpan categorization code of Y that have been re-categorized to a M, O, or N. First DataBank (FDB) categorization code of; GNI '0' OR '2' and NDCGI1 '1'. "
43. The Member will pay the lower of (i) Member Cost-Sharing Amount, (ii) Client contracted rate, plus Dispensing Fee; or (iii) the pharmacy's Usual and Customary charge for the product.
44. The Network Pharmacy rates may vary and the amount paid to the Network Pharmacy may not be equal to the amount billed to the Client and Administrator shall retain any difference.
45. Administrator agrees to pass through one hundred percent (100%) of the Rebates to Client, and all Rebates will be subject to the Rebate guarantees set forth herein.
46. Administrator will pass through one hundred percent (100%) of rebates excluding Manufacturing Administration Fee (MAF). Administrator reserves the right to keep the manufacturing administration fee in exchange for administering the rebates on behalf of Hitachi Vantara, provided that all rebate guarantees are met.
47. Administrator shall determine the counts of claims applicable to the calculation of each Rebate Guarantee detailed in this Bid by counting all Paid Claims where the channel and days' supply correspond with the Rebate Guarantee and based on the Brand Drug classification methodology selected by Administrator for Rebates in this Bid. Administrator shall not use the corresponding days' supply indicated in this Bid to pro-rate the Rebate Guarantee amount to be paid for any Paid Claim that falls within the identified days' supply range, and such Rebate Guarantee shall be applied in full based on the amount set forth in this Bid.
48. Administrator agrees there are no additional exclusions to the Rebate Guarantees beyond those represented herein. For the avoidance of doubt and clarity, any type of Paid Claim not explicitly excluded in this Bid shall be considered included in the Rebate Guarantees.
49. Administrator shall not implement any brand interchange or other like programs that increase costs to Client or Member, prior to the application of any Rebate value. For the avoidance of doubt, the Rebate value shall not be taken into account in determining whether the brand interchange or other like program will result in an increase in cost to the Client or Member.
50. Administrator represents and warrants that it will invoice for Rebates under its arrangements with pharmaceutical manufacturers or intermediaries with the intent to maximize the Rebate amounts received for Client's utilization such the Client receives the full value of Administrator's or its Affiliates arrangement with the pharmaceutical manufacturer or intermediary for which Client's Plan design qualifies.
51. Administrator represents and warrants that it will not, directly or through Administrator's Affiliate(s), negotiate other arrangements with pharmaceutical manufacturers (e.g., drug procurement or fee-for-service arrangements) to accept greater discounts or fees associated with such arrangements in exchange for, or at the expense of, a reduction in Rebates, and Administrator agrees to represent in its dealings with such manufacturers its intent to not reduce or otherwise negatively impact Rebate Guarantees in exchange for increased value in other arrangement with such manufacturers
52. Administrator agrees to apply Rebate Guarantees to all Client plan designs.

53. If Rebate Guarantees vary by plan design, confirm which Rebate Guarantee(s) apply to each plan design.
54. Rebate payments shall be made to Client within ninety (90) days of the close of the quarter in which Rebates are received by Administrator.
55. As soon thereafter as Administrator has received all expected Rebates related to Client's Claims for the prior contract year, but in no event later than six (6) months following the conclusion of the contract year, Administrator shall provide Client with a report detailing Rebates amounts earned by Client from contracted pharmaceutical manufacturers (including market share based amounts) during the contract year.
56. Rebate Guarantee Restrictions: Rebate claims include the following claims: U&C claims, Zero Balance Claims, Military and Veterans Administration claims, Supplies, products subject to patent litigation, in-house pharmacy claims.
57. Rebate claims exclude ineligible claims such as Compounds, Direct Member Reimbursements, Over the Counter claims, 340B pharmacy claims, Subrogation claims, Vaccine and Vaccine Administration claims, Long Term Care claims, Home Infusion claims, COB or secondary payor claims, claims older than one hundred eighty (180) days, Indian Health Services and/or Tribunal claims, Out of Network claims, Ancillary Charges, and Biosimilar Products.
58. No shortfall in one (1) Rebate Guarantee Period shall be offset by favorability in another Rebate Guarantee Period.
59. Administrator agrees that no savings realized from a Generic Dispensing Rate Guarantee can be used to offset shortfalls in another Guarantee.
60. Administrator agrees that no savings realized from any Clinical Drug Mix Management Guarantee can be used to offset shortfalls in Rebate Guarantees.
61. Administrator agrees that no savings realized from any Clinical Program can be used to offset shortfalls in Rebate Guarantees.
62. Administrator agrees that failure to meet any Rebate Guarantee penalty will be paid on a dollar-for-dollar basis.
63. Administrator agrees that Rebates will not be prorated based on days' supply.
64. Administrator agrees that all Rebate Guarantees are not based on a minimum days' supply at retail, mail order, or specialty. For Guarantees related to a mandatory 90-day mail or retail program, an 84-days' supply minimum will be permitted.
65. Formulary
 - Administrator shall maintain a Formulary list of commonly prescribed drugs and supplies which has been reviewed by Administrator's pharmacy and therapeutics staff using evidence-based evaluation criteria for safety, to be used by Client, Licensed Prescribers, Participating Pharmacies, and Members to guide the selection of cost-effective Covered Products for Members.
 - Administrator shall send a Formulary guide to Members at least thirty (30) days prior to the Effective Date showing any Formulary changes from that of the previous pharmacy benefit manager or other qualifying entity that provided pharmacy benefits administration services to the Plan.
 - Prior to making any modification to the Formulary, other than Formulary changes resulting from Brand Drugs moving Formulary tiers because of loss of patent or the introduction of New-To-Market Generic Drug alternatives, Administrator shall advise Client as to whether such

modification will have a material impact to Members and whether it will impact any Rebate Guarantees.

- Administrator may make clinically appropriate modifications to the Formulary from time to time; provided, however, that: PBM may not make negative Formulary changes (i.e., deleting or excluding drugs from the Formulary or moving drugs to a higher Formulary tier) more frequently than once per year, and then, only to the extent that such changes are clinically appropriate and will also result in an aggregate increase in the Rebate amounts paid to Plan Sponsor.

66. Direct Member Reimbursement

- Administrator shall accept, process, and adjudicate Claims for Covered Products submitted by a Member as a Direct Member Reimbursement ("DMR").
- Administrator shall provide, via its website, a DMR form for use by Members to reimburse such Member for amounts paid for Covered Products that have not been otherwise reimbursed by Client in accordance with Client's Plan Benefit Document.
- Administrator shall accept, process, and adjudicate DMR Claims, requiring no intervention within ten (10) business days of receipt of a DMR form.
- Members shall be reimbursed for DMR claims based on the submitted cost of the DMR claim.

67. Drug Classification.

With reference to the definitions provided in this Section, the information provided below indicates how Administrator treats each component:

Multi-Source Generics: Generic
Single-Source Generics: Generic
Minimum Manufacturers for Multi-Source: N/A

Multi-Source Brands (Non-Innovator): Brand
Multi-Source Brands (Innovator): Brand
Single-Source Brands: Brand

Multi-Source Generics: Indicated when using Medi-Span by a Multi-Source Code "Y" or when using First DataBank by a GNI "1" and NDCG11 "1"

Single-Source Generics: Indicated when using Medi-Span by a Multi-Source Code "M" or "N" with a Brand Name Code "G" or when using First DataBank by a GNI "1" and NDCG11 "2"

Multi-Source Brands (Non-Innovator): Indicated when using Medi-Span by a Multi-Source Code "O" with a Brand Name Code not equal to "T" or when using First DataBank by a GNI "2" and INNOV of "0"

Multi-Source Brands (Innovator): Indicated when using Medi-Span by a Multi-Source Code "O" with a Brand Name Code equal to "T" or when using First DataBank by a GNI "2" and INNOV of "1"

Minimum Manufacturers for Multi-Source: The minimum number of Manufacturers for a generic to be considered multi-source. When "Yes" is selected, any drug whose indication is Multi-Source Generic must have more than the selected number of Manufacturers to be considered a Multi-Source Generic. Otherwise, it will be considered a Single-Source Generic.

Manufacturers: Manufacturers is defined as the total number of distinct labelers producing a product with the same GCN Sequence Number (GCN_SEQNO) as the product being adjudicated and additionally having the following equivalent properties: Package Size (PS), Unit Dose Indicator (UD), Package Description (PD) and Unit of Use Indicator (UU). Distinct labelers is determined using the Labeler Identifier (LBLRID) with the division code removed. Producing means that the product has a Date of Dispense on or after the Date of Add (DADDNC) and on or before the Obsolete Date

(OBSDTEC). Any count of Manufacturers is excluding repackaged products which are those products that would otherwise be included but have a Repackaged Indicator (REPACK) of "1".

C. Additional Services. Certain services as indicated below are not included in the standard Administrative Fee and are available for an additional charge. This is not an inclusive list. OptumRx may charge for any products or services not specifically represented herein upon written agreement of the parties to provide such services. Clinical Services are listed in the most recently executed Clinical Documentation Form.

Additional Fees as Applicable	
PreCheck MyScript ePrescribing	\$1.25 per PreCheck My Script Transaction
Client Website Additional Users	Two included, \$400 per year per additional user
Direct Member Reimbursement (DMR)	\$2.50 per processed paper claim plus the Administrative Fee
Ad-hoc Reporting	\$150 per hour, with a minimum of \$500
Manual Eligibility Maintenance	\$0.50 per record
ID cards - Subsequent mailings, replacements, or additional	\$2 per ID card plus postage, shipping and handling
Explanation of Benefits (EOB)	\$2 per EOB plus postage, shipping and handling
Custom Mailings	Production plus postage, shipping and handling
Retail Pharmacy Audit Administration	No administrative or retention fees
RxTRACK License Fee	\$500 per seat annual fee
RDS Support Services	\$1.25 PMPM
Integrated Accumulator - Near Real Time Method	\$0.15 PMPM

ATTACHMENT III

EXHIBIT E

PERFORMANCE GUARANTEES

Administrator is placing \$24,000 at risk annually for all ongoing performance guarantees.

Unless otherwise specified in this exhibit, the following performance guarantees apply to pharmacy benefits beginning on the Effective Date of the Agreement. These performance guarantees will become effective upon the later of (1) the Effective Date provided that the Effective Date is the first day of a calendar quarter; or (2) the first day of the next calendar quarter after the Agreement is signed by both parties. With respect to the aspects of Administrator's performance addressed in this exhibit, the penalty amounts set forth herein are Client's exclusive remedies under the Agreement.

Unless otherwise indicated in this exhibit, ongoing performance guarantees will be monitored internally, measured and reported quarterly within 45 calendar days of the end of the calendar quarter, and penalties will be calculated annually based upon aggregate annual results. Any ongoing performance guarantee penalties due will be paid within 30 calendar days following the completion of joint annual reconciliation activities. Partial year guarantees will be prorated on a calendar quarter basis. Client may allocate a maximum of 20 percent and must allocate a minimum of 4 percent on each ongoing performance guarantee, provided that the total allocations do not exceed 100 percent of the aggregate amount at risk. Client can reallocate ongoing performance guarantee dollars each year, but allocations must be provided to Administrator no later than 30 calendar days prior to the anniversary of the Effective Date of the Agreement. In the event Client does not provide ongoing performance guarantee allocations, Administrator will allocate the annual ongoing performance guarantee amount at risk evenly across each ongoing performance guarantee.

Administrator reserves the right from time to time to replace or change the report format and/or report name of any report referenced in these performance guarantees. In such an event, the performance guarantees will be modified to the extent reasonably necessary to carry out the intent of the parties. Administrator shall not be required to meet any of the performance guarantees provided for in this exhibit to the extent Administrator's failure is due to the action or inaction of Client or other third party, change in law or due to any other cause beyond Administrator's reasonable control, including any act of God, fire, casualty, flood, earthquake, war, strike, lockout, epidemic, destruction of production facilities, riot or insurrection.

Guarantee Name	Target	Performance Guarantee Description	Measurement	Annual Amount at Risk
Ongoing Performance Guarantees				
Claims Processing Accuracy	>=99.7%	Administrator guarantees at least 99.7% claim processing accuracy. Defined as the percent of all claims paid with no errors based on a statistically significant random sample of claims audited. A statistically significant random sample of paid retail, mail order and specialty claims is reviewed to determine the number of claims without ingredient cost, member copayment, member eligibility, drug coverage or deductible errors.	Book-of-business.	\$1,600
Direct Member Reimbursement Processing Timeliness (Clean)	>=95% Within <=10 Business Days	At least 95% of all clean direct member reimbursement claims will be processed within 10 business days from receipt. Percent of clean direct member reimbursement claims processed within a certain period of time.	Book-of-business.	\$1,600
Mail Order Pharmacy Clean Prescription Turnaround Timeliness	>=98% Within <=2 Business Days	At least 98% of routine prescription orders will be shipped within 2 business days. Measured in whole business days from the date a prescription order is received by Administrator (either by mail, phone, fax, or Internet) to the date the prescription order is shipped. Calculated by taking the number of prescription orders shipped within 2 business days divided by the total number of prescription orders.	Book-of-business.	\$1,600
Mail Order Pharmacy Intervention Prescription Turnaround Timeliness	>=95% Within <=5 Business Days	At least 95% of non-routine prescription orders will be shipped within 5 business days. Measured in whole business days from the date a prescription order is received by Administrator (either by mail, phone, fax, or Internet) to the date the prescription order is shipped. Calculated by taking the number of prescription orders shipped within 5 business days divided by the total number of prescription orders. Contact with prescriber or member not achieved as a result of unresponsiveness for an intervention prescription order will be excluded from calculation.	Book-of-business.	\$1,600
Mail Order Pharmacy Prescription Dispensing Accuracy	>=99.95%	Administrator guarantees 99.95% accuracy. Percentage of mail order pharmacy prescriptions dispensed with no errors.	Book-of-business.	\$1,600
Average Speed of Answer	<=30 Second Average	Administrator's personnel shall answer calls within an average of 30 seconds or less.	Book-of-business.	\$1,600
Call Center Abandonment Rate	<=3%	Administrator guarantees that 3% or less of calls to Administrator's member service center will be abandoned.	Book-of-business.	\$1,600
Specialty Pharmacy Promise to Deliver	>=95%	Optum Specialty Pharmacy guarantees on time delivery by the agreed upon date at least 95% of the time.	Optum Specialty Pharmacy book-of-business.	\$1,600

Guarantee Name	Target	Performance Guarantee Description	Measurement	Annual Amount at Risk
Member Satisfaction	>=90% >=Satisfied	"Overall Member Satisfaction" survey results will be "Satisfied" or greater for at least 90% of respondents. Member satisfaction results will be measured by the responses to Administrator's member post-call "Voice of the Customer" satisfaction survey.	Book-of-business. Measured and reported annually.	\$1,600
Client Management Satisfaction	>=Satisfied	Administrator guarantees it will achieve an average rating, across all responses, of "satisfied" or greater, or at least "7" on a "0 to 10" point scale, or scale equivalent. Administrator reserves the right to cure any service level issues and will not be required to pay any of the failure penalty specified should Client fail to complete all of the surveys sent within the survey period. Results are based on the average of all Client Management Satisfaction scores (Administrator's Client Management teams Client works with on a regular basis). Client must provide a minimum of 3 survey participants to Administrator. Participants must respond to Administrator within 15 days of Client's receipt of the survey in order to qualify for this guarantee.	Client-specific. Measured and reported annually.	\$1,600
Eligibility File Processing Timeliness	>=99% Within <=2 Business Days	At least 99% of usable eligibility files will be loaded and active in the on-line claims adjudication system within 2 business days of Administrator's receipt. Eligibility files must be transmitted in a mutually agreed upon format and with a mutually agreed upon file naming convention. Eligibility files must not exceed the mutually agreed upon file "edit" threshold, must not arrive during scheduled system maintenance/downtime and cannot contain a "critical" error or failure that would prevent Administrator from loading the file into its adjudication system.	Client-specific.	\$1,600
Eligibility Error File Report Timeliness	Compliant	Administrator shall produce an error report on eligibility file updates within 24 hours of receiving update.	Client-specific. Penalty calculated based on quarterly results.	\$1,600
Invoice Support Data Timeliness	Compliant	Administrator will provide to Client invoice support data within 10 business days of the issue date of each invoice.	Client-specific. Penalty calculated based on quarterly results.	\$1,600
ID Card Mailing Timeliness	95% Within <=5 Business Days	At least 95% of ongoing ID card requests will be mailed within 5 business days, provided use of standard member communication packets. Measured as the time from receipt of complete and accurate eligibility information to the time Administrator mails ID cards.	Client-specific.	\$1,600

Guarantee Name	Target	Performance Guarantee Description	Measurement	Annual Amount at Risk
Standard Reports (Quarterly)	Compliant	Administrator's standard prescription drug plan reporting package will be made available online within 45 days of the end of the billing cycle that includes the last calendar day of the reporting quarter for quarterly reports. Ad hoc, custom, and consultative reporting requests are excluded from this guarantee.	Client-specific. Penalty calculated based on quarterly results.	\$1,600

AFFIDAVIT OF NON COLLUSION

STATE OF Minnesota
COUNTY OF Hennepin

I, Jeffrey Grosklags, holding the title and position of Chief Financial Officer at the firm OptumRx, Inc., affirm that I am authorized to speak on behalf of the company, board directors and owners in setting the price on the contract, bid or proposal. I understand that any misstatements in the following information will be treated as fraudulent concealment of true facts on the submission of the contract, bid or proposal.

I hereby swear and depose that the following statements are true and factual to the best of my knowledge:

The contract, bid or proposal is genuine and not made on the behalf of any other person, company or client, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS.

The price of the contract, bid or proposal was determined independent of outside consultation and was not influenced by other companies, clients or contractors, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS.

No companies, clients or contractors, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS have been solicited to propose a fake contract, bid or proposal for comparative purposes.

No companies, clients or contractors, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS have been solicited to refrain from bidding or to submit any form of noncompetitive bidding.

Relative to sealed bids, the price of the bid or proposal has not been disclosed to any client, company or contractor, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS, and will not be disclosed until the formal bid/proposal opening date.

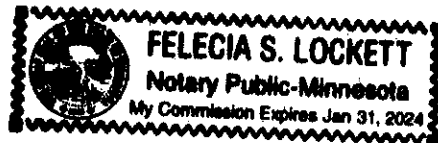
[Signature]
AFFIANT

Subscribed and sworn to before me this 2 day of September 20 20

Felecia S Lockett, Felecia S. Lockett
(Notary Public),

Hennepin County.

My commission expires Jan 31 20 24



Resolution

Number 20-1322

Adopted Date September 22, 2020

ENTER INTO A TEMPORARY ENTRANCE AND WORK AGREEMENT WITH MASADA, LLC FOR A BRIDGE STREAM RE-ALIGNMENT PROJECT ON OREGONIA ROAD

WHEREAS, in order to improve safety a bridge stream re-alignment project on Oregonia Road is to be completed and in order to perform the work it is necessary to enter onto the property, parcel #09-01-151-002 located at 5509 Emmons Road, Oregonia, OH 45054 which is owned by Masada, LLC, grantor; and

WHEREAS, in order to complete this work; Grantee requests permission from Grantor to enter onto the said real estate for the purpose of completing the following items of work:

1. Remove trees, trim tree limbs, and/or brush as necessary for access to the project.
2. Regrade stream for proper flow.
3. When weather permits, seed and straw any disturbed area.

WHEREAS, in order to accomplish the foregoing, it is necessary to enter into a temporary entrance and work agreement with the property owner; and

NOW THEREFORE BE IT RESOLVED, to enter into a Temporary Entrance and Work Agreement with Masada, LLC, for a bridge stream re-alignment project on Oregonia Road, a copy of which is attached hereto and made apart hereof, for the sum of \$1.00 as consideration thereof.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: c/a—Masada, LLC.
Engineer (file)

TEMPORARY ENTRANCE AND WORK AGREEMENT

ARTICLES OF AGREEMENT

This agreement is entered into on the date stated below by Masada, LLC, a domestic non-profit limited liability company, whose tax mailing address is 5509 Emmons Road, Oregonia, Ohio 45054 (hereinafter the "Grantor"), and the Warren County Board of County Commissioners, whose mailing address is 406 Justice Drive, Lebanon, Ohio 45036 (hereinafter the "Grantee").

Witnesseth:

In order to improve the public safety a bridge stream re-alignment project on Oregonia Road is to be completed. In order to perform the work it is necessary to enter onto property owned by Grantor. The subject real estate is located at on Emmons Road, Oregonia, Ohio 45054, identified as Parcel #09-01-151-002. Grantee requests permission from Grantor to enter onto the said real estate for the purpose of completing the following items of work:

1. Remove trees, trim tree limbs, and/or brush as necessary for access to the project.
2. Regrade stream for proper flow.
3. When weather permits, seed and straw any disturbed area.

Upon completion of the above mentioned items of work, the Grantee agrees to restore any disturbed property, with the exception of any trees, tree limbs and brush that are removed, to its original condition, but not better than any pre-existing condition.

Now, therefore, in consideration of One Dollar (\$1.00), the receipt and sufficiency of which are hereby stipulated, Grantor does hereby grant a *license* to Grantee, its agents and employees, to enter onto the aforesaid real estate to complete the aforementioned items of work.

This Temporary Entrance and Work Agreement shall bind and inure to the benefit of each party hereto and their respective heirs, successors and assigns and shall terminate upon the completion of the Oregonia Road Bridge #12-5.68 Stream Re-Alignment Project or until December 31, 2020, whichever comes first.

[the remainder of this page is blank]

IN EXECUTION WHEREOF, Connie Lawless, owner
& operating agent (name, title) for Masada, LLC, a domestic non-profit limited liability company, pursuant to the authority granted to him by the corporation to execute this Agreement on behalf the Grantor herein, has hereunto set his hands on the date stated below.

Grantor:

Masada, LLC

Name

Title:

Date:

Connie Lawless
owner & operating agent
7/2/2020

STATE OF Oh, COUNTY OF Warren, ss.

BE IT REMEMBERED, that on this 2nd day of July, 2020 before me, the subscriber, a Notary Public in and for said state, personally came Connie Lawless, owner & operating agent (name, title) for Masada, LLC, a domestic non-profit limited liability company, being the Grantor in the foregoing Agreement, and pursuant to the authority granted to her by the corporation and while acting in her official capacity on behalf of Grantor, She did acknowledge the signing thereof to be his voluntary act and deed.

IN TESTIMONY THEREOF, I have hereunto subscribed my name and affixed my seal on this day and year aforesaid.



Amanda Viox
Notary Public, State of Ohio
My Commission Expires
November 22, 2021

Notary Public:

My commission expires:

Amanda Viox
11-22-21

[the remainder of this page is blank]

IN EXECUTION WHEREOF, the Warren County Board of County Commissioners, the Grantee herein, have caused this agreement to be executed by Tom Grossmann, its Member on the date stated below, pursuant to Resolution Number 20-1322, dated 9/22/20

Grantee:

Signature: [Handwritten Signature]

Printed Name: Tom Grossmann

Title: Member

Date: 9.22.20

STATE OF OHIO, WARREN COUNTY, ss.

BE IT REMEMBERED, that on this 22nd day of September, 2020 before me, the subscriber, a Notary Public in and for said state, personally came a certain individual known or proven to me to be Tom Grossmann, Member of the Warren County Board of County Commissioners, being the Grantee in the foregoing Agreement, and acknowledged the signing thereof to be his voluntary act and deed, and pursuant to the Resolution authorizing him to act.

IN TESTIMONY THEREOF, I have hereunto subscribed my name and affixed my seal on this day and year aforesaid.



KIANA HAWK
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Warren County
My Comm. Exp. 7/9/2023

Notary Public: [Handwritten Signature]
My commission expires: 7/9/23

Prepared by:

DAVID P. FORNSHELL,
PROSECUTING ATTORNEY
WARREN COUNTY, OHIO

By: [Handwritten Signature]

Adam Nice, Assistant Prosecutor
500 Justice Drive
Lebanon, OH 45036
Ph. (513) 695-1399
Fx. (513) 695-2962
Email: Adam.Nice@warrencountyprosecutor.com

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1323

Adopted Date September 22, 2020

APPROVE AND AUTHORIZE WARREN COUNTY GRANTS DIRECTOR TO E-SIGN THE OHIO TRANSIT PARTNERSHIP PROGRAM 2021 GRANT CONTRACT BY AND BETWEEN THE OHIO DEPARTMENT OF TRANSPORTATION AND THE WARREN COUNTY BOARD OF COMMISSIONERS

WHEREAS, Warren County has been awarded Grant Number OTPP-0123-GRF-211 FROM Ohio Department of Transportation under the Ohio Public Transportation Grant Program; and

BE IT RESOLVED, to approve and authorize the Grants Director to electronically sign the Ohio Transit Partnership Program 2021 Grant # OTPP-0123-GRF-211 with the Ohio Department of Transportation under the Ohio Public Transportation Grant Program, as attached and made a part hereof; and

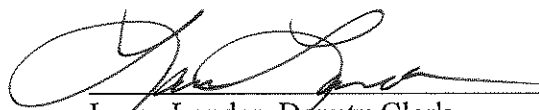
BE IT FURTHER RESOLVED, in the event funding is not available from the Ohio Department of Transportation, the Warren County Board of Commissioners has no further obligation to fund this project.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

/sm

cc: C/A—ODOT
Transit (file)
ODOT



OHIO DEPARTMENT OF TRANSPORTATION

Ohio Transit Partnership Program SFY2021 Grant Program Year Grant Agreement

Awarding Agency:

State of Ohio
Department of Transportation

Recipient:

Warren County Commissioners

ODOT FAN Number:

OTPP-0123-GRF-211

ODOT PID:

113728

Contract Data Sheet

Data Field	Data Field Name	Data Information
1	ODOT - BlackCat Contract Number	N/A
2	Recipient Name	Warren County Commissioners
3	Recipient's Unique Entity Identifier (DUNS #)	083375402
4	Recipient OAKS Vendor #	0000052991
5	Recipient OAKS ADDR CD #	004
6	Recipient Street Address 1	406 Justice Drive
7	Recipient Street Address 2	
8	Recipient City, State, and ZIP Code	Lebanon, OH 45036
9	Recipient County	Warren
10	ORC Section #	5501.07
11	ODOT Date of award to the Recipient	07/01/2021
12	State Award Period of Performance Start Date	7/1/2020
13	State Award Period of Performance End Date	6/30/2021
14	Total Amount of the State Award committed to the Recipient	\$256,000
15	State Award Project Description	LTV Replacement (4)
16	Name of State Awarding Agency	Ohio Department of Transportation
17	Contact Information for State	Juana Hostin, 614-644-0304
18	ODOT Grant Program Name	SFY2021 Ohio Transit Partnership Program
19	ODOT Grant Program Year	SFY2021
20	Identification of whether the award is R&D	N/A
21	ODOT PID #	113728
22	Authorizing Official	David Young
23	Authorizing Official's Email Address	david.young@co.warren.oh.us
24	Receive a Copy of the Contract	Susanne Mason
25	Copied Person's Email Address	masosu@co.warren.oh.us

Project Data Sheet

Project 1

ODOT FAN Code	ODOT FAN Project Description	FTA ALI Code	State Share \$	State Share %
OTPP-0123-GRF-211	LTV Replacement (4)	11.12.04	\$256,000	100%
Total Project Cost	Federal Share \$	Federal Share %	Local Share \$	Local Share %
\$256,000	N/A	N/A	N/A	N/A

Internal Use Only			
Federal Share SAC	State Share SAC	Local Share SAC	State Job Number
N/A	4TG7	N/A	755728

Project 2

ODOT FAN Code	ODOT FAN Project Description	FTA ALI Code	State Share \$	State Share %
			\$	100%
Total Project Cost	Federal Share \$	Federal Share %	Local Share \$	Local Share %
\$	N/A	N/A	N/A	N/A

Internal Use Only			
Federal Share SAC	State Share SAC	Local Share SAC	State Job Number
N/A	4TG7	N/A	755728

OFFICE OF TRANSIT
1980 W. BROAD ST., COLUMBUS, OH 43223
Mail Stop 3110
OHIO REVISED CODE SECTION 5501.07 OPERATING/CAPITAL GRANT

In consideration of the mutual covenants, promises, representations and warranties set forth herein, the State of Ohio, Department of Transportation and the Warren County Commissioners agree as follows:

ARTICLE 1

DEFINITIONS

ADA: Americans with Disabilities Act, as amended, civil rights legislation which guarantees access to public services and facilities, including transportation, to ADA-eligible persons.

Administrator: the Administrator of the Office of Transit.

Application: a request by an Eligible Applicant for funding under the Ohio Revised Code Section 5501.07 - Ohio Transit Partnership Program containing all necessary information and meeting all requirements set forth in the Program and submitted to ODOT.

Audit Finding: the deficiencies which the auditor is required by 2 C.F.R. 200.516 paragraph (a) to report in the schedule of findings and questioned costs.

Auditee: any non-Federal entity that expends Federal awards which must be audited under 2 C.F.R. 200 Subpart F

Auditor: an auditor who is a public accountant or a Federal, state, local government, or Indian tribe audit organization, which meets the general standards specified for external auditors in generally accepted government auditing standards.

CFDA: the Catalog of Federal Domestic Assistance.

C.F.R.: the Code of Federal Regulations.

Capital Assets: the tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with generally accepted accounting principles.

Capital Expenditures: the expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.

Contract: a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award.

Contractor: an entity that receives a contract; including any private, for profit operator, including but not limited to taxi companies, bus companies, and paratransit operators.

Corrective Action: any action taken by the auditee that: corrects identified deficiencies; produces recommended improvements; or demonstrates that audit findings are either invalid or do not warrant auditee action.

Cost Allocation Plan: the documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a state, local government, or Indian tribe on a centralized basis to its departments and agencies. See Appendices IV, V, or VII in 2 C.F.R. 200 for guidance.

Cost Sharing or Matching: the portion of project costs not paid by Federal funds (i.e.: local match)

Criteria: The Ohio Transit Partnership Program Criteria, Application Instructions and Application for FY2020 and FY2021.

DBE: a Disadvantaged Business Enterprise whose small business is at least 51 percent owned by one or more socially and economically disadvantaged individuals and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DUNS: the Data Universal Numbering System

Eligible Applicant: an Ohio private Nonprofit Organization registered with Ohio's Secretary of State as defined in Chapter 1702 of the Ohio Revised Code; a current participant in Ohio's Coordination Program; or a public body which certifies that there are no private nonprofit corporations in the area able to provide the service; an agency which provides public transportation as defined in the Ohio Revised Code Section 5501.01

Eligible Assistance: expenditure categories that may be reimbursed through the Program including Capital and Operating Expenses.

Federal Award: the Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity (Program funds awarded to the Recipient).

Federal Awarding Agency: the Federal agency that provides a Federal award directly to a non-Federal entity.

Federal Award Date: the date when the Federal award is signed by the authorized official of the Federal awarding agency.

Federal Interest: the dollar amount that is the product of the: Federal share of total project costs; and current fair market value of the property, improvements, or both to the extent the cost of acquiring or improving the property were included as project costs.

Federal Share: the portion of the total project costs that are paid by Federal funds.

Federal Transit Laws: The Mass Transportation Codified Laws as promulgated under 49 U.S.C. Chapter 53, Sections 5301-5338.

Final Audit: the financial and program statement of all funding sources used in the completion of the Project conducted in accordance with 2 C.F.R. Part 200 Subpart F as applicable.

FTA: the Federal Transit Administration of US DOT.

Grant Agreement: a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity including this Agreement. ("Agreement")

Indirect Costs: those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.

Indirect Cost Rate Proposal: the documentation prepared by a non-Federal entity to substantiate its request for the establishment of an indirect cost rate.

Invoice: a request made by the Recipient for reimbursement of Project expenses.

Milestone Date: Goal date(s) which are set by the Recipient and monitored by FTA and ODOT for acquisition and project completion deadlines to measure progress of project. The date for award is when the purchase order is issued for a capital item. Other dates are based on the type of milestone that is tracked.

Non-Federal Entity: a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or Recipient.

Nonprofit Organization: an Ohio not-for-profit corporation as defined in Chapter 1702 of the Ohio Revised Code.

ODOT: the Ohio Department of Transportation.

OMB: the Executive Office of the President, Office of Management and Budget.

Operating Expense: the costs directly related to system operations which may be broken down into operating and administration.

Pass-Through Entity: a non-Federal entity that provides a Award to a Recipient to carry out part of a Federal program.

Period of Performance: the time during which the non-Federal entity may incur new obligations to carry out work authorized under the Federal award.

Program: Ohio Transit Partnership Program

Project Cost: the total allowable costs incurred under a Federal award and all required cost sharing and

voluntary committed cost sharing, including third-party contributions.

Projects: The projects funded by this Contract identified in the Contract Data Sheet and Project Data Sheet defined above.

Public Transportation System: a publicly owned or operated transportation system using buses, rail vehicles, or other surface conveyances to provide a transportation service to the general public on a regular and continuing basis.

Questioned Cost: a cost that is questioned by the auditor because of an audit finding; which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a Federal award, including for funds used to match Federal funds; where the costs, at the time of the audit, are not supported by adequate documentation; or where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

Real Property: the land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

Standard Assurances: the assurances enumerated in FTA Circular 9030.1 as may be amended.

State Award Date: the date when the State award is signed by the authorized official of the Ohio Department of Transportation.

State Fiscal Year: the State of Ohio fiscal year from July 1 to June 30.

State Interest: the dollar amount that is the product of the: State share of total project costs; and current fair market value of the property, improvements, or both to the extent the cost of acquiring or improving the property were included as project costs.

State Share: the portion of the total project costs that are paid by State funds.

Award: an award provided by a pass-through entity to a Recipient for the Recipient to carry out part of a Federal or State award received by the pass-through entity. An Award may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Recipient: a non-Federal entity that receives a Award from a pass-through entity to carry out part of a Federal or State program; but does not include an individual that is a beneficiary of such program.

Termination: the ending of a Federal or State award, in whole or in part at any time prior to the planned end of period of performance.

Third-Party In-Kind Contributions: the value of non-cash contributions that: benefit a federally assisted project or program; and are contributed by non-Federal third parties, without charge, to a non-Federal entity under a Federal award.

Transit Service: The portion of service provided by Public Transportation Systems which is eligible for Grant Funds and for which a fare is charged. It must be operated primarily for, and advertised to, the general public over specifically designated routes or within a designated geographic area no less frequently than once each week. The service may be either Fixed-Route or Demand-Responsive and must be provided with vehicles designed for transporting nine or more seated adult passengers or provided as part of a 49 USC Section 5307 or 5311 funded project. Specialized Transportation Service

is not Transit Service.

Transportation Development Credit (TDC): federal transportation funding tool that can be utilized by states as a means of meeting local and state matching requirements for federal funding.

US DOT: the United States Department of Transportation or any of its administrations.

ARTICLE II

SECTION 1: PURPOSE OF AGREEMENT

- 1.1 The purpose of this Agreement is to provide capital and/or operating financial assistance from ODOT to the Recipient in accordance with Ohio Revised Code Section 5501.07.
- 1.2 The State Award obtained through this Agreement shall be applied toward the payment of the Project Cost for Capital and operating projects in accordance with Section 2 and the Project Data Sheet of this Agreement.

SECTION 2: SCOPE OF PROJECTS:

- 2.1 Capital: The Recipient shall apply all State Award funds provided under this Agreement to the Project Cost incurred in the acquisition of Project equipment and/or construction of Project facilities listed on the Contract Data Sheet.
- 2.2 Operating: The Recipient shall apply all State Award funds provided under this Agreement to the Operating Expenses incurred in the provision of public transportation service within Ohio.
- 2.3 Eligible Operating Expenses: The operating assistance shall be applied toward the Eligible Operating Expenses incurred during the period of performance as specified in the Contract Data Sheet.
- 2.4 Planning: The Recipient shall apply all State Award funds provided under this Agreement to the Planning Expenses incurred in the planning activities during the period of performance as specified in the Contract Data Sheet.

SECTION 3: STATE AWARD

- 3.1 Capital: ODOT agrees that the Capital State Award funds paid to the Recipient in accordance

with this Agreement shall consist of a State share in an amount not to exceed the amount specified on the Project Data Sheet.

- 3.2 The actual amount of State Award funds the Recipient will receive shall be determined on the basis of capital Invoices submitted to ODOT, by Recipients of 49 U.S.C. Section 5307 of the Federal Transit Laws and of the Program but will be no greater than the Project Cost.
- 3.3 **The Projects listed in Project Data Sheet of this Agreement must be purchased (or have a purchase order issued) or contract awarded to a manufacturer or vendor within one year after the execution date of this agreement. Capital items not purchased or awarded by that date become ineligible for State Award funds through this Agreement.**
- 3.4 Operating: ODOT agrees that the operating State Award funds paid to the Recipient in accordance with this Agreement shall consist of a State share in an amount not to exceed the amount specified on the Project Data Sheet and a local share in an amount not to exceed the amount specified on the Project Data Sheet.
- 3.5 The total amount of State Award funds the Recipient will receive shall be determined on the basis of Invoices for Operating Expenses submitted to ODOT, as allowed under Eligible Assistance in the Ohio Transit Partnership Program Criteria and Proposal Instructions.
- 3.6 Legislative or administrative action may reduce Program funds available to ODOT for administration of this Agreement. In the event such action occurs at any time before ODOT has made final payment under this Agreement, ODOT shall be relieved of its obligation to pay the amounts stated in paragraphs 3.1 and 3.4 and shall be required to pay only such amount as it may determine available.
- 3.7 This Agreement is subject to prior certification by the Director of the Office of Budget and Management that there is a balance in the funds appropriated sufficient to meet the state's obligations under this agreement, and that said balance is not already obligated to pay existing obligations. Payments of State Award funds are subject to an appropriation and certification in accordance with requirements of ORC Section 126.07, as in effect on July 18, 2019.
- 3.8 ODOT reserves the right to make partial payments on any Grant Agreement when necessary to conform with appropriate levels and cash availability.

SECTION 4: METHOD OF PAYMENT

- 4.1 Capital: The Recipient shall submit to ODOT, the Office of Transit, a capital Invoice for items described in the Project Data Sheet of this Agreement as they are purchased following an ODOT approved procurement process. Upon receipt of an Invoice, ODOT will initiate the payment of the State Award funds specified in Section 3 of this Contract, corresponding to the Eligible Capital Expense incurred by the Recipient which is identified on the Invoice.
- 4.2 Reimbursement to the Recipient shall not constitute a final determination by ODOT of the eligibility of any expense incurred by the Recipient and shall not constitute a waiver of any breach of this Agreement by the Recipient or any Project Contractor. ODOT will make a final determination of the eligibility of any cost charged to the Projects after completion of the Final Audit and/or project closeout.

SECTION 5: COMPLIANCE WITH FEDERAL, STATE AND LOCAL REQUIREMENTS

- 5.1 The Recipient and all Project Contractors shall fully comply with all federal, state, and local laws, rules, ordinances, executive orders, and other legal requirements as they apply to Public Transportation Systems and Transit Service. In accordance with federal law, the FTA Master Agreement, as revised, is incorporated herein by reference.
- 5.2 The Recipient shall comply with all existing and future federal, state, and municipal laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the agreement, including but not limited to, the laws referred to in these provisions of the agreement and the other agreement documents. If the agreement documents are at variance therewith in any respect, any necessary changes shall be incorporated by appropriate modification. Upon request, the Recipient shall furnish to ODOT, Office of Transit, certificates of compliance with all such laws, orders and regulations.
- 5.3 Recipient agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.
- 5.4 Recipient affirms that, as applicable to it, no party listed in Division (I) or (J) of Section 3517.13 of the Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees.
- 5.5 The Recipient shall immediately notify ODOT of any change in conditions or of local law or of any other event which may significantly affect its ability to perform the Projects in accordance with the provisions of this Agreement.

SECTION 6: BANNING THE EXPENDITURE OF PUBLIC FUNDS ON OFFSHORE SERVICES:

- 6.1 **Banning the Expenditure of Public Funds on Offshore Services:** The Recipient affirms to have read and understands Executive Order 2019-12D issued by Ohio Governor Mike DeWine and shall abide by those requirements in the performance of this Agreement, and shall perform no services required under this Agreement outside of the United States. The Executive Order is provided as an attachment and also is available at the following website:

(<https://governor.ohio.gov/wps/portal/gov/governor/media/executive-orders/2019-12d>)

The Recipient also affirms, understands, and agrees to immediately notify the State of any change or shift in the location(s) of services performed by the Recipient or its subcontractors under this Agreement, and no services shall be changed or shifted to a location(s) that are outside of the United States.

- 6.2 **Banning the Expenditure of Public Funds on Offshore Services - Termination. Sanction. Damages:** If Recipient or any of its subcontractors perform services under this Agreement outside of the United States, the performance of such services shall be treated as a material

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

The State may, at any time after the breach, terminate the Agreement, upon written notice to the Recipient. The State may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Agreement and costs associated with the acquisition of substitute services from a third party.

If the State determines that actual and direct damages are uncertain or difficult to ascertain, the State in its sole discretion may recover a payment of liquidated damages in the amount of ten percent 10% of the value of the Agreement.

The State, in its sole discretion, may provide written notice to Recipient of a breach and permit the Recipient to cure the breach. Such cure period shall be no longer than 21 calendar days. During the cure period, the State may buy substitute services from a third party and recover from the Recipient any costs associated with acquiring those substitute services.

Notwithstanding the State permitting a period of time to cure the breach or the Recipient's cure of the breach, the State does not waive any of its rights and remedies provided the State in this Agreement, including but not limited to recovery of funds paid for services the Recipient performed outside of the United States, costs associated with corrective action, or liquidated damages.

6.3 Banning the Expenditure of Public Funds on Offshore Services - Assignment/Delegation.

The Recipient will not assign any of its rights, nor delegate any of its duties and responsibilities under this Agreement, without prior written consent of the State. Any assignment or delegation not consented to may be deemed void by the State.

SECTION 7: REQUIRED INFORMATION AND DOCUMENTATION

7.1 The Recipient shall submit copies of all documents relating to this Agreement, including all bids and financial reports, to the Administrator or his or her agents upon request.

7.2 The Recipient shall:

- (a) Maintain and update a complete inventory of vehicles and equipment supplied through ODOT programs including the Ohio Transit Partnership Program;
- (b) Submit Progress Reports as required by ODOT;
- (c) Provide reports of any significant trends or developments during the period covered by the grant which have occurred as a result of the Program;
- (d) Provide copies of all procurement related documentation for all capital items; and

7.3 The Recipient shall establish and maintain accounts for the Projects in conformance with 2 C.F.R 200.302 *Financial management*. Each operating/capital Invoice shall be documented by, but not limited to, accurate and properly executed payrolls, time records, orders, contracts, and vouchers, evidencing in detail the nature and propriety of the costs incurred for the

Projects. Retention of these documents must follow the retention requirements as stated in 2 C.F.R 200.333 *Retention requirements for records*. The Recipient shall maintain all such supporting documentation for each Invoice readily accessible and clearly identified for a period of three years following receipt of payment of the final Invoice or final audit for the Projects.

- 7.4 The Recipient shall submit all other information to the Administrator as requested by ODOT or its agents.

SECTION 8: PROJECT ADMINISTRATION

- 8.1 The Recipient shall return any overpayment of State Award funds, made to the Recipient or to a Project Contractor, to ODOT, Office of Transit, not later than forty-five days after the Final Audit which reveals such overpayment.
- 8.2 The Recipient shall have an audit performed in accordance with 2 C.F.R. 200 Subpart F, as applicable. If there are any management advisories on non-reportable findings issued as a result of the audit, a copy of the management letter and corrective action plan must be submitted in conjunction with the audit report, as applicable in 2 C.F.R. 200.511 *Audit findings follow-up*.
- 8.3 The Recipient shall permit ODOT or any of its agents to inquire into any agreements between the Recipient and any third party pertaining to the Projects. The Recipient shall also permit ODOT or any of its agents to inspect all vehicles, operations, facilities, and equipment purchased or operated for the Projects.
- 8.4 Any differences existing in the quantities of Project Equipment as determined by the physical inspection and the quantities of Project Equipment reflected on the records maintained by ODOT shall be investigated to determine the cause of the difference. The Recipient shall, at the time of the physical inspection, verify the current utilization of and current need for the Project Equipment. The Recipient shall also follow the requirements for equipment stated in the *Title, Use, Management requirements, and Dispositions* sections in 2 C.F.R. 200.313 *Equipment*.
- 8.5 The Recipient agrees that, in accordance with 2 C.F.R 200.336 *Access to records*, US DOT, ODOT, the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination be permitted to inspect all work, offices, materials, payrolls, and other data and records with regard to the Projects, and to audit the books, records, and accounts with regard to the Projects.

SECTION 9: SALE, DISPOSITION OR ENCUMBRANCE OF PROJECT EQUIPMENT

- 9.1 Sale or disposition of Project Equipment shall be undertaken by the Recipient only after requesting disposition instructions from ODOT and receiving ODOT's written approval. If applicable, upon disposition the Recipient shall refund to ODOT the State share of the Fair Market Value of the Project Equipment in accordance with the requirements stated in 2 C.F.R 200.313 *Equipment*.

- 9.2 The Recipient shall not execute any mortgage, lien, assignment, or other legal or equitable claim upon any Project Equipment unless such action is authorized in writing by the Administrator.

SECTION 10: REQUIRED INSURANCE COVERAGE

- 10.1 The Recipient shall purchase and maintain throughout the Project Life a comprehensive policy of insurance upon the Project Equipment. Said policy shall include collision, theft, and liability insurance. Collision and theft insurance shall be maintained upon the Project Equipment in an amount no less than the Federal and State participation rate of the fair market value. Liability insurance shall protect ODOT, and the Recipient from claims for damages to property and bodily injury including death, which may arise from or in connection with operation of the Project Equipment by the Recipient or by anyone directly or indirectly associated with the Recipient. Unless the Recipient receives the prior written permission of the Administrator to carry a lower amount of insurance coverage, the minimum amount of liability insurance the Recipient shall maintain is \$500,000 per occurrence and \$500,000 in the aggregate.
- 10.2 If the Project Equipment is to be located in an area identified by the Secretary of the United States Department of Housing and Urban Development as an area having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, 42 U.S.C. 4011 et. Seq., the Recipient shall purchase flood insurance upon the Project Equipment in an amount which is equal to the Federal and State shares of its Fair Market Value based on the original Federal and State participation rates.

SECTION 11: NO ADDITIONAL WAIVER IMPLIED

- 11.1 In the event of a dispute in the interpretation of the provisions of this Agreement, such dispute shall be settled through negotiation between the Administrator and the Recipient. If no agreement can be reached, the dispute will be referred for resolution to the Director of ODOT; legal questions will be referred to the State Attorney General for resolution.

SECTION 12: SEVERABILITY

- 12.1 If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or enforceability of the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.

SECTION 13: INDEPENDENCE OF RECIPIENT

- 13.1 In no event shall the Recipient or any of its employees, agents, contractors, subcontractors, or Project Contractors be considered agents or employees of ODOT, the State, or US DOT.
- 13.2 The Recipient agrees that none of its employees, agents, contractors, subcontractors, or Project Contractors will hold themselves out as, or claim to be, agents, officers, or employees of ODOT, the State, or US DOT and will not by reason of any relationship with ODOT make any claim, demand, or application to or for any right or privilege applicable, but not limited to, rights and privileges concerning workers' compensation and occupational diseases coverage, unemployment compensation benefits, social security coverage, or retirement membership or credit.

SECTION 14: REPRESENTATIONS AND WARRANTIES MADE BY RECIPIENT

- 14.1 The Recipient hereby represents and warrants that it is a county transit board or regional transit authority established pursuant to Chapter 306 of the Ohio Revised Code, a county or

county department, a municipality or municipal department, or a private nonprofit organization and that it has full power and authority to enter into this Agreement and to perform its obligations hereunder.

- 14.2 The Recipient hereby restates and confirms all statements, representations, covenants, and agreements contained in the Recipient's application for the Federal Award funds awarded pursuant to this Agreement.

SECTION 15: ASSIGNMENT OF AGREEMENT

- 15.1 The Recipient shall not assign, transfer, convey, or subcontract in whole or in part, sublet or otherwise dispose of this Agreement without the express prior written consent of ODOT, and such written consent shall not release the Recipient from any obligations of this Agreement.

SECTION 16: CONTRACTS OF THE RECIPIENT

- 16.1 The Recipient shall not enter into any contract for assistance in the provision, operation, or management of transportation services for the Projects without the express prior written consent of ODOT.

SECTION 17: CONTRACT DISPUTE RESOLUTION

- 17.1 In the event of a dispute in the interpretation of the provisions of this Agreement, such dispute shall be settled through negotiation between the Administrator and the Recipient. If no agreement is reached, the dispute will be referred to the Ohio Attorney General, Transportation Section, for final resolution.
- 17.2 The Recipient shall avail itself of all legal and equitable remedies under any third party contract which relates to the Projects and shall notify the Administrator of any current or prospective litigation pertaining to any such third party contract.
- 17.3 The Recipient hereby agrees that ODOT shall receive, the State share of any proceeds derived from any third party recovery.

SECTION 18: DEFAULT

- 18.1 Neglect or failure of the Recipient to comply with any of the terms, provisions, or conditions of this Agreement or any other Grant Agreement entered into between ODOT and the Recipient, whether or not payment of State Award funds has been fully or partially made, or failure of any representation made to ODOT in connection with any Grant Agreement by the Recipient to be true, shall be an event of default, provided, that if by reason of *force majeure* the Recipient is unable in whole or in part to carry out its covenants contained herein, the Recipient shall not be deemed in default during the continuance of such inability.
- 18.2 The term "*force majeure*" as used herein shall mean, without limitation: Acts of God, strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the

government of the United States or of the State or any of their political subdivisions or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; partial or entire failure of utilities, or any other cause not reasonably in the control of the Recipient. The Recipient shall, however, remedy with all reasonable dispatch each cause preventing the Recipient from carrying out its covenants contained herein.

- 18.3 Whenever an event of default has occurred, ODOT may (a) direct the Recipient to comply with such orders of disposition of the Project Equipment as ODOT may issue, (b) direct the Recipient to return to ODOT the percentage of the State share of the remaining Fair Market Value, if any, which is realized from the Recipient's disposition of the Project Equipment, (c) refuse to pay any Invoices, and/or (d) require reimbursement from the Recipient of all or any portion of the State Award funds for any period of time that the Recipient has been in default.
- 18.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this agreement or now or hereafter existing at law or in equity.
- 18.5 No delay or omission to exercise any right or option accruing to ODOT upon any default by the Recipient shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as after as may be deemed expedient by ODOT.

SECTION 19: PROGRAM CRITERIA

- 19.1 The current Criteria for the Ohio Transit Partnership Program as determined by ODOT is incorporated into this grant agreement in its entirety, and ODOT will determine the applicability of particular criteria and definitions to this agreement.

SECTION 20: CAPTIONS

- 20.1 The section captions in this Agreement are for the convenience of reference only and in no way define, limit, or describe the scope or intent of this Agreement or any part hereof and shall not be considered in any construction hereof.

SECTION 21: OFFER: EFFECTIVE DATE

- 21.1 When transmitted by ODOT to the Recipient, this document shall constitute an offer which shall expire if it is not accepted, executed and returned to ODOT, Office of Transit, by the Recipient within *thirty* days of such transmittal, unless an extension is granted in writing by the Administrator at the request of the Recipient. After execution this Agreement shall become effective upon the Award period of performance start date stated in the Contract Data Sheet.

SECTION 22: DRUG-FREE WORK PLACE

- 22.1 Recipient agrees to comply with all applicable State and Federal laws regarding a drug-free work place. Recipient shall make a good faith effort to ensure that its employees will not purchase, transfer, use, or possess illegal drugs, or abuse prescription drugs in any way.

SECTION 23: NONDISCRIMINATION

During the performance of this agreement, the Recipient, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- 23.1 **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Transit Administration (FTA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this agreement.
- 23.2 **Non-discrimination:** The contractor, with regard to the work performed by it during the agreement, will not discriminate on the grounds of race, color, national origin, sex, age, disability, low-income status, or limited English proficiency in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth below as the pertinent nondiscrimination authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- 23.3 **Solicitations for Subcontractors, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability, low-income status, or limited English proficiency.
- 23.4 **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Ohio Department of Transportation (hereinafter "ODOT") or FTA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor will so certify to ODOT or FTA, as appropriate, and will set forth what efforts it has made to obtain the information.
- 23.5 **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, ODOT will impose such agreement sanctions as it or FTA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the agreement until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
- 23.6 **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The

contractor will take action with respect to any subcontract or procurement as ODOT or FTA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request ODOT to enter into any litigation to protect the interests of ODOT. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

- 23.7 During the performance of this agreement, the Recipient, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor," which includes consultants) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-Aid programs and projects)
- Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 *et seq.*) (prohibits discrimination on the basis of sex)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability) and 49 CFR Part 27
- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age)
- Airport and Airway Improvement Act of 1982 (49 U.S.C. § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex)
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of Federal-Aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not)
- Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§ 12131-12189), as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities)
- The Federal Aviation Administration's Non-Discrimination Statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex)
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations)
- Executive Order 13166, Improving Access to Services for People with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100)
- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended (prohibits discrimination in the sale, rental, and financing of dwellings on the basis of race, color, religion, sex, national origin, disability, or familial status (presence of child under the age of 18 and pregnant women))

- Title IX of the Education Amendments Act of 1972, as amended (20 U.S.C. 1681 *et seq.*) (prohibits discrimination on the basis of sex in education programs or activities)

SECTION 24: EQUAL EMPLOYMENT OPPORTUNITY

- 24.1 In carrying out this agreement, Recipient shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, age, or disability as that term is defined in the American with Disabilities Act. Recipient shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, ancestry, age, or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. In addition, the Recipient will not deny anyone the benefits of participation in any federally funded program on account of race, color, or national origin.
- 24.2 Recipient agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex, national origin, ancestry, age, or disability. Recipient shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the projects (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such project work.
- 24.3 Recipient agrees to ensure that minority business enterprises, as such are defined in 49 CFR PART 23, will have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided in conjunction with this agreement.

SECTION 25: GOVERNING LAWS

- 25.1 This agreement and any claims arising out of this agreement shall be governed by the laws of the State of Ohio. Any provision of this agreement prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this agreement or the performance thereunder shall be brought only in the courts of Ohio, and the owner hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

SECTION 26: FINDINGS FOR RECOVERY

- 26.1 No state agency and no political subdivision shall award a contract for goods, services, or construction, paid for in whole or in part with state funds, to a person whom a finding for

recovery has been issued by the Auditor of State, if the finding for recovery is unresolved as defined by the Attorney General.

SECTION 27: NOTICE

27.1 Notice under this Agreement shall be directed as follows:

IF TO RECIPIENT:

Warren County Commissioners
406 Justice Drive

Lebanon, OH 45036

IF TO ODOT:

Ohio Department of Transportation
Office of Transit, 2nd Floor
1980 W. Broad Street
Mail Stop 3110
Columbus, Ohio 43223

SECTION 28: MODIFICATIONS

28.1 This agreement and each of its provisions shall be binding upon the parties and may not be waived, modified, amended, or altered except by a writing signed by ODOT and the Recipient.

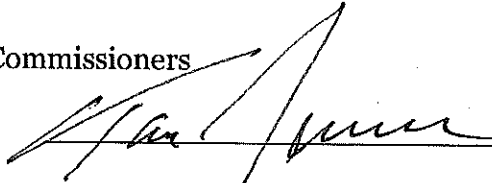
SECTION 29: SIGNATURES

- 29.1 Any person executing this Grant Agreement in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Grant Agreement on such principal's behalf.
- 29.2 This Grant Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.
- 29.3 ODOT or the Recipient may deliver a copy of its counterpart signature page to this Grant Agreement via fax or email. Each party shall be entitled to rely upon a facsimile or electronic signature of any other party delivered in such a manner as if such signature were an original.

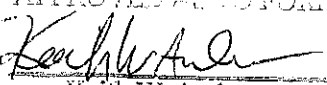
RECIPIENT

Warren County Commissioners

By:



President, Board of County Commissioners

APPROVED AS TO FORM


Keith W. Anderson
Asst. Prosecuting Attorney

**STATE OF OHIO
DEPARTMENT OF TRANSPORTATION**

By:

Jack Marchbanks, Ph. D., Director

CERTIFICATE OF RECIPIENT'S ATTORNEY

I, _____ acting as attorney for the Recipient, do hereby certify that I have examined this Agreement and the proceedings taken by the Recipient related thereto, and find that the acceptance of ODOT's offer by the Recipient has been duly authorized by the Recipient's action dated _____ and that the execution of this Agreement is in all respects due and proper and in accordance with applicable federal, state, and local law, and further that, in my opinion, said Agreement constitutes a legal and binding obligation of the Recipient in accordance with the terms thereof. I further certify that, to the best of my knowledge, there is no litigation, pending or threatened, which might affect the performance of the Projects in accordance with the terms of this Agreement.

By:

Title:

Date:

*BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO*

Resolution

Number 20-1324

Adopted Date September 22, 2020

ENTER INTO CLASSROOM TRAINING AGREEMENTS ON BEHALF OF
OHIO MEANS JOBS WARREN COUNTY

BE IT RESOLVED, to enter into Classroom Training Agreements with the following
educational institutions, as attached hereto and made part hereof:

University of Akron
Workforce Training Solutions
225 South Main Street, Polsky Building
Akron, Ohio 44325


Hondros College
4140 Executive Parkway
Westerville, Ohio 43801

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: c/a—OhioMeansJobs
OhioMeansJobs (file)

Classroom Training Agreement

This Agreement is entered into and made between the Warren County Board of Commissioners, hereinafter Commissioners, on behalf of OhioMeansJobs Warren County, hereinafter OMJWC, and University of Akron, Workforce Training Solutions, 225 South Main St, Polsky Building, Akron, Ohio 44325, hereinafter referred to as "Contractor".

Purpose:

This Agreement is entered into in order that the Contractor may provide occupational trainings such as computer software and hardware technologies, networking technologies, business and office technologies, diversified medical occupations, electrical and electronic technologies, building and machine trades, fire and police technologies, heating and air conditioning, industrial maintenance technologies and similar programs.

Terms of the Agreement:

This Agreement shall be effective upon execution by the Commissioners through June 31, 2021. The Contractor understands that this Agreement is contingent upon the OMJWC's receipt of Workforce Innovation and Opportunity Act (WIOA), National Emergency Grant (NEG) or any supplemental funding through the State of Ohio or the U.S Department of Labor. The Contractor understands that if said funding is not provided, that this Agreement will be null and void as of the date the OMJWC notifies the Contractor in writing that said funding is not available.

Responsibilities of the Contractor:

1. Contractor agrees to assume any and all of its own administrative costs and further agrees that said cost will not be passed through in any manner to OMJWC or its trainees in relation to any training program funded through OMJWC.
2. The Contractor understands and agrees that OMJWC shall only incur financial obligation for each trainee upon provision to the Contractor by OMJWC of a signed letter of authorization and/or an approved Individual Training Account. Any additional training costs not covered by this agreement must receive prior OMJWC written approval and will require sufficient documentation of the additional training costs.
3. The Contractor will issue refunds for non-attendance and/or withdrawal for those trainees supported under this Agreement which shall be subject to and consistent with the Contractor's established and written policy relative to the refund of tuition and fees. No refund will be processed once the trainee has started the noncredit online course. Tuition is due when the trainee starts the course. Invoices may not indicate dates prior to the date that the WIOA funded trainee

actually attends class/training. Test vouchers may be included in the cost of the noncredit online class and if so, are listed as one fee and should be paid once the trainee begins the course.

4. The Contractor is unable to reduce OMJWC's financial obligation for noncredit online courses.
5. The Contractor will begin training on the effective date as specified on the letter of authorization and/or the Individual Training Account and will perform subsequent written revisions and modifications relative thereto as negotiated with and approved by OMJWC. No changes will be made in training curriculum or dates without prior written approval from OMJWC.
6. The Contractor agrees to maintain and preserve for five years all records pertaining to transactions related to this Agreement including finances, trainee attendance and trainee progress and agrees that OMJWC, Comptroller General of the United States, the Secretary of Labor, the Governor of the State of Ohio or his authorized representative may at all times have access to such records for five years after final payment has been made under this Agreement. OMJWC reserves the right to request the Contractor to provide evidence of the training cost and the Contractor will be subject to periodic review by OMJWC or its designated agent(s). The Contractor agrees to provide OMJWC with copies of the previously mentioned records within five working days of the request and to maintain all trainee financial records in accordance with Generally Accepted Accounting Principles.
7. The Contractor shall, through the signature of class instructors or designated school personnel, be required to verify trainee attendance on a monthly basis and provide copies of all trainee grade transcripts or, if applicable, general progress reports or changes in enrollment status to OMJWC.
8. OMJWC or its authorized representative, the Secretary of Labor, the Governor of the State of Ohio or his authorized representative may at all times have access to and the right to inspect the place of training under this Agreement when necessary to assure the progress and quality of training or to determine compliance with the Agreement terms.
9. Trainees will not be terminated for inappropriate actions or misconduct without ten days prior written notification to the affected trainee. The trainee shall have reasonable opportunity for correction or improvement with prior consultation with OMJWC, except for cases of trainee misconduct which are severe enough to require immediate dismissal as per Contractor written policies in the course catalog.

10. If an adverse action is taken against any trainee, such trainee will be given an opportunity to be heard and have his/her case considered under the established appeal procedures of the Contractor.
11. The Contractor shall repay to OMJWC amounts found not to have been expended in accordance with the Workforce Innovation & Opportunity Act and/or the Welfare Reform Act. OMJWC may offset such amounts against any other amount to which the Contractor is or may be entitled to unless OMJWC determines the Contractor should be held liable due to mis-expenditure of funds due to willful disregard of the Acts, gross negligence and/or failure to observe accepted standards of administration.
12. The Contractor will share with OMJWC staff all WIOA and/or NEG required follow-up information obtained on each WIOA/NEG-funded trainee and program performance information requested by Area 12.
13. The Contractor shall carry commercial general liability insurance for bodily injury, personal injury and property damage in an amount not less than \$1,000,000 per person, \$2,000,000 per occurrence and \$2,000,000 aggregate while performing any services for the Board in accordance with the terms of this contract and shall provide proof of compliance with this condition. The Contractor shall also maintain liability insurance to cover all of its employees and agents for any liability arising out of their conduct while in the employ of the Contractor in connection with the services rendered pursuant to this agreement.

Responsibilities of OMJWC:

1. It is the responsibility of OMJWC to determine an applicant's eligibility.
2. OMJWC will provide to the Contractor a signed letter of authorization and/or an approved Individual Training Account.
3. OMJWC will make payment to the Contractor within approximately thirty days after the receipt of an accurate invoice and any necessary supporting documentation. The Contractor, upon acceptance of final payment of the amount due under this agreement, less any credits, refunds or rebates due, shall release and forever discharge OMJWC from all pecuniary and legal liabilities, obligations and claims arising from this Agreement.

General Provisions:

1. OMJWC or the Contractor may, with the written concurrence of the other party, modify the conditions for training outlined in this Agreement. If any such change causes a modification in the cost or time required for the completion of services under this Agreement, the modification shall be signed by both parties before the change becomes effective.

2. Termination of this Agreement may be made without cause by either party. This termination requires ten days advanced written notification.
3. This Agreement and the rights of the parties hereunder shall be governed by the laws of the State of Ohio and only Ohio courts shall have jurisdiction over any actions or proceedings concerned with this Agreement and/or performance thereunder.
4. Commissioners and OMJWC covenant that, to the best of their knowledge, no person under its employ, who presently exercises and functions or responsibilities in connection with the Contractor or projects or programs funded by the Contractor, has any personal financial interest, direct or indirect, in the Agreement. Commissioners and OMJWC further covenant that in the performance of this Agreement, no person having such conflicting interest shall knowingly be employed by the Commissioners and OMJWC. Any such interest, on the part of the Commissioners and OMJWC or its employees, when known, must be disclosed in writing to the Contractor.
5. By signing this Agreement, Commissioners and OMJWC certify that they are currently in compliance with, and will continue to adhere to the requirements of the Ohio Ethics Law as provided by Ohio Revised Code Sections 102.03 and 102.04.
6. Commissioners and OMJWC hereby certify that all applicable parties listed in Division (I)(3) or (J)(3) of Ohio Revised Code Section 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of Ohio Revised Code Section 3517.13.

Assurances and Certifications:

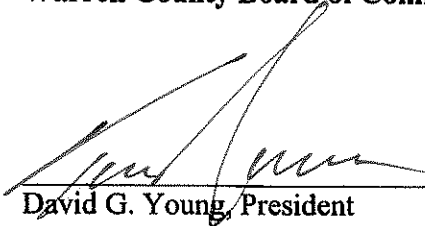
1. Any patent rights, copyrights and/or rights in data resulting from this Agreement shall be the sole property of OMJWC.
2. The Contractor shall not assign any part of the Agreement without the written consent of OMJWC.
3. Attempts shall be made to resolve all disputes through an informal process among the trainee, the Contractor and OMJWC. If resolution does not occur to the satisfaction of any party, the first step is to use existing grievance procedures, if any, established by the Contractor to resolve disputes with trainees. If the Contractor has no internal grievance procedures or if the dispute remains unresolved, the parties agree to participate in and be bound by determinations resulting from OMJWC's grievance, complaint and disallowed cost resolution procedure.

4. During the performance of this Agreement, the Contractor will not discriminate against any trainee because of religion, race, political affiliation, color, sex, sexual orientation, national origin, ancestry, physical handicap, age or creed and shall not engage in any sectarian training activity.
5. The Contractor shall abide by appropriate standards for OSHA health and safety standards in training situations.
6. The Contractor assures that it is an accredited training institution which employs qualified instructors and which will comply with the local, state, federal, license and insurance requirements.
7. Each party agrees to be responsible for any personal injury or property damage caused by the negligent acts or negligent omissions by or through itself or its agents, employees and contracted servants and each party further agrees to defend itself and themselves and pay any judgments and costs arising out of such negligent acts or negligent omissions, and nothing in this Agreement shall impute or transfer any such responsibility from one to the other.
8. This Agreement contains the entire Agreement between the parties with respect to the subject matter thereof, and supersedes all prior written or oral Agreements between the parties. No representations, promises, understandings or Agreements, or otherwise, not herein contained shall be of any force or effect

Signature Page

In witness whereof, the parties have executed this instrument on the date(s) indicated below:

Warren County Board of Commissioners



David G. Young, President

9/22/20
Date

Contractor



Authorized Contractor Signature

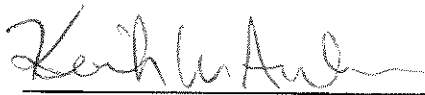
9-4-2020
Date



Typed Name of Authorized Contractor

Date

Approved as to form:



Keith Anderson, Asst. Prosecutor

9-17-2020
Date

Signature Page

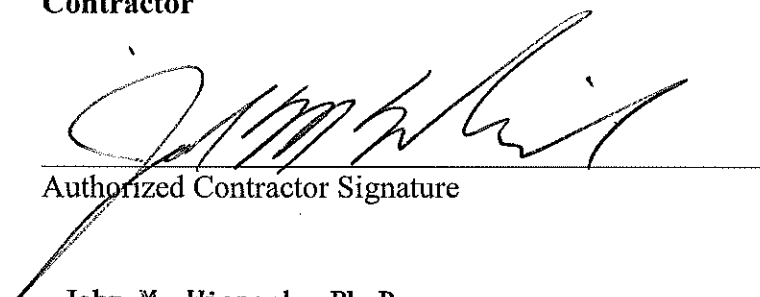
In witness whereof, the parties have executed this instrument on the date(s) indicated below:

Warren County Board of Commissioners

David G. Young, President

Date

Contractor



Authorized Contractor Signature



Date

John M. Wiencek, Ph.D.
Executive Vice President and Provost

Typed Name of Authorized Contractor

Date

Approved as to form:

Keith Anderson, Asst. Prosecutor

Date

Classroom Training Agreement

This Agreement is entered into and made between the Warren County Board of Commissioners, hereinafter Commissioners, on behalf of OhioMeansJobs Warren County, hereinafter OMJWC, and **Hondros College, 4140 Executive Parkway Westerville, Ohio 43081**, hereinafter referred to as "Contractor".

Purpose:

This Agreement is entered into in order that the Contractor may provide occupational trainings such as tractor trailer truck driver training.

Terms of the Agreement:

This Agreement shall be effective upon execution by the Commissioners through June 30, 2021. The Contractor understands that this Agreement is contingent upon the OMJWC's receipt of Workforce Innovation and Opportunity Act (WIOA), National Emergency Grant (NEG) or any supplemental funding through the State of Ohio or the U.S Department of Labor. The Contractor understands that if said funding is not provided, that this Agreement will be null and void as of the date the OMJWC notifies the Contractor in writing that said funding is not available.

Responsibilities of the Contractor:

1. Contractor agrees to assume any and all of its own administrative costs and further agrees that said cost will not be passed through in any manner to OMJWC or its trainees in relation to any training program funded through OMJWC.
2. The Contractor understands and agrees that OMJWC shall only incur financial obligation for each trainee upon provision to the Contractor by OMJWC of a signed letter of authorization and/or an approved Individual Training Account. Any additional training costs not covered by this agreement must receive prior OMJWC written approval and will require sufficient documentation of the additional training costs.
3. The Contractor will issue refunds for non-attendance and/or withdrawal for those trainees supported under this Agreement which shall be subject to and consistent with the Contractor's established and written policy relative to the refund of tuition and fees. No tuition will be paid until trainee's attendance exceeds the established refund policy date. Invoices may not indicate dates prior to the date that the WIOA funded trainee actually attends class/training. Test vouchers will not be paid until the trainee has completed classroom training necessary to prepare his/her for passage of the test. Testing fees should be broken out from tuition costs and listed separately on invoices.

4. The Contractor agrees to reduce OMJWC's financial obligation for tuition, fees and books equal to each funded trainee's financial aid award from the Ohio Instructional Grant, Supplemental Education Opportunity Grant and/or Pell Grant. The distribution of the awards should appear as a reduction of tuition cost on the regular invoice for each term. The Contractor is responsible for disclosing to OMJWC all sources of grants, entitlements and /or scholarships to avoid cost duplication, with verification, upon request, of the amounts and dispositions of the PELL, OIG and/or SEOG, if such awards are applicable. The amount of these funding sources being applied to fees and tuition is to be clearly indicated on all invoices sent to OMJWC for payment.
5. The Contractor will begin training on the effective date as specified on the letter of authorization and/or the Individual Training Account and will perform subsequent written revisions and modifications relative thereto as negotiated with and approved by OMJWC. No changes will be made in training curriculum or dates without prior written approval from OMJWC.
6. The Contractor agrees to maintain and preserve for five years all records pertaining to transactions related to this Agreement including finances, trainee attendance and trainee progress and agrees that OMJWC, Comptroller General of the United States, the Secretary of Labor, the Governor of the State of Ohio or his authorized representative may at all times have access to such records for five years after final payment has been made under this Agreement. OMJWC reserves the right to request the Contractor to provide evidence of the training cost and the Contractor will be subject to periodic review by OMJWC or its designated agent(s). The Contractor agrees to provide OMJWC with copies of the previously mentioned records within five working days of the request and to maintain all trainee financial records in accordance with Generally Accepted Accounting Principles.
7. The Contractor shall, through the signature of class instructors or designated school personnel, be required to verify trainee attendance on a monthly basis and provide copies of all trainee grade transcripts or, if applicable, general progress reports or changes in enrollment status to OMJWC.
8. OMJWC or its authorized representative, the Secretary of Labor, the Governor of the State of Ohio or his authorized representative may at all times have access to and the right to inspect the place of training under this Agreement when necessary to assure the progress and quality of training or to determine compliance with the Agreement terms.
9. Trainees will not be terminated for inappropriate actions or misconduct without ten days prior written notification to the affected trainee. The trainee shall have reasonable opportunity for correction or improvement with prior consultation with OMJWC, except for cases of trainee misconduct which are severe enough to

require immediate dismissal as per Contractor written policies in the course catalog.

10. If an adverse action is taken against any trainee, such trainee will be given an opportunity to be heard and have his/her case considered under the established appeal procedures of the Contractor.
11. The Contractor shall repay to OMJWC amounts found not to have been expended in accordance with the Workforce Innovation & Opportunity Act and/or the Welfare Reform Act. OMJWC may offset such amounts against any other amount to which the Contractor is or may be entitled to unless OMJWC determines the Contractor should be held liable due to mis-expenditure of funds due to willful disregard of the Acts, gross negligence and/or failure to observe accepted standards of administration.
12. The Contractor will share with OMJWC staff all WIOA and/or NEG required follow-up information obtained on each WIOA/NEG-funded trainee and program performance information requested by Area 12.
13. The Contractor shall carry commercial general liability insurance for bodily injury, personal injury and property damage in an amount not less than \$1,000,000 per person, \$2,000,000 per occurrence and \$2,000,000 aggregate while performing any services for the Board in accordance with the terms of this contract and shall provide proof of compliance with this condition. The Contractor shall also maintain liability insurance to cover all of its employees and agents for any liability arising out of their conduct while in the employ of the Contractor in connection with the services rendered pursuant to this agreement.

Responsibilities of OMJWC:

1. It is the responsibility of OMJWC to determine an applicant's eligibility.
2. OMJWC will provide to the Contractor a signed letter of authorization and/or an approved Individual Training Account.
3. OMJWC will make payment to the Contractor within approximately thirty days after the receipt of an accurate invoice and any necessary supporting documentation. The Contractor, upon acceptance of final payment of the amount due under this agreement, less any credits, refunds or rebates due, shall release and forever discharge OMJWC from all pecuniary and legal liabilities, obligations and claims arising from this Agreement.

General Provisions:

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2. Termination of this Agreement may be made without cause by either party. This termination requires ten days advanced written notification.
3. This Agreement and the rights of the parties hereunder shall be governed by the laws of the State of Ohio and only Ohio courts shall have jurisdiction over any actions or proceedings concerned with this Agreement and/or performance thereunder.
4. Commissioners and OMJWC covenant that, to the best of their knowledge, no person under its employ, who presently exercises and functions or responsibilities in connection with the Contractor or projects or programs funded by the Contractor, has any personal financial interest, direct or indirect, in the Agreement. Commissioners and OMJWC further covenant that in the performance of this Agreement, no person having such conflicting interest shall knowingly be employed by the Commissioners and OMJWC. Any such interest, on the part of the Commissioners and OMJWC or its employees, when known, must be disclosed in writing to the Contractor.
5. By signing this Agreement, Commissioners and OMJWC certify that they are currently in compliance with, and will continue to adhere to the requirements of the Ohio Ethics Law as provided by Ohio Revised Code Sections 102.03 and 102.04.
6. Commissioners and OMJWC hereby certify that all applicable parties listed in Division (I)(3) or (J)(3) of Ohio Revised Code Section 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of Ohio Revised Code Section 3517.13.

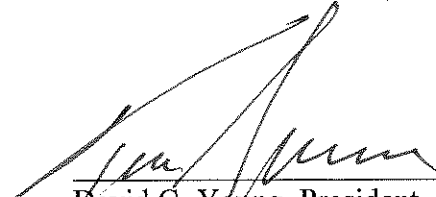
Assurances and Certifications:

1. Any patent rights, copyrights and/or rights in data resulting from this Agreement shall be the sole property of OMJWC.
2. The Contractor shall not assign any part of the Agreement without the written consent of OMJWC.
3. Attempts shall be made to resolve all disputes through an informal process among the trainee, the Contractor and OMJWC. If resolution does not occur to the satisfaction of any party, the first step is to use existing grievance procedures, if any, established by the Contractor to resolve disputes with trainees. If the Contractor has no internal grievance procedures or if the dispute remains unresolved, the parties agree to participate in and be bound by determinations resulting from OMJWC's grievance, complaint and disallowed cost resolution procedure.
4. During the performance of this Agreement, the Contractor will not discriminate against any trainee because of religion, race, political affiliation, color, sex, sexual orientation, national origin, ancestry, physical handicap, age or creed and shall not engage in any sectarian training activity.
5. The Contractor shall abide by appropriate standards for OSHA health and safety standards in training situations.
6. The Contractor assures that it is an accredited training institution which employs qualified instructors and which will comply with the local, state, federal, license and insurance requirements.
7. The Contractor will defend, indemnify, protect and save OMJWC harmless from any and all kinds of loss, claims, expenses, causes of action, costs, damages and other obligations, financial or otherwise, arising from (a) negligent, reckless or willful and wanton acts, errors or omissions by the Contractor, its agents, employees, licensees, contractors or sub-contractors; (b) the failure of the Contractor, its agents, employees, licensees, contractors, to observe the applicable standard of care in providing services pursuant to this Agreement; and (c) the intentional misconduct of the Contractor, its agents, employees, licensees, contractors, or sub-contractors that result in injury to persons or damage to property.
8. This Agreement contains the entire Agreement between the parties with respect to the subject matter thereof, and supersedes all prior written or oral Agreements between the parties. No representations, promises, understandings or Agreements, or otherwise, not herein contained shall be of any force or effect.

Signature Page

In witness whereof, the parties have executed this instrument on the date(s) indicated below:

Warren County Board of Commissioners



David G. Young, President

9/22/20
Date

Contractor




Authorized Contractor Signature

9/9/2020
Date

Valerie Beaupre Hondros College

Date

Approved as to form:



Keith Anderson, Asst. Prosecutor

9-17-2020
Date

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1325

Adopted Date September 22, 2020

APPROVE THE MODIFIED WORK ORDER TO THE ORIGINAL CONTRACT WITH THE LUSK GROUP ON BEHALF OF WARREN COUNTY TELECOMMUNICATIONS

WHEREAS, Duke Energy will install new natural gas service to the tower site and therefore the installation of a gas line in stated in the original contract is no longer needed; and


NOW THEREFORE BE IT RESOLVED, approve the modified work order to the contract with The Lusk Group to remove the install of the gas line from the original contract No.: OHGCDAGCOMA-013018-LUS on behalf of Warren County Telecommunications. Copy of modified work order is attached hereto and made a part hereof.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
c/a—The Lusk Group
Telecom (file)

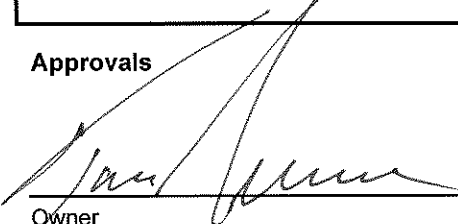
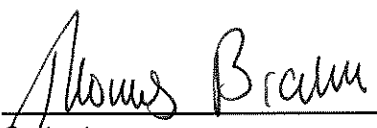
Work Order Signature Document

Sourcewell EZIQC Contract No.: OHGCDAGCOMA-013018-LUS			
<input type="checkbox"/> New Work Order		<input checked="" type="checkbox"/> Modify an Existing Work Order	
Work Order Number: 057073.02	Work Order Date: 06/05/2020		
Work Order Title: Warren County Cell Tower Storage Building Remove Gas Line			
Owner Name: Warren County Board of Commissioners - 0727	Contractor Name: The Lusk Group		
Contact: Gary Hardwick	Contact: Thomas Brausch		
Phone: 513-314-8399	Phone: (614) 239-1500		

Work to be Performed	
Work to be performed as per the Final Detailed Scope of Work Attached and as per the terms and conditions of Sourcewell EZIQC Contract No OHGCDAGCOMA-013018-LUS.	
<u>Brief Work Order Description:</u>	
Erect Storage building with gravel floor. Owner will prep building site with level pad. Provide natural gas service to building capped at exterior. No concrete floor is required. No electrical, heating, plumbing or drainage is required.	
Time of Performance	
Liquidated Damages	Will apply: <input type="checkbox"/> Will not apply: <input checked="" type="checkbox"/>

Work Order Firm Fixed Price: \$-14,042.82
Owner Purchase Order Number:

Approvals

 _____ Owner	9.22.20 _____ Date	 _____ Contractor	9/3/20 _____ Date
---	--------------------------	---	-------------------------

APPROVED AS TO FORM

Kathryn M. Horvath
Kathryn M. Horvath
 Asst. Prosecuting Attorney

Detailed Scope of Work

To: Thomas Brausch
The Lusk Group
820 S. Dixie Hwy.
Muldraugh, KY 40155
(614) 239-1500

From: Gary Hardwick
Warren County Board of Commissioners
406 Justice Drive
Lebanon, OH 45036
513-314-8399

Date Printed: June 05, 2020

Work Order Number: 057073.02

Work Order Title: Warren County Cell Tower Storage Building Remove Gas Line

Brief Scope: Erect Storage building with gravel floor. Owner will prep building site with level pad. Provide natural gas service to building capped at exterior. No concrete floor is required. No electrical, heating, plumbing or drainage is required.

Preliminary


Revised

Final

The following items detail the scope of work as discussed at the site. All requirements necessary to accomplish the items set forth below shall be considered part of this scope of work.

Scope of Work

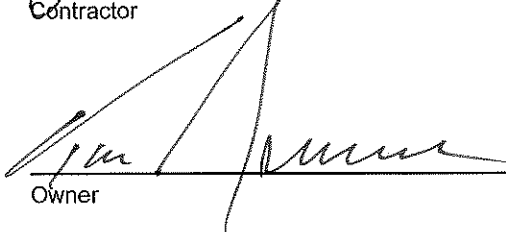
- Removal of gas line from contract.



Contractor

9/3/20

Date



Owner

9/22/20

Date

Contractor's Price Proposal - Detail

Date: June 05, 2020

Re: IQC Master Contract #: OHGCDAGCOMA-013018-LUS
 Work Order #: 057073.02
 Owner PO #:
 Title: Warren County Cell Tower Storage Building Remove Gas Line
 Contractor: The Lusk Group
 Proposal Value: -\$14,042.82

Sect.	Item	Modifier	UOM	Description	Line Total	
Labor	Equip.	Material	(Excluded if marked with an X)			
No Category Input						
1	01 22 16 00 0002		EA	Reimbursable Fees Reimbursable Fees will be paid to the contractor for eligible costs. The base cost of the Reimbursable Fee is \$1.00. Insert the appropriate quantity to adjust the base cost to the actual Reimbursable Fee (e.g. quantity of 125 = \$125.00 Reimbursable Fee). If there are multiple Reimbursable Fees, list each one separately and add a comment in the "note" block to identify the Reimbursable Fee (e.g. sidewalk closure, road cut, various permits, extended warrantee, expedited shipping costs, etc.). A copy of each receipt shall be submitted with the Price Proposal.	-\$110.00	
			Installation	Quantity Unit Price Factor Total -100.00 x 1.00 x 1.1000 = -110.00		
2	23 09 23 00 0098		EA	Wire Gas Meter (Meter installed By Others)	-\$926.54	
			Installation	Quantity Unit Price Factor Total -1.00 x 858.07 x 1.0798 = -926.54		
3	31 23 16 13 0007		CY	Excavation For Trenching By Hand In Soil Includes stockpiling excess materials and trimming sides and bottom of trench.	-\$283.73	
			Installation	Quantity Unit Price Factor Total -4.00 x 65.69 x 1.0798 = -283.73		
4	31 23 16 13 0011		CY	Backfilling or Placing Subbase for Trenches with Imported or Stockpiled Materials by Hand	-\$78.83	
			Installation	Quantity Unit Price Factor Total -4.00 x 18.25 x 1.0798 = -78.83		
5	31 23 16 13 0014		CY	Compaction of Fill or Subbase for Trenches by Hand	-\$88.89	
			Installation	Quantity Unit Price Factor Total -4.00 x 20.58 x 1.0798 = -88.89		
6	33 05 07 13 0022		LF	Up To 1-1/2" Diameter Directional Boring For Horizontal Pipe, Underground	-\$8,504.50	
			Installation	Quantity Unit Price Factor Total -1,100.00 x 7.16 x 1.0798 = -8,504.50		
7	33 05 07 24 0012		LF	1" Polyethylene Pipe Pull In Place By Boring Machine Includes pipe welding.	-\$4,050.33	
			Installation	Quantity Unit Price Factor Total -1,100.00 x 3.41 x 1.0798 = -4,050.33		

Subtotal for No Category Input align="right">**-\$14,042.82**

Proposal Total align="right">**-\$14,042.82**

This total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding.

The Percentage of NPP on this Proposal: %

Contractor's Price Proposal - Summary

Date: June 05, 2020

Re: IQC Master Contract #: OHGCDAGCOMA-013018-LUS
Work Order #: 057073.02
Owner PO #:
Title: Warren County Cell Tower Storage Building Remove Gas Line
Contractor: The Lusk Group
Proposal Value: -\$14,042.82

No Category Input -\$14,042.82

Proposal Total **-\$14,042.82**

The Percentage of NPP on this Proposal: %

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1326

Adopted Date September 22, 2020

AUTHORIZE THE VICE PRESIDENT OF THE BOARD TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH TRIMBLE WATER ON BEHALF OF THE WARREN COUNTY WATER AND SEWER DEPARTMENT FOR A TRIMBLE UNITY CELLULAR REMOTE MONITORING SUBSCRIPTION

BE IT RESOLVED, to approve and authorize the Vice President of the Board to enter into a Professional Services Agreement with Trimble Water on behalf of the Warren County Water and Sewer Department for a Trimble Unity Cellular Remote Monitoring Subscription, copy of said professional services agreement attached hereto and made a part hereof.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS


Laura Lander, Deputy Clerk

mbz

cc: c/a—Trimble Water
Water/Sewer (file)

SALES QUOTATION

Quote Number 00005679



Your order quotation

Thank you for choosing Trimble Water

Account Name	Warren County Water and Sewer	Created Date	7/20/2020
Ship To	USA	Expiration Date	10/18/2020
Main Contact	Don Brewer	Bill To	406 Justice Dr Lebanon, OH 45036 USA
		Main Contact Email	donald.brewer@co.warren.oh.us
		Address	
		Main Contact Phone	(513) 695-4748

Notes/Additional Terms License period: 7/20/20 - 7/19/21
 SN: 01191215, 28180267, 21922028, 13191725, 01191216, 28180268

Quote Line Items

Product Code	Product	Sales Price	Quantity	Total Price
TW-UNITY-RMBC-SS	Trimble Unity – Remote Monitoring Basic Subscription - Cellular (32/33/35 Series Plan)	USD 240.00	6.00	USD 1,440.00

Total Price USD 1,440.00

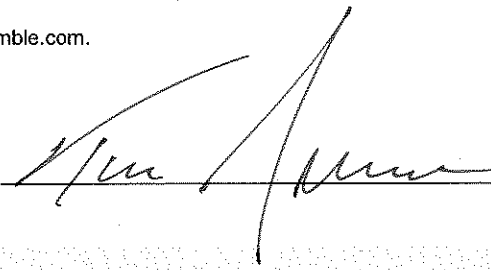
Quotation & Shipping Terms

Payment Terms Net 30 Days

- Customer is responsible for shipping charges to destination and charges will be added at the time of shipment. If an estimate of the freight charge is required contact Trimble Water Inside sales at the email below.
 - Applicable taxes will be added to the order and invoice following booking of the order. If you have any questions contact Trimble Water Inside sales at the email below.
- Email Contact: TrimbleWater_InsideSales@trimble.com.

Prepared By Benjamin Maus

To accept this quotation, sign here and return:



Terms and Conditions of Sale

The Trimble Water Terms and Conditions of Sale are located [here](#).

THANK YOU FOR YOUR BUSINESS!

Trimble Inc.
 935 Stewart Drive
 Sunnyvale, CA 94085

Email: trimblewater_insidessales@trimble.com
 Website: www.trimblewater.com



SALES QUOTATION

Quote Number 00005679

Trimble Inc.
935 Stewart Drive
Sunnyvale, CA 94085

Email: trimblewater_insidesales@trimble.com
Website: www.trimblewater.com





GENERAL TERMS & CONDITIONS OF SALE

This Agreement establishes the terms and conditions under which Trimble will sell and Company will purchase Trimble Products and Software. This Agreement consists of the terms set forth below along with the following attached Exhibit(s):

- Exhibit A: Trimble Unity Online Service - Terms of Service & License Agreement
- Exhibit B: Additional Terms and Conditions for the Use of Products Provided by or Including Software, Products or Services of Aquarius Spectrum Ltd.
- Exhibit C: Modem TECHNOLOGY ASSURANCE PLAN ADDENDUM
- Exhibit D: Professional Services Agreement

Subject to the terms of any other applicable written agreement you ("you" or "Company") have with Trimble Inc. or any other Trimble Inc. affiliate (collectively, "Trimble"), Trimble's sale of Products and provision of Software are governed by these terms and conditions of sale ("Terms"). These Terms include the Basic Order Terms (defined below) specified on an order accepted by us. "Trimble", "we" or "us" means Trimble Inc or its affiliate identified on our order acknowledgment. Every order you place with us is conditioned upon and confirms your acceptance of these Terms.

Any contrary terms or conditions appearing on your orders or associated purchase documentation will be of no effect. No waiver, modification, or addition to these Terms, or any assignment of your rights or obligations under them is valid or binding on us unless in writing and signed by our authorized representative.

These Terms and the other applicable agreements you enter into with Trimble constitute the entire agreement between you and Trimble for your purchase and use of Products and Software. Each accepted order will be interpreted as a single set of Terms, independent of other orders.

All Exhibits and schedules hereto are an integral part of this agreement and are deemed incorporated by reference herein.

1. **Definitions.** "**Products**" means hardware products provided hereunder. "**Software**" means any software, library, utility, tool, or other computer or program code, in object (binary) or source-code form, as well as the related documentation, provided by Trimble to you. Software includes Product firmware, software locally installed on your systems and software accessed by you through the Internet or other remote means (such as websites, portals, software-as-a-service ("SaaS") and "cloud-based" solutions). "**Services**" means any services provided by Trimble as described in one or more Service Agreements. "**Service Agreements**" are service contracts such as for support & maintenance or professional services, "Statements of Work," and any other such mutually agreed upon documents. These Terms do not apply to Service Agreements which have their own terms and conditions.



2. General.

- 2.1 Quotes, Validity of Orders:** Our quotations are non-binding unless otherwise expressly stipulated in writing. Orders are accepted as valid and binding only when confirmed by us in writing. The accepted and acknowledged Orders identify the Trimble contracting entity.
- 2.2 Basic Order Terms:** All orders must include the following information: (i) the Products and Software ordered and quantities, (ii) Trimble part number(s), (iii) prices, and (iv) delivery instructions, (collectively, **"Basic Order Terms"**). All Basic Order Terms are fixed and final upon our acceptance of the order.
- 2.3 Software Licenses.** All Software is licensed or provided as a service and is not sold. Software is subject to the separate agreements provided by Trimble in connection with the Software, including but not limited to any software licenses, product guides, operating manuals or other documentation (such as an End User License Agreement ("**EULA**"), Terms of Use or Terms of Service) (collectively, **"User Agreements"**). You agree that you will be bound by such User Agreements. If there is a conflict or inconsistency between these Terms and those of a User Agreement, the terms of the User Agreement will control. If a User Agreement or other license terms do not accompany Software included with a Product or Service, then Trimble hereby grants you a personal, non-exclusive, revocable, non-assignable right to access and use such Software solely as necessary for you to enjoy the benefit of the Product or Service. Nothing in these Terms shall be construed to grant any rights or license to use any Software in any manner or for any purpose not expressly permitted by the applicable User Agreement.
- 2.4 Modem Technology Assurance Plan:** If you have purchased a Modem Technology Assurance Plan ("**MTAP**") for one or more of your Recording Telemetry Units ("**RTUs**"), then your MTAP is subject to these Terms and the Modem Technology Assurance Plan Addendum, as attached in Exhibit D.
- 2.5 Third Party Products:** Trimble may sell Products that are provided by third parties, either on a standalone basis or in combination with software or services provided by Trimble, Trimble or a third party. Additional terms applicable to certain third-party Products are attached as an Exhibit and incorporated into these General Terms & Conditions by this reference.
- 2.6 Order Cancellation:** If you cancel an accepted order for Products or Software which has/have been specially produced, configured or customized for your use then we are entitled to claim reasonable compensation (up to the full amount of the order) for expenses (including labor, parts and materials costs) actually incurred.

3. Delivery.

- 3.1 Delivery time:** Delivery times are established when Trimble accepts your order in writing. We will use commercially reasonable efforts to meet your requested delivery dates, unless you are in default under these Terms or our performance is otherwise excused. We are not liable for late or delayed delivery. Late delivery is not a basis for your cancellation of any order.
- 3.2 Delivery terms:** Title and risk of loss or damage to Products passes to you when we deliver the Products to the shipping carrier ("**Delivery**"). Unless otherwise agreed, we will deliver the Product freight prepaid, provided that you pay or reimburse us for all applicable costs of



carriage, freight, insurance (if applicable), taxes, duty and other related shipping charges. We have the right to make partial deliveries. Software may be delivered electronically at Trimble's option. Title to the Software will remain with Trimble or its licensors.

3.3 Delivery & Shipping terms: Delivery of the Products will be made on an FCA (Incoterms 2010) seller's facility basis. Title and risk of loss or damage to the Products covered by these Supplemental Terms will pass to you when we deliver the Products to the shipping carrier at our facility dock ("**Delivery**"). Unless otherwise agreed, we will deliver the Product freight prepaid, provided that you pay or reimburse us for all applicable costs of carriage, freight, insurance (if applicable), taxes, duty and other related shipping charges. We have the right to make partial deliveries. Software may be delivered electronically at our option. Title to the Software will remain with us or our licensors.

4. Acceptance, Inspection, Notice of Nonconformance:

4.1 Your acceptance of ordered Products is deemed to occur upon our Delivery of the Products to the shipping carrier. Your acceptance of ordered Software is deemed to occur when the Software is activated or otherwise made available for your access or use, whichever date is earlier. You are responsible for giving prompt written notice of identified damage or nonconformance of Products. You must inspect the condition of the packaging and the Products upon receipt and indicate any evident damage to the carrier on the delivery note, have the carrier's agent sign the document and, within two (2) days of receipt of the damaged or non-conforming Products, send all documents by e-mail or fax to our facility from which shipment took place, together with the carrier's references. Concealed Product damage claims must be made by you to the carrier directly and you must also provide us with written notice and a copy of any such claim within 10 days of receipt of the affected Products. Likewise you must notify us within 10 days of receipt of incorrect Products. If you retain the Product without giving notice within the designated notice period, you will be deemed to have waived your right to reject the Product.

4.2 If you cancel an accepted Product order within 10 days prior to shipment or reject conforming Products received under an accepted order, we are entitled to claim reasonable compensation for restocking and other expenses actually incurred.

5. Return of Product: All Product returns are subject to our prior written consent and must comply with our product return (RMA) procedures then in effect. (For general information log on to <http://support.trimble.com> and submit a support case detailing your question.) Before returning or exchanging a Product, you must contact us directly to obtain an authorization number to include with your return. You must return Products to us in their original or equivalent packaging, and you are responsible for risk of loss, as well as shipping fees back to Trimble. Products which have been deployed in the field must be cleaned and disinfected and accompanied by a certificate of cleaning in compliance with our RMA procedures. Products received but not eligible for return will be sent back to you freight collect. For approved returns you will receive credit equal to the lesser of the Product's invoice price or its current replacement value, less any applicable charges or fees.

6. Pricing, Terms of Payment, Taxes:



6.1 Unless we state otherwise in writing, payment terms are net 30 days from our invoice date. You will make payment in the currency indicated on the invoice. We are entitled to offset payments against prior debt balances in your account. Products, Software or Services purchased or licensed under our United States General Services Administration ("**GSA**") Schedules are subject to all of the pricing and other terms and conditions described in the applicable GSA Schedule.

6.2 We reserve the right to charge interest on all overdue sums owing to us under these Terms at the rate of 1.5% per month (or the highest legal limit if lower than said amount), measured from the date the sums in question became payable to the date on which we receive full payment.

6.3 You grant us a purchase money security interest in each Product delivered to you until payment is made in full to us for such Products. Upon request, you will cooperate with us in perfecting any such security interest.

6.4 You are liable for any costs incurred by us if you change or cancel any order.

6.5 Our stated prices for Products and Software do not include applicable sales taxes, Value Added Tax, export or import charges, transportation or insurance charges, customs and duty fees, personal property taxes or similar charges, all of which are your responsibility to pay. Unless you provide us with direct payment authority or an exemption certificate valid in the jurisdiction to which the Product will be delivered, you shall pay us all taxes and governmental fees we are required to collect or pay upon sale or delivery of the Product.

6.6 Additional Payment Terms for SaaS Service Subscriptions; Fixed Subscription Periods; Fees

6.6.1 Software-as-a-Service Subscription Plan Options. Service subscriptions to Software-as-a-Service ("**Service Subscriptions**") are sold and distributed under various service plan options (the "**Service Plan(s)**") that, for example, offer different subscription periods and prices, or different license, user and geographical restrictions. Your use of such Software will be subject to the Service Plan option conditions applicable to the Service Subscription(s) you purchase or otherwise acquire. **Additionally, you acknowledge and agree that if a Service Plan to which you have subscribed is "unbundled", (meaning that your Service Subscription does not come with pre-paid communications carrier services arranged and provided for by Trimble), Trimble is not, and you are solely responsible for the terms, conditions and obligations (payment and otherwise) arising from agreements between you and any communications carrier and your use of communications carrier services in connection with the Software service, including without limitation, any wireless data overage charges resulting from your use of a public network connection.**

6.6.2 Fixed Service Subscription Period and Renewal. Unless otherwise specified in your particular Service Plan,

Service Subscriptions are contracted on an annual basis for a fixed term of 12 months (each, a "**Service Subscription Period**"). Your initial Service Subscription Period commences on the earlier of the date of purchase of your Service Subscription or the date of service activation. Applicable service fee charges are due and payable in advance, either annually or monthly, depending upon the payment terms specified for the Service Subscription.

All charges payable on a monthly basis will be billed in the current month. Charges for additional Service Subscriptions or seats purchased by you and activated during any Service Subscription Period may be prorated to allow Trimble to bill for all of your Service Subscriptions on the same date. If Trimble authorizes you to pay the fees via credit card, you authorize Trimble to charge the credit card in accordance with your Subscription Plan, and you must maintain current credit card information with Trimble at all times. If your



payment is 30 days or more overdue, in addition to any of its other rights or remedies, Trimble reserves the right to suspend your access to the Software service.

At expiration of any Service Subscription Period, your Service Subscription will automatically renew for a new 12 month fixed term unless you directly cancel that Service Subscription electronically prior to renewal or otherwise notify Trimble in writing of your intention to cancel your Service Subscription no less than 30 days prior to expiration of the then current Service Subscription Period. Subject to any contrary terms appearing in the User Agreement associated with the particular SaaS service offering, monthly and annual contracts cancelled in the Trimble store are cancelled immediately with no refunds for any unused period.

Fee Adjustments. Trimble may increase the fees it charges for its Service Subscriptions at any time, but any increase in the fees will not take effect until the beginning of your next Service Subscription Period. Your continued use of the Subscription Services following such a pricing increase will constitute confirmation of your acceptance of the pricing increase, unless you notify Trimble in writing within 30 days thereof that you do not accept the additional charges. In such case, the pricing in effect at the time of your purchase or last renewal of the Service Subscription (whichever is later) will remain in effect through the remainder of the then current Service Subscription Period, unless Trimble, at its option, exercises its right to terminate your Service Subscription(s) in accordance with the User Agreement associated with the Software service to which you have subscribed.

7. Limited Warranty:

7.1 Products and Software: Unless (i) the limited warranty included with a Product or (ii) the User Agreement accompanying any Software grants you different rights or disclaims all warranties, we warrant to you, and only to you, as applicable, (a) that our Products are designed and manufactured to conform to our specifications and will be free from defects in material and workmanship for a period of 12 months from date of Delivery, and (b) that our Software will substantially conform to the functional specifications and current documentation provided by Trimble for a period of 90 days. During the warranty period, our liability and your exclusive remedy is limited, at Trimble's option, to replacing, repairing, correcting, or issuing credit for any Product or Software subject to the warranty in this Section 7.1, which upon inspection we determine is nonconforming.

7.2 Warranty Exclusions: The foregoing limited warranty only applies if and to the extent that (a) the Product or Software is properly and correctly installed, configured, interfaced, maintained, stored, and operated in accordance with our applicable documentation and specifications, and (b) the Product or Software is not modified or misused. This limited warranty does not apply to, and we are not responsible for defects or performance problems resulting from (i) the combination or use of the Product or Software with hardware or software products, information, data, systems, interfaces or devices not made, supplied or specified by us; (ii) operating the Product or Software under any specification other than, or in addition to, our standard specifications for them; (iii) the unauthorized installation, modification, repair or use of the Product or Software; (iv) damage caused by accident, lightning or other electrical discharge, fresh or salt water immersion or spray (outside Product specifications); or exposure to environmental conditions for which the Product or Software is not intended; (v) normal wear and tear on consumable parts (e.g., batteries) or (vi) cosmetic damage. We do not warrant or guarantee the results obtained through the use of the Product or Software. **WE MAKE NO WARRANTIES UNDER THESE TERMS WITH RESPECT TO SERVICES, WHICH IF PROVIDED HEREUNDER ARE PROVIDED "AS-IS".**

NOTICE REGARDING PRODUCTS EQUIPPED WITH SATELLITE OR WIRELESS TECHNOLOGY. Your use of certain Products and Software is dependent on the availability and coverage of wireless networks, telecommunications networks, satellite positioning systems and the Internet, which involve facilities owned



and operated by third parties. WE ARE NOT RESPONSIBLE FOR THE OPERATION, AVAILABILITY OR FAILURE OF SUCH THIRD PARTY SYSTEMS OR FACILITIES.

7.3 WARRANTY DISCLAIMER: THE FOREGOING LIMITED WARRANTY TERMS ARE IN LIEU OF ALL OBLIGATIONS OR LIABILITIES ON OUR PART ARISING OUT OF, OR IN CONNECTION WITH, OUR PRODUCTS AND SOFTWARE AND STATE OUR ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDIES RELATING TO THEM. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THESE TERMS, THE PRODUCTS AND SOFTWARE AND ANY ACCOMPANYING DOCUMENTATION ARE PROVIDED "AS-IS" AND WITHOUT EXPRESS OR IMPLIED WARRANTY OR CONDITION OF ANY KIND, EITHER BY US OR ANYONE WHO HAS BEEN INVOLVED IN ITS CREATION, PRODUCTION, INSTALLATION, OR DISTRIBUTION, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE, AND NONINFRINGEMENT. ADDITIONALLY, WE MAKE NO EXPRESS OR IMPLIED WARRANTY THAT SOFTWARE PROVIDED TO YOU IN CONNECTION WITH THESE TERMS, IS OR WILL BE SECURE, ACCURATE, COMPLETE, UNINTERRUPTED, FREE OF ERRORS, OR FREE OF VIRUSES, OR OTHER MALWARE OR PROGRAM LIMITATIONS. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON DURATION OR THE

EXCLUSION OF AN IMPLIED WARRANTY, SO THE ABOVE LIMITATION MAY NOT APPLY OR FULLY APPLY TO YOU. IF YOU ARE A RESELLER OF THE PRODUCTS OR SOFTWARE YOU SHALL NOT MAKE OR PASS ON TO YOUR OWN CUSTOMERS ANY WARRANTY, CONDITION OR REPRESENTATION ON BEHALF OF US OTHER THAN, OR INCONSISTENT WITH, THE APPLICABLE LIMITED WARRANTY IN THE PRODUCTS AND SOFTWARE PROVIDED TO YOU.

PLEASE NOTE: THE ABOVE LIMITED WARRANTY PROVISIONS WILL NOT APPLY TO PRODUCTS YOU PURCHASE IN THOSE JURISDICTIONS IN WHICH PRODUCT WARRANTIES ARE THE RESPONSIBILITY OF THE LOCAL DISTRIBUTOR FROM WHOM THE PRODUCTS ARE ACQUIRED. IN SUCH CASE, PLEASE CONTACT YOUR TRIMBLE PRODUCT DEALER FOR APPLICABLE WARRANTY INFORMATION.

8. Warranty Procedures:

8.1 Warranty Repair Procedure: If any Product fails during the warranty period for reasons covered by our limited warranty and you notify us of such failure during the warranty period, we will at our option repair or replace a nonconforming Product with new, equivalent to new, or reconditioned parts or Product or, if either of the foregoing is commercially impractical in Trimble's determination, refund the Product purchase price you paid (excluding separate costs of installation, if any) upon your return of the Product in accordance with our product return procedures as referenced in Section 5 above. Any repaired or replaced Product will be warranted for a period of 30 days or the remainder of the original warranty period, whichever is longer. We may, in our sole discretion, arrange for fulfillment of our warranty obligations through a Trimble affiliate, authorized distributor or an authorized warranty service center.

8.2 Determination of Warranty Applicability: We reserve the right to refuse warranty services if the Product or Software date of purchase cannot be proven, if a claim is made outside the warranty period or if a claim is excluded under Section 7.2 above. Following our examination of your claim, we will notify you of warranty status and the repair cost of any out-of-warranty Product. At such time you must issue a valid purchase order to cover cost of the non-warranted Product repair and return freight, or authorize return shipment of the Product at your expense as-is.

8.3 Not Responsible for Lost Data. We are not responsible for any modification or damage to, or loss of any programs, data, or other information stored on any media or any part of any Product serviced by us, or stored or hosted by us in connection with a Software service we provide, or for the consequence of such damage or loss, (such as business loss in the event of system, program or data



failure.) You are solely responsible for backing up data and removing all features, parts, alterations, and attachments not covered by warranty prior to releasing the Product to Trimble for service or seeking Software support. Any Product or Software sent to Trimble for support may be returned to you configured as originally provided to you by Trimble.

9. LIMITATION OF LIABILITY: OUR ENTIRE LIABILITY FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THESE TERMS IS LIMITED TO THE AMOUNTS YOU ACTUALLY PAID TO US UNDER THE TERMS. FURTHER, NEITHER WE NOR OUR SUPPLIERS ARE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE DAMAGES OR OTHER DAMAGES, OR LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF DATA, LOSS OF USE OF THE PRODUCTS OR SOFTWARE OR ANY ASSOCIATED EQUIPMENT, COSTS OF COVER, DOWNTIME AND USER TIME OR FOR BREACH OF ANY EXPRESS OR IMPLIED WARRANTY OR CONDITIONS, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL THEORY RELATED TO THE PRODUCTS OR SOFTWARE. EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, ANY IMPLIED WARRANTY OF SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE APPLYING TO THE PRODUCTS OR SOFTWARE IS LIMITED IN DURATION TO THE DURATION OF THE WARRANTY SPECIFIED IN SECTION 7, ABOVE. YOU AND WE AGREE THAT THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR TRIMBLE'S SALE OF PRODUCTS TO YOU, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL, CONSEQUENTIAL OR SPECIFIED OTHER DAMAGES, OR ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY, OR MAY NOT FULLY APPLY TO YOU.

10. Intellectual Property Ownership: You agree that Trimble owns all right, title and interest to all intellectual property and other proprietary rights to documents and materials, calculations, drawings, models, plans, sets of tools, technology, software, designs, engineering details, schematics and similar data relating to or incorporated in the Products and Software and any accompanying documentation or information derived from the foregoing. You shall take reasonable precautions to prevent unauthorized access and use of the Software and documentation by third parties. To the extent permitted by relevant law, you shall not, nor allow any third party to copy, decompile, disassemble or otherwise reverse engineer the Products or Software, or attempt to do so. You are prohibited from, and shall prevent any third party from, removing, covering or altering any of our patent, copyright or trademark notices placed upon, embedded in or displayed by the Products or Software or their packaging and related materials. We reserve all rights in the Products and Software not specifically granted to you under these Terms.

11. Government End Users-Restricted Rights. The Software and its associated documentation are "commercial items" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 12.227.7202-1 through 227.7202-4, all U.S. Government end users acquire the software and documentation with only those rights set forth in the User Agreement for such Software.

12. Export Control: You are responsible for complying with all applicable export and import regulations and obtaining all necessary export and import licenses or permits for the direct or indirect export or import



of any Product. Without limiting the generality of the foregoing, you hereby acknowledge and agree that these commodities, technology, software, products, and/or proprietary information were exported from the United States in accordance with the Export Administration Regulations. In the exercise of your rights, and the performance of your obligations under this Agreement, you shall comply strictly with all U.S. export control laws and regulations applicable to the Products and Trimble proprietary information, and shall not export, re-export, transfer, divert or disclose any such Products or proprietary information, or any direct product thereof, to any destination restricted or prohibited by U.S. export control laws, or to any national or resident thereof. Customer's failure to comply with any term of this paragraph shall constitute a material breach of these Terms and entitle Trimble to immediately terminate this agreement for your purchase and use of Products and/or Software in addition to any other remedy available at law or equity.

13. Default: We reserve the right by written notice of default to cancel or indefinitely suspend an accepted order and to refuse additional orders if: (i) you default in performing your obligations under these Terms, (ii) you cease business operations or enter into any bankruptcy, insolvency, receivership or like proceeding not dismissed within 30 days, or assign your assets for the benefit of creditors, or (iii) when obtaining third-party financing in connection with your Product purchase(s) you fail to do so in a timely manner on terms satisfactory to us.

14. Applicable law - Settlement of Disputes:

If Buyer purchases the Products from and through Trimble Inc. then these Terms will be governed by and construed in accordance with the laws of the State of Ohio and applicable United States federal law, without reference to "conflicts of laws" provisions or principles. The parties hereby consent and agree to the exclusive jurisdiction of, and venue in, the state and federal courts located in the County of Warren County, Ohio.

If Buyer purchases the Products from and through Trimble Europe B.V. then these Terms will be governed by and construed in accordance with the laws of The Netherlands, without reference to "conflicts of laws" provisions or principles. Any dispute, controversy or claim relating to this Agreement, and any subsequent amendments of this Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, will be finally determined by arbitration conducted in accordance with the Rules of Arbitration of the International Chamber of Commerce applicable to commercial disputes by a single arbitrator who will be (A) fluent in written and spoken English; and (B) skilled and experienced in software and software licensing. The place of such arbitration will be in Amsterdam, the Netherlands or such other place mutually agreed to by the Parties. The sole and exclusive language of arbitration will be English. The judgment of the arbitration will be final, non-appealable (to the extent not inconsistent with applicable law) and binding upon the Parties, and judgment may be entered upon the arbitral award in any court of competent jurisdiction. The arbiter will issue a written opinion setting forth the arbiter's decision and the reasons therefor within 30 days after the arbitration proceeding is concluded.

The United Nations Convention on Contracts for the International Sale of Goods shall not apply. No dispute or legal action arising under this Agreement, may be brought by either party more than one (1) year after such cause of action accrued, except that an action for nonpayment may be brought within two (2) years of the date of the last payment.

15. Severability: These Terms may be severable and the invalidity, illegality or unenforceability in whole or in part of any provision does not affect the validity of other provisions.



16. Force Majeure: Neither party will be liable for non-performance (except for payment obligations) due to causes beyond its reasonable control, provided that such party promptly notifies the other in writing of such occurrence and makes its best efforts to promptly eliminate the effect thereof.

17. Privacy: Protecting users' privacy is very important to Trimble. You acknowledge the terms of the Trimble's Privacy Policy, located at <http://www.trimble.com/privacy.aspx> or a successor url, which is hereby incorporated by reference, and which may be updated from time to time and without notice. Information collected by Trimble in connection with your license and/or use of the Software may be stored and processed in the United States or any other country in which Trimble or its agents maintain facilities. Accordingly, by using the Software you consent to any transfer of such information outside of your country. You acknowledge and agree that Trimble may access, preserve, and disclose your account information if required to do so by law or in a good faith belief that such access preservation or disclosure is reasonably necessary to: (a) satisfy any applicable law, regulation, legal process or governmental request; (b) enforce this Agreement, including investigation of potential violations hereof; (c) detect, prevent, or otherwise address fraud, security or technical issues (including, without limitation, the filtering of spam); (d) respond to user support requests; or (e) protect the rights, property or safety of Trimble, its users, and the public. Trimble will not be responsible or liable for the exercise or non-exercise of rights under this Agreement.

18. Notices:

Any notice which may be or is required to be given under this Agreement will be in writing, and will be deemed to have been received: a) when delivered personally, b) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or c) one (1) day after having been sent by a commercial overnight carrier with written verification of receipt. Either Party may change its notice address by written notice to the other Party. All notices hereunder will be addressed as follows (or as subsequently noticed to the other Party):

Trimble:

Trimble Inc.
Attn: General Counsel - Legal Notice
935 Stewart Drive
Sunnyvale, CA 94085
United States of America

Warren County Board of County Commissioners
C/O County Administrator
406 Justice Drive
Lebanon, Ohio 45036

19. Waste Electrical & Electronic Equipment (WEEE): If the Products are furnished to you as component products on an OEM basis, or for import, resale or distribution to third parties, then you agree that you qualify as, and are deemed the "producer" of all such Products under any laws, regulations or other statutory scheme providing for the marking, collection, recycling, take-back, and/or disposal of electrical



and electronic equipment (“**WEEE Regulations**”) in any jurisdiction whatsoever, (e.g., national laws implementing EU Directive 2012/19 on waste electrical and electronic equipment, recast), and are solely responsible for complying with all such applicable WEEE Regulations in connection with those Products and for all associated costs.

20. Official Language: The official language of these Terms is English. If there is a conflict between versions of these Terms in any other language, the English language version controls.

Exhibit A

Trimble Unity Online Service - Terms of Service & License Agreement

Trimble Unity Online Service Terms of Service & License Agreement

These are the general terms and conditions and end user license agreement (collectively, the “**Terms of Service**” or “**TOS**”) that apply to the software and/or software based services accessible via the Internet (the



"Services") proprietary to Trimble Inc. and its affiliates ("Trimble", "we" or "us") and offered and made available, among potential other means, through Trimble portals (the "Sites") to businesses and professionals.

You, an individual or a single company or legal entity and the personnel associated with your business (collectively, "you" or "Customer"), will be granted access to use the "Service" for your internal business purposes, conditioned upon your purchase of one or more Service subscription(s) (each a "Service Subscription"), which may allow a user to access the Service and/or a Device (as defined below) to connect to the Service, and your acceptance of these TOS. If you are agreeing to these TOS on behalf of a company or other legal entity, you represent that you have the authority to contractually bind such entity and its personnel.

Whether you purchase or obtain your Service Subscription(s) directly from Trimble through one of our Sites, or indirectly from an authorized vendor of the Services, **BY SIGNING AN AGREEMENT REFERENCING THIS TOS AND/OR CLICKING ON "OK," "ACCEPT," "AGREE," "SUBMIT" OR ANY BUTTON INDICATING ACCEPTANCE OF THE TOS AND/OR BY ACCESSING OR USING THE SERVICE OR THE SITE, YOU REPRESENT THAT YOU ARE AUTHORIZED TO USE SERVICE AND THAT YOU AGREE TO BE BOUND BY THE CURRENTLY POSTED TOS.** FURTHER, SUBJECT TO SECTION 8.1 BELOW, YOUR CONTINUED USE OF THE SERVICE FOLLOWING THE POSTING OF ANY CHANGES TO THE TOS AND WILL CONFIRM YOUR ACCEPTANCE OF THOSE CHANGES. These Terms of Service constitute a binding, legal agreement between you and Trimble and are intended to have the same force and affect as if you had signed them.

USE OF THE SERVICE AND THE SITE ARE OFFERED TO YOU CONDITIONED UPON YOUR ACCEPTANCE OF THE TOS WITHOUT ANY MODIFICATIONS. THE TOS CONTAINS DISCLAIMERS OF WARRANTIES AND LIABILITY (See Sections 5.4, 10, 11, 12 and 15.1 below). THESE PROVISIONS FORM AN ESSENTIAL PART OF OUR BARGAIN.

A current copy of the TOS can be accessed and viewed at any time from the home page of the Site. We recommend that you download or print and retain copies of the TOS for your records. If you do not agree to the TOS, you agree not to use or access the Service or the Site nor are you authorized to do so.

Terms of Service & License Agreement

1. Application Services

1.1 General Description. The Service is an application software-based service. The Service application software is designed to gather and process data and information ("Data") that you may actively import to the Service and/or that may be automatically transferred from mobile devices, such as from mobile phones, tablet computers, telematics sensors, modules and equipment, etc., ("Devices") that you cause to be activated to be connected to the Service. After activation of a Service Subscription, the Service will be provided to you and your Authorized Users and the Data will be accessible to you and your Authorized Users (defined in Section 3) with content, functionality, reports and services, as may be changed from time to time. Service Subscriptions require Service activation. To have the Service activated you must (i) accept the payment terms and conditions applicable to your Service Subscription, (ii) accept these TOS, and (iii) consent to the transmission and use of the Data generated from your Devices as further described in Section 7.1 below.

The Service may be offered under a variety of Service Subscription plans ("Service Plans"). Any service is subject to additional terms and conditions that can be found under this link <https://www.trimble.com/support/SoftwareSSMTerms> or is contained in other ordering documentation.

The availability of the Service may be affected, inter alia, by planned and unplanned maintenance periods, technology upgrades and as otherwise set forth in these TOS or any description of the Service.



1.2 Third Party Communications Systems

Some features of the Service may require use of a third party communications system, such as that of Internet access, wireless or a satellite-based communication system (each, a "**Communications Service**"). UNLESS THE COMMUNICATION SERVICE IS EXPLICITLY MADE PART OF A SERVICE PLAN, CUSTOMER SHALL PURCHASE THESE COMMUNICATION SERVICES. TRIMBLE HAS NO RESPONSIBILITY FOR THE AVAILABILITY, QUALITY OR PERFORMANCE OF WIRELESS OR SATELLITE-BASED COMMUNICATIONS SERVICES OR EQUIPMENT FURNISHED BY THE COMMUNICATION CARRIERS. THE COMMUNICATIONS CARRIERS ARE EXCLUSIVELY RESPONSIBLE FOR SUCH SERVICES AND EQUIPMENT.

1.3 Data Exchange and Third Party Interfaces

The Service may permit the communication, transfer and exchange of data between the Service and certain third-party manufactured devices or systems. Trimble does not exercise control over the form or quality of data generated or transmitted by or to third-party manufactured assets, devices or other third-party developed solutions such as custom reports or interfaces (collectively, "**Third-Party Data**"). Therefore, if your Services Subscription permits use of the Service data exchange component you understand and agree to the following:

- Data may only be exchanged between the Service application and third-party manufactured assets, devices or systems approved for use with the Service by Trimble;
- Even though Trimble may have approved such use, Third Party Data may not be in a format that may be processed in the Service, and Data may not be in the format to be processed on the third party assets, devices, or systems, and usability or visualization of the data may be impaired.
- Trimble is not responsible for the quality or accuracy of, or the ability to receive, access or use Third-Party Data that may be reported into the Services or Data exported to or through third party manufactured devices or systems or other third party solutions (e.g., custom reports or interfaces), whether a deficiency is due to third-party caused service outages, third-party software interface incompatibilities or failures, or otherwise;
- Trimble may reasonably screen all Third Party Data transmitted to and from the Service for viruses and other threats and abuse, and may stop or block any Third Party Data that Trimble believes may adversely affect performance of the Service.

2. Nature of Application & Hosting

The Service is hosted by or on behalf of Trimble and includes the Service application software the use and access to which is licensed under Section 5 below, and third party software or services (to the extent permitted by the third party suppliers) ("**Third Party Software/Services**"). The Service also may interact with software, which may include firmware, programs or apps run on your Devices ("**Software**"). Via the Site, we may make available software or data services of third party suppliers ("**Third Party Suppliers**"). Additional terms of Third Party Suppliers are set forth in Section 22, and you agree they apply to and govern your use of the Third Party Software/Services. Trimble will use reasonable endeavors to inform you on any changes to these flow down terms in electronic means by posting any updated terms from Third Party Suppliers in the FAQ section of the Service. You acknowledge that the Data and the Service may be transmitted through networks and signals that are not specifically protected or encrypted and where third party interception may be possible. You consent to such transmission and waive any claims that you may have against us with respect to such transmission. Subject to the specifics of the Services Subscription and the Service Plan you may make the Service available to Authorized Users on the basis of several factors including, without limitation, Web access, computer use, assets, operating system, Devices activated and maintained by you, username, password and/or other factors. The Service is subject to modification from time to time as further described in Section 8 below, and by accessing or using the Service and the Site, You consent to our adding, changing or removing any services made available in conjunction with or through them.

3. Authorized Users and Use; Limitations.



- 3.1 Authorized Users. You agree that the Service will be accessed and used only by you. For that purpose you may designate authorized users whom you authorize to access and use the Service ("**Authorized User**"), always provided that you have purchased a sufficient number of Services Subscriptions for the Authorized Users or Devices connecting to the Services. You agree that the access credential of one Authorized User can only be used by that Authorized User and you have to assure that the access credentials of one Authorized User only be used by this Authorized User and no other person. Point of delivery for the Service is the Site and, unless Service Plan explicitly entails connection to the Site, connecting to and accessing the Service through Devices and computers is within your sole responsibility, regardless of the nature of such connection. We are not responsible for the network connection or for issues, problems or conditions arising from or related to the network connection, including but not limited to bandwidth issues, network outages, firewalls and/or other conditions that are caused by the Web and/or network connection.
- 3.2 Limitations on Use. Transmission of information using a Device may be subject to legal requirements that may vary from location to location, including radiofrequency use authorization. You must limit use of any Device to those locations where all legal requirements for the use of the Device and the Service communication network have been satisfied. In the event that a Device is used at a location where (i) legal requirements are not satisfied or (ii) transmitting or processing of such information across multiple locations would not be legal, we disclaim any and all liability related to such failure to comply and Trimble may discontinue the transmission of information from that Asset. **You also understand and acknowledge that the Service is not intended to be the sole method for notification or providing information about any emergency, mission critical, safety-related or other ultra-hazardous activities and you shall not use the Service in that manner.**

4. Registration; Payment

- 4.1 Customer Account. In order to log on to the Site and use the Service, an account for you will be created and activated and you may create access credentials or connections for you and Authorized Users and Devices, always subject to you purchasing the sufficient number of Service Subscriptions. In the process of creating the account and access credentials, you will be asked to provide Trimble with true, accurate, current and complete registration information in relation to you and your Authorized Users and to update such information as necessary. Without prejudice to the other rights and remedies as provided by law, we have the right to suspend or terminate your or the Authorized User's right to access and use the Service if we have reasonable grounds to suspect that any information provided in relation to you or an Authorized User is inaccurate, incomplete or untrue.
- 4.2 Site Access & Password; Security. You are responsible for maintaining, and you shall cause all Authorized Users to maintain, the confidentiality of your and your Authorized Users' usernames and passwords and are fully responsible for all activities that occur on the Site under your designated Authorized Users' usernames and passwords. We may require you to change your designated Authorized Users' usernames in the event we determine, in our sole discretion, that any username is offensive or for any other reason. You agree to immediately notify Trimble of any unauthorized use of any Authorized User's username, password, or any other breach of security, and to ensure that Authorized Users logout at the end of each session. You are responsible for disabling the accounts of any Authorized User no longer employed by you or requesting that such accounts be disabled by Trimble. You acknowledge that Trimble is not responsible for tracking your Authorized User's use of the Service, and that Trimble cannot and will not be liable for any loss or damage arising from your failure to comply with this Section 4.
- 4.3 Payment. You agree to pay all charges and fees in accordance with the payment terms applicable to the Service Subscriptions that you acquire. If data transmission is included in a Service Plan, such transmission may be subject to certain limits. You agree to reimburse Trimble for any charges for data transmission in excess of these limits as well as any activation and de-activation charges that may be imposed by the transmission service provider because of your conduct in accordance with the service provider's terms.



5. Subscriptions and Licenses; Restrictions

5.1 *Service Subscription.* Subject to all of the terms and conditions of this TOS, including payment of applicable Service Subscription fees, (i) Trimble shall provide and you may access and use the Service(s), solely for the your internal business operations, and (ii) Trimble hereby grants you and you hereby accept a non-transferable, non-sublicensable, non-exclusive, revocable license to use Content and any documentation accompanying the Service Subscription, solely for your internal business operations; each for the term of the Service Subscription, but each only in accordance with this TOS and documentation.

5.2 *License.* If the Services require or permit you to use Software, and subject to all of the terms and conditions of this TOS, including the payment of applicable fees, Trimble hereby grants to you a non-transferable, non-sublicensable, non-exclusive, perpetual license to download, install and use the Software, in machine-readable form only, solely for your internal business needs and in accordance with (a) any documentation, (b) this TOS and (c) any accompanying end-user license agreement. The Software and the content are not sold or transferred to you, and Trimble and its licensors retain ownership of all copies of the software applications and content even after installation on your personal computers, mobile handsets, tablets, wearable devices, speakers and/or other devices

5.3 *Restrictions - No Misuse of Services.* Your use of the Service and the Software is limited to those uses expressly permitted under your Service Subscription, these TOS and any accompanying end-user license agreement. As a condition of your use of the Service you agree that you will not use it or the Software for any purpose that is unlawful or prohibited by the TOS. We may restrict or cancel the Service to you if there is a reasonable suspicion of, or any actual misuse or fraudulent use by you. You may not: (i) reproduce, modify, publish, distribute, publicly display, adapt, alter, translate, or create derivative works

from the Service, Software or any Third Party Software/Services; (ii) merge the Service, Software or Third Party Software/Services with other software; (iii) sublicense, lease, sell, rent, loan, or otherwise transfer the Service or associated Software or Third Party Software/Services to any third party; (iv) reverse engineer, de-compile, disassemble, or otherwise attempt to derive the source code for the software underlying the Service, Software, Third Party Software/Services or Site; (v) otherwise use or copy the Service, Software or Third Party Software/Services except as expressly allowed under the TOS, including this Section 5; (vi) use the Service, Software or Third Party Software/Services in a "service bureau" or similar structure whereby third parties obtain use of the Service, Software or Third Party Software/Services through you; (vii) remove, obscure, or alter any copyright, trademark, or other proprietary notices embedded in, affixed to or accessed in conjunction with the Service, Software, and/or the Site; (viii) damage, disable, overburden, interfere with, disrupt or impair the Service or Site, or servers or networks connected to them, in any manner; (ix) interfere with any other party's access, use or enjoyment of the Service or the Site in any manner; (x) intentionally or unintentionally violate any applicable local, state, national or international law, including, but not limited to, laws and regulations related to export; or (xi) impersonate any person or entity or misrepresent your affiliation with a person or entity.

5.4 *Third Party Software/Services.* You hereby acknowledge and agree that any Third Party Software/Services that may be bundled with the Service (e.g., maps) is/are being provided to you by Third Party Suppliers and not by Trimble. You hereby acknowledge and agree that your access or use of any such Third Party Software/Services is governed by such Third Party Suppliers' Terms of Service, end user license agreement or other like agreement, and in absence of such terms or agreement, by these TOS unless it is clarified in Section 23 that these Third Party Software/Services are provided by Trimble by way of sub-license. Trimble will use good faith and reasonable efforts to notify you of events affecting the Third Party Software/Services (e.g., down time or maintenance) that may impact your use of the Site. **HOWEVER, TRIMBLE CANNOT BE RESPONSIBLE FOR, AND EXPRESSLY DISCLAIMS ANY LIABILITY IN CONNECTION WITH THE THIRD PARTY SOFTWARE/SERVICES OR YOUR USE (OR ANY AUTHORIZED USER'S USE) THEREOF.**

5.5 *Time Limited Service Subscription.* In the event that use of the Service provided to you is time limited (such as that provided on a trial basis or to beta testers, resellers and distributors for sales demonstration purposes or to prospective end user customers for evaluation purposes) (the "**Time**



Limited Service"), then you may use the Time Limited Service in accordance with the TOS solely for the purpose for which it is provided to you, and only for the limited period of time specified by Trimble. Trimble may revoke your access to and authorization to use Time Limited Service at any time. In the event that you subsequently acquire a paid Service Subscription, then your continued use of the Service will continue to be governed by the TOS and associated Service Subscription terms and conditions. Resale, transfer or other distribution of the Time Limited Service is prohibited.

6. Processing of Personal Data

6.1 Data Privacy. Protecting users' privacy is very important to Trimble. You acknowledge the terms of the Trimble's Privacy Policy, located at <http://www.trimble.com/privacy.aspx> or a successor url, which is hereby incorporated by reference, and which may be updated from time to time and without notice. Information collected by Trimble in connection with your license and/or use of the Software may be stored and processed in the United States or any other country in which Trimble or its agents maintain facilities. Accordingly, by using the Software you consent to any transfer of such information outside of your country. You acknowledge and agree that Trimble may access, preserve, and disclose your account information if required to do so by law or in a good faith belief that such access preservation or disclosure is reasonably necessary to: (a) satisfy any applicable law, regulation, legal process or governmental request; (b) enforce this Agreement, including investigation of potential violations hereof; (c) detect, prevent, or otherwise address fraud, security or technical issues (including, without limitation, the filtering of spam); (d) respond to user support requests; or (e) protect the rights, property or safety of Trimble, its users, and the public. Trimble will not be responsible or liable for the exercise or non-exercise of rights under this Agreement.

6.2 Compliance with laws. You are responsible for the evaluation of the admissibility of the processing of the Personal Data contained in any data and information transmitted to Trimble and/or through the Service and for ensuring the rights of the data subjects concerned. In this respect, you warrant that the Personal Data that is processed through the provision of Services is obtained in accordance with the applicable data protection laws and that you have the authority to disclose such information. You are responsible for compliance with and agree to comply with all applicable data protection laws. If EU Data Directive 95/46 or similar data protection laws are applicable, you acknowledge that Trimble is only acting as a data processor on your behalf, and that you are the "data controller" pursuant to EU Directive 95/46 and applicable data protection laws, as may be amended from time to time. You agree to respect all obligations resulting from applicable data protection laws, notably with respect to data subjects, competent data protection authorities, us as data processor, and any other third parties. Without limiting the generality of the foregoing, you must ensure that data subjects receive notices or grant consent as legally required.

6.3 Contact Details. We will process your contact details that you provided to us upon conclusion of the Service Subscription and will be deemed controller of any Personal Data contained in your contact details. We will process your contact details in accordance with Our Privacy Statement and for the purpose of providing the Services, newsletters and marketing e-mails. Our Privacy Statement is available at <http://www.trimble.com/privacy.aspx>.

7. Consent to Transmission and Use of Data; License and Aggregate Data

7.1 Consent to Data Transmission and Use. Once your Service Subscription is activated you may transmit or cause your Devices to gather and transmit Data to the Service. The Data transmitted may include, without limitation, such information as is described in the applicable Service description in addition to Device ID, software and hardware version numbers. If you use the Service to manage and monitor infrastructure, vehicles, fixtures and equipment ("**Assets**") the Data transmitted may include, without limitation, the ID, Location Data, usage and diagnostics, repairs information of and for those Assets.

Data is processed on your behalf. If you elect to do so you may cause the Service to transfer Data to Authorized Users, third parties or to Trimble. Trimble shall be entitled to use the Data for the following purposes: (a) providing the Services to you and your Authorized Users, (b) evaluating or improving the Service and/or other products and services; (c) performing market analysis and research; (d) offering you new products and services; and (e) complying with legal requirements and valid court orders, as applicable.



Trimble may also combine the Data imported from your Devices or Assets with that of other users of the Service to create aggregated data ("**Aggregated Data**") for the principal purposes of tracking market trends and developing new or improved service offerings. We will not, however, link your Data with personally identifying information. Aggregated Data will, therefore, be anonymized and cannot be used to identify you or any other user of the Service.

Trimble may also transmit and share some or all of the collected Data with our dealer(s), our affiliates and their dealers, the manufacturer of your Assets and its dealers, and our business partners worldwide who provide the Services, Assets or related products and services to you.

By authorizing activation of and using our Service, you hereby grant Trimble the right to process, use and transfer Data, including Personal Data, for the purposes and in the manners described in these TOS.

7.2 **Data License.** To the extent that you have any ownership or other interests in the Data, you hereby grant to Trimble, its dealers, its affiliates and their dealers, a non-exclusive, perpetual, worldwide, royalty free, and irrevocable license to use, process, manipulate and/or modify, copy, perform, compile and create derivative works from the Data, including using the Data for the business purposes described in Section 7.1. You hereby acknowledge and agree that Trimble and its affiliates may disclose to third parties Data (other than Personal Data) derived, compiled or otherwise drawn from the Data.

7.3 **Automatic Synchronization.** For optimum use, the Service may require, and Trimble may provide to Customer from time to time, in a number of formats (feeds, definition files etc.), content that is automatically synchronized or updated from time to time with Trimble's servers or systems ("**Content**"). You acknowledge and agree that the Service will automatically contact Trimble to receive Content from time to time, including when any of the following events occur: (i) the Service is successfully installed by Customer; (ii) Customer fails to install the Service successfully; (iii) the Service has been successfully configured and / or (iv) the Service is uninstalled. You may be required to download Software and the Services may automatically update the software installed on any Device when a new version is available.

7.4 **Deletion of Data.** You acknowledge and agree that you will no longer be able to access the Data following the deletion of the Data by us in accordance with Section 15.

8. Modification of TOS

8.1 Trimble may modify and update the TOS if circumstances under which the TOS is entered into change following purchase of your Service Subscription, and Trimble will provide you with reasonable notice of any such changes. Your continued use of the Service following the posting of any such changes will constitute confirmation of your acceptance of the updated TOS, unless you notify Trimble in writing within 30 days of the notice that you do not accept them. In that case the TOS in effect at the time of your purchase or last renewal of the Service Subscription (whichever is later) will remain in effect through the remainder of your then current subscription term, unless Trimble, at its option, exercises its right to terminate your Service Subscription(s) in accordance with Section 15.2 below.

9. Maintenance and Support.

9.1 The Service may be offered under a variety of Service Subscription plans ("**Service Plans**"). Any service is subject to additional terms and conditions that can be found under this link <https://www.trimble.com/support/SoftwareSSMTerms> or is contained in other ordering documentation.



- 9.2 Support and Maintenance Services for Software provided directly by Trimble are subject to the terms and conditions of this Agreement, including, without limitation, the Service Subscription plans ("Service Plans") and the applicable terms and conditions hereto, which are incorporated by reference, and to be found at <https://www.trimble.com/support/SoftwareSSMTerms>.
- 9.3 If the Software is a Subscription, then during the Subscription License Term, Trimble shall provide Maintenance Services for that Software at no additional charge.
- 9.4 If the Software is licensed under a Perpetual License Term, Maintenance Services are available for purchase separately and, if purchased, must be purchased for all licensed Software and at the same level of service. You must have an active Service Plan contract to receive Updates.
- 9.5 If Updates are made available as part of a Service Plan, the right to Use the Software (or portion of the Software) that the Update replaces shall immediately cease if You are using the updated version.
- 9.6 If maintenance and support services are purchased from and performed by any third party services provider ("TPSP"), including a Trimble-authorized third party service provider, You acknowledge and expressly agree that:
 - i. such TPSP shall not be providing such services as a partner, joint venture, employee, contractor, subcontractor, agent, or Affiliate of Trimble and in no event shall any such TPSP have any right to bind Trimble contractually or to enter into, modify, terminate, extend, or renew any agreement on Trimble's behalf;
 - ii. Your sole recourse, including, without limitation, for any breach of contract, damage, or loss, in connection with such TPSP services shall be solely against such TPSP and in no event shall Trimble have any liability therefore; and, Solely to the limited extent, if any, that such TPSP has specifically been granted such rights in writing from Trimble, such TPSP may distribute Updates to Your and any such Updates shall be subject to the terms and conditions of this Agreement, including, without limitation, this EULA.

10. Network Coverage, GNSS Satellites, Interruption of Service

- 10.1 You acknowledge that the Services and network access may be subject to transmission limitations caused by a variety of factors such as atmospheric conditions, topographical obstructions, limitations or lack of coverage of the underlying carrier service and other natural or manmade conditions. To the extent that Devices or other hardware units receive signals from Global Navigation Satellite System ("GNSS") you further acknowledge that Trimble is not responsible for the operation or failure of operation of any GNSS satellites or the availability of GNSS satellite signals.
- 10.2 Trimble will not be liable to you or any third party for any loss or damage arising from the Service, or its interruption, transmission errors (including Location Data inaccuracies), downtime of the Service due to maintenance or defects or any other cause, including, but not limited to, interruption caused by the underlying communications system carrier. Trimble does not assume and will not have any liability arising from events beyond Trimble's control or the control of Trimble's subcontractors, licensors or business partners, including events such as acts of God, acts of any governmental entity, acts of public enemy, strikes or weather conditions.

11. No Warranties; Customer Responsibility for Devices, Risk of Loss and "Alert" Feature Configuration.

TRIMBLE, ITS DIRECTORS, OFFICERS, EMPLOYEES, LICENSORS, SUPPLIERS, DEALERS, AFFILIATES AND AGENTS (EACH A "**TRIMBLE PARTY**" AND COLLECTIVELY THE "**TRIMBLE PARTIES**") DISCLAIM ANY RESPONSIBILITY FOR ANY HARM RESULTING FROM YOUR USE OF THE SERVICE AND SITE. YOU EXPRESSLY UNDERSTAND AND AGREE THAT: (a) THE APPLICATION, SITE AND SERVICES ARE PROVIDED ON AN "AS IS", "WITH ALL FAULTS" AND "AS AVAILABLE" BASIS AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU; (b) TO THE FULLEST EXTENT PERMITTED BY



APPLICABLE LAW, THE TRIMBLE PARTIES MAKE NO REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, (i) WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE,

WORKMANLIKE EFFORT, ACCURACY, QUIET ENJOYMENT, NO ENCUMBRANCES, NO LIENS AND NONINFRINGEMENT, (ii) WARRANTIES ARISING THROUGH COURSE OF DEALINGS OR USAGE OF TRADE, (iii) WARRANTIES REGARDING THE SECURITY, RELIABILITY, TIMELINESS, AND PERFORMANCE OF THE SERVICE APPLICATION, SITE AND SERVICES, AND (iv) WARRANTIES THAT ACCESS TO OR USE OF THE SERVICE AND SITE WILL MEET YOUR REQUIREMENTS, BE UNINTERRUPTED OR ERROR-FREE; AND (c) THAT YOU WILL ACCESS THE SITE AND USE THE SERVICE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR COMPUTER SYSTEM(S) OR LOSS OF DATA THAT RESULTS FROM SUCH ACCESS AND USE.

YOU FURTHER AGREE THAT, IF THE SERVICES ARE USED TO TRACK THE LOCATION; PERFORMANCE; HEALTH AND STATUS OF YOUR ASSETS AND/OR DEVICES YOU ARE SOLELY RESPONSIBLE FOR THE PROPER MAINTENANCE, OPERATION AND SUPPORT OF SUCH ASSETS AND DEVICES. NOTWITHSTANDING YOUR USE OF THE SERVICE AND REGARDLESS OF ANY INFORMATION PROVIDED THROUGH IT (WHETHER ACCURATE OR INACCURATE) REGARDING THE OPERATION, MAINTENANCE OR PERFORMANCE STATUS OF THE ASSETS AND/OR DEVICES, YOU ASSUME ALL RISK RELATED TO THEIR PROPER OPERATION, SUPPORT AND MAINTENANCE. **ACCORDINGLY, YOU ARE RESPONSIBLE FOR ANY RISK OF LOSS OF ANY ASSETS OR DEVICES FROM ANY CAUSE, INCLUDING, WITHOUT LIMITATION, VEHICLE AND EQUIPMENT FAILURE, THEFT, FIRE, COLLISION, TAMPERING, AND VANDALISM.**

THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY GRANTED IN THE TOS.

12. Limitation of Liability

UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, WILL THE TRIMBLE PARTIES BE LIABLE TO YOU FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, THIRD PARTY OR CONSEQUENTIAL (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, LOSS OF BUSINESS INFORMATION, VIRUS INFECTIONS, SYSTEM OUTAGES AND THE LIKE) ARISING OUT OF, BASED ON OR RESULTING FROM THE TOS OR YOUR ACCESS TO, USE OF, MISUSE OF OR INABILITY TO USE THE SERVICE OR THE SITE, EVEN IF TRIMBLE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES (INCLUDING DAMAGES INCURRED BY THIRD PARTIES). THE EXCLUSION OF DAMAGES UNDER THIS SECTION 11 IS INDEPENDENT OF ANY REMEDY PROVIDED UNDER THE TOS AND SURVIVES IN THE EVENT SUCH REMEDY FAILS OF ITS ESSENTIAL PURPOSE OR IS OTHERWISE DEEMED UNENFORCEABLE. THESE LIMITATIONS AND EXCLUSIONS APPLY WITHOUT REGARD TO WHETHER DAMAGES ARISE FROM BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE OR ANY OTHER CAUSE OF ACTION. TO THE EXTENT THAT APPLICABLE LAW DOES NOT PROHIBIT SUCH EXCLUSIONS AND LIMITATIONS, IN NO EVENT WILL TRIMBLE'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION, WHETHER IN CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE IN AGGREGATE EXCEED THE AMOUNTS PAID BY YOU TO TRIMBLE FOR YOUR ACCESS OR USE OF THE SERVICE HEREUNDER.

THE PRECEDING LIMITATIONS OF LIABILITY DO NOT APPLY TO LIABILITIES THAT CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAWS, SUCH AS IN THE EVENT OF STATUTORILY MANDATED LIABILITY (INCLUDING LIABILITY UNDER APPLICABLE PRODUCT LIABILITYLAW) OR IN THE EVENT OF PERSONAL INJURY ARISING SOLELY FROM A TRIMBLE PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.



13. Paragraph Not Used.

14. Intellectual Property Rights

14.1 You hereby agree and acknowledge that Trimble and its licensors (and as applicable, Third Party Suppliers) own all right, title and interest in and to all Intellectual Property Rights (defined below) in connection with or relating to the Service and the Site. **"Intellectual Property Rights"** means any and all rights under patent law, copyright law, trade secret law, trademark law, and any and all other proprietary or moral rights, and any and all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide. You will have no right, license, or interest therein, expressly or impliedly, except for any license expressly granted herein. Trimble or its licensors, as the case may be, will own all right, title and interest in and to any replacements, improvements, updates, enhancements, derivative works and other modifications (including, without limitation, the incorporation of any ideas, methods or processes provided by or through you) to Intellectual Property Rights made by any person,

even if paid for by you and regardless of whether or not they are similar to any of your Intellectual Property Rights. You will undertake any and all action necessary to vest such ownership in Trimble, including without limitation assigning (and you hereby assign) to Trimble all rights in and to such Intellectual Property Rights, including, without limitation, patent applications, patents, moral rights and copyrights arising from or relating to the Service or the Site. Notwithstanding the foregoing, Trimble's Intellectual Property Rights as they pertain to the Data, include only the rights granted to Trimble under Section 5 above.

14.2 You acknowledge that all trademarks, service marks, and logos (collectively, **"Marks"**) that appear throughout the Service or the Site belong to Trimble or the respective owners of such Marks, and are protected by U.S. and international trademark and copyright laws. Any use of any of those Marks without the express written consent of Trimble or the owner of the Mark, as applicable, is strictly prohibited. Trimble may, in appropriate circumstances and at its sole discretion, disable and/or terminate the accounts of Authorized Users who may be infringing the Intellectual Property Rights of others.

15. Suspension, Discontinuation or Cancellation of Service to Customer; Cancellation Fee

15.1 Without prejudice to Trimble's right to suspend the provision of the Service, Trimble has the right to terminate your right to access and use the Services with immediate effect and without liability or prior notice, if

- (i) you violate the TOS, or breach the terms of your Service Subscription(s) or any other valid agreement with Trimble for use of the Service;
- (ii) fail to pay Service Subscription fees or other amounts owed when due, (whether due to Trimble directly or to the dealer or distributor through whom you acquired your Service Subscription);
- (iii) the Communications Carrier through which you are able to access and use the Service terminates your Communications Service; or
- (iv) Trimble has reason to believe that you, your Authorized Users, any of your agents or any third party is abusing the Service or using it fraudulently or unlawfully
- (v) you or any third party file(s) an application, or threat(s) to file an application for administration, receivership, bankruptcy or any similar proceeding involving your assets under the laws applicable to such assets.

If you pay Service Subscription fees to the dealer or distributor from whom you acquired your Service Subscription (rather than to Trimble directly) you acknowledge and agree that Trimble may rely in good faith upon the dealer's or distributor's notice to Trimble of your non-payment of Service Subscription fees and as a result may suspend your access to the Service and terminate your license to use it without liability. In addition, subject to Section 15.2 below, Trimble may discontinue the Service in whole or in part, and/or cancel your Service account with or without notice for any reason at any time. YOU AGREE THAT NEITHER TRIMBLE NOR ITS AFFILIATES NOR DEALERS, NOR ANY OTHER INDIVIDUAL OR ENTITY FROM WHOM YOU PURCHASED OR OTHERWISE ACQUIRED YOUR SERVICE SUBSCRIPTION WILL BE LIABLE TO YOU OR TO ANY



THIRD PARTY FOR ITS CANCELLATION OR TERMINATION FOR ANY OF THE ABOVE-CITED REASONS EXCEPT AS EXPRESSLY PROVIDED HEREIN. IF YOUR ACCOUNT IS CANCELLED FOR ANY REASON, YOU AGREE NOT TO RE-REGISTER FOR AN ACCOUNT TO WITHOUT WRITTEN PERMISSION FROM TRIMBLE.

15.2 Trimble may discontinue the Service in whole or in part, and/or cancel your Service account with or without notice for any reason at any time. If your Services Subscription and Service account are terminated for Trimble's convenience and no fault on your part, then you will have no obligation to pay Service Subscription fees for any period following the date of termination, and you will be reimbursed a proportion of the subscription fees received by Trimble based upon the un-lapsed term of the currently active Service Subscription as of the date of termination. You will, however, remain obligated to pay Service Subscription fees for the term of Service Subscription until the date of termination.

15.3 Should you cancel your account and/or the Service Subscriptions in whole or in part, or if we cancel or terminate your account and Service Subscription(s) due to your violation of the TOS, breach of the terms of your Service Subscription or any other valid agreement with Trimble, or your insolvency, bankruptcy (or similar action or proceeding), or your ceasing to do business in the ordinary course, you will be charged a cancellation fee equal to the amount of the subscription fee charges payable or already paid through the remaining term of your then currently active Service Subscription(s). Any such cancellation charges will become immediately due and payable, if not already paid.

16. Deletion of Customer Data

Trimble may permanently delete any and all information, Data and content maintained in or under your account from its servers upon any termination of the Service or your Service Subscription, or at any earlier time at Trimble's discretion. Trimble accepts no responsibility for such deleted information, Data or content.

17. Notices and Electronic Communications

When you visit the Site or send e-mail to us, you are communicating with us electronically. You consent to receive communications from us electronically. We will communicate with you by e-mail or by posting notices on this Site. You agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing. You may update your e-mail address by visiting the location on the Site where you have provided contact information. If you do not provide Trimble with accurate information, Trimble cannot be held liable if it fails to notify you. Legal notices must be provided to the below address. Any legal notice which may be or is required to be given under this Agreement will be in writing, and will be deemed to have been received: a) when delivered personally, b) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or c) one (1) day after having been sent by a commercial overnight carrier with written verification of receipt. Either

Party may change its notice address by written notice to the other Party. All notices hereunder will be addressed as follows (or as subsequently noticed to the other Party):

Trimble Inc.
Attn: General Counsel - Legal Notice
935 Stewart Drive
Sunnyvale, CA 94085
United States of America

18. U.S. Government Restricted Rights [Applies only to U.S. Government Licensees]

The Service application, Site and the Services, their content and other materials, are deemed "commercial computer software" and "commercial computer software documentation" pursuant to DFAR Section 227.7202 and FAR Section 12.212 (and any successor sections). Use of the Service and the Site including, but not limited to, its reproduction and display, by the United States of America and/or any of its instrumentalities, regardless of form, is governed by the TOS.



19. Choice of Law and Forum

If you are a business user in the United States of America, these TOS is/are governed by and construed in accordance with the laws of the State of Ohio and applicable United States federal law, without reference to "conflicts of laws" provisions or principles. The parties consent and agree to the exclusive jurisdiction of, and venue in, the state and federal courts located in Warren County, Ohio.

If you are a business user outside of the United States of America, these TOS is/are governed by and construed in accordance with the laws of The Netherlands, without reference to "conflicts of laws" provisions or principles. Any dispute, controversy or claim relating to this Agreement, and any subsequent amendments of this Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, will be finally determined by arbitration conducted in accordance with the Rules of Arbitration of the International Chamber of Commerce applicable to commercial disputes by a single arbitrator who will be (A) fluent in written and spoken English; and (B) skilled and experienced in software and software licensing. The place of such arbitration will be in Amsterdam, the Netherlands or such other place mutually agreed to by the Parties. The sole and exclusive language of arbitration will be English. The judgment of the arbitration will be final, non-appealable (to the extent not inconsistent with applicable law) and binding upon the Parties, and judgment may be entered upon the arbitral award in any court of competent jurisdiction. The arbiter will issue a written opinion setting forth the arbiter's decision and the reasons therefor within 30 days after the arbitration proceeding is concluded.

The United Nations Convention on Contracts for the International Sale of Goods shall not apply. No dispute or legal action arising under this Agreement, may be brought by either party more than one (1) year after such cause of action accrued, except that an action for nonpayment may be brought within two (2) years of the date of the last payment.

20. Export

Use of the Service is subject to the U.S. Export Administration Regulations. You agree to the following: (a) you are not a citizen, national or resident of, and am not under the control of, the government of Cuba, Iran, North Korea, Syria, Sudan nor any other country to which the United States has prohibited export; (b) you will not export or re-export materials from the Site, directly or indirectly, neither to the above mentioned countries nor to citizens, nationals or residents of those countries; (c) you are not listed on the United States Department of Treasury lists of Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, nor are you listed on the United States Department of Commerce Table of Denial Orders; (d) you will not export or re-export Site materials, directly, or indirectly, to persons on the above mentioned lists; and (e) you will not use the Site and Site materials for, and will not allow the Site and Site materials to be used for, any purposes prohibited by United States law, including, without limitation, for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction.

21. General Provisions

The TOS, the terms of your Service Subscription and/or any other valid agreement between you and Trimble for use of the Service, constitute the entire agreement between you and Trimble and govern your use of the Service and Site, superseding any and all prior agreements, negotiations and communications (whether written, oral or electronic) between you and Trimble with respect to the subject matter hereof. No change, modification, or waiver of the TOS, will be binding on Trimble unless made in writing, with Trimble's approval. Any rights not otherwise expressly granted under the TOS are reserved by Trimble and its licensors. The failure of Trimble to exercise or enforce any right or provision of the TOS shall not constitute a waiver of such right or provision. If any part of the TOS is held invalid or unenforceable, by a court of competent jurisdiction, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of Trimble, and the remaining portions shall remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service and/or your Service Subscription must be filed within one (1) year after such claim or cause of action arose or be forever barred.



22. Official Language

The official language of the TOS is English. For purposes of interpretation, or in the event of a conflict between English and versions of TOS in any other language, the English language version shall be controlling.

23. Third Party Terms

23.1 Additional Terms and Conditions for the Use of ESRI ArcGIS Server Enterprise and associated GeoRest Web Services API's, Version 10.x, ArcGIS for Windows Mobile, ArcGIS Runtime for Android, ArcGIS Runtime for iOS, ArcGIS Runtime for WPF and ArcGIS JavaScript API.

You hereby accept the following additional Terms of Service in relation to any data, material, or software proprietary to ESRI and its licensors ("**Hosted Solutions**") access to which is provided as part of the Services (as defined in Trimble's Terms of Service):

- a. ESRI and its licensors are not your contractual partner and shall, to the extent permitted by applicable law, not be liable for any damages or loss of any kind, whether direct, special, indirect, incidental, or consequential, arising from the use of the Hosted Solution(s) including, but not limited to, liability for use of Hosted Solution(s) in high-risk activities. THE HOSTED SOLUTION(S) IS/ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. Without limiting the generality of the preceding sentence, ESRI and its licensors do not warrant Data, Web Services, and the Hosted Solution(s) will meet the Hosted Solution End User's needs or expectations, that the use of Data, Web Services, and Hosted Solution(s) will be uninterrupted, or that all nonconformities can or will be corrected. ESRI and its licensors are not inviting reliance on Data, Web Services, and Hosted Solution(s), and Hosted Solution End User should always verify actual Data, Web Services and Hosted Solutions(s).
- b. Upon termination or expiration of any applicable end user agreement or Subscription Plan, you are no longer entitled to access and use any of the Hosted Solution(s).
- c. You may not remove or obscure any copyright, trademark notice, or restrictive legend of ESRI or its licensors.
- d. Should you have to click-through any of ESRI's License Agreement (E204 and E300) included with ESRI Licensed Material, such License Agreements shall not become binding between you and ESRI, they maintain part of the Hosted Solution for convenience only.
- e. You may not share its login or password with any other third party or other Hosted Solution End User.

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Exhibit B to Trimble Inc. General Terms & Conditions of Sale

Additional Terms and Conditions for the Use of Products Provided by or Including Software, Products or Services of Aquarius Spectrum Ltd.

THE SERVICES, WHICH ARE PROVIDED FOR USE SOLELY IN CONJUNCTION WITH THE DESIGNATED AQUARIUS SPECTRUM LTD. HARDWARE, ALONG WITH ALL HARDWARE, SOFTWARE, PRODUCTS AND SERVICES PROVIDED THEREWITH (COLLECTIVELY, THE "SYSTEM") IS PROVIDED TO COMPANY ON AN "AS IS" AND "AS AVAILABLE" BASIS. NEITHER TRIMBLE, NOR ITS DISTRIBUTORS, RESELLERS, AGENTS, SUB-CONTRACTORS, NOR ITS SUPPLIER, AQUARIUS SPECTRUM LTD. (SEPARATELY AND COLLECTIVELY "SUPPLIER") MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE CORRECTNESS, QUALITY, ACCURACY, SECURITY, COMPLETENESS, RELIABILITY, PERFORMANCE, TIMELINESS OR CONTINUED AVAILABILITY OF THE SYSTEM OR THE ABILITY OF ANY CONNECTION OR COMMUNICATION SERVICE TO PROVIDE OR MAINTAIN ACCESS TO THE SYSTEM. EXCEPT FOR THE WARRANTY PROVIDED TO COMPANY FOR THE HARDWARE, SUPPLIER HEREBY DISCLAIMS AND COMPANY HEREBY WAIVES ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTY OF NONINFRINGEMENT OF THIRD PARTIES' RIGHTS OR THAT THE SYSTEM WILL BE PROVIDED ERROR FREE OR WITHOUT INTERRUPTION OR THAT THE SYSTEM WILL MEET COMPANY'S REQUIREMENTS OR EXPECTATIONS. SUPPLIER SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES AND REPRESENTATIONS WITH RESPECT TO ACCURACY. NO THIRD PARTY, DISTRIBUTOR, RESELLER, AGENT, OR EMPLOYEE IS AUTHORIZED TO MAKE ANY MODIFICATIONS, EXTENSIONS, OR ADDITIONS TO THIS WARRANTY.

WITHOUT DEROGATING FROM THE GENERALITY OF THE FOREGOING, IT IS EXPRESSLY CLARIFIED THAT THE SYSTEM IS A SUPPORTIVE TOOL WITH RESPECT TO THE DETECTION AND MANAGEMENT OF LEAKS IN WATER SYSTEMS, AND SHOULD NOT BE RELIED UPON EXCLUSIVELY. THE MANNER BY WHICH ANY SPECIFIC LEAK SHOULD BE HANDLED AND/OR REPAIRED IS DEPENDENT ON NUMEROUS FACTORS WHICH ARE OUTSIDE OF THE SCOPE OF THE SYSTEM'S CAPACITY AND WHICH SHOULD BE SEPARATELY ADDRESSED AND CONSIDERED BY COMPANY, AT COMPANY'S SOLE RESPONSIBILITY. UNDER NO CIRCUMSTANCES WILL SUPPLIER, ITS SHAREHOLDERS OR ANY OTHER PARTY ACTING ON SUPPLIER'S BEHALF BE LIABLE FOR ANY DAMAGE, LOSS OR EXPENSE (INCLUDING PHYSICAL INJURIES) WHICH MAY BE CAUSED TO COMPANY, ANYONE ACTING ON COMPANY'S BEHALF, OR ANY THIRD PARTY IN CONNECTION WITH THE USE OF OR RELIANCE ON THE SYSTEM, INCLUDING WITHOUT LIMITATION ANY DAMAGE, EXPENSE OR LOSS CAUSED AS A RESULT OF WATER LEAKS OR BURSTS, DAMAGES TO PIPING SYSTEMS AND/OR THE LIKE. IN ADDITION, SUPPLIER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO FAULT-FREE OPERATION OF THE SYSTEM AND SHALL NOT BEAR ANY LIABILITY OR RESPONSIBILITY WHATSOEVER FOR DAMAGES OR LOSSES CAUSED BY OR ATTRIBUTABLE TO INACCURATE OR ERRONEOUS MEASUREMENTS, INCLUDING WITHOUT LIMITATION WHEN THIS RESULTS FROM AN ERROR OF THE SYSTEM.

UNDER NO CIRCUMSTANCES WHATSOEVER WILL SUPPLIER BE LIABLE IN ANY WAY FOR ANY DAMAGE OR LIABILITY ARISING FROM (I) ANY CONTENT (WHETHER PROVIDED BY SUPPLIER OR UPLOADED BY COMPANY), INCLUDING, WITHOUT LIMITATION, FOR ANY ERRORS OR OMISSIONS IN ANY CONTENT, OR FOR ANY INFRINGEMENT OF THIRD PARTY'S RIGHT, LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF THE CONTENT AND/OR THE SYSTEM; (II) SYSTEM DEFECTS RESULTING FROM THE USE OF THIRD PARTY PRODUCTS OR SERVICES; (III) FAILURE OF COMMUNICATION BY A GSM PROVIDER OR ANY OTHER COMMUNICATIONS PROVIDER; OR (IV) THE UNAUTHORIZED OR EXCESSIVE USE OF THE SYSTEM OR USE OF THE SYSTEM IN A MANNER INCONSISTENT WITH THESE TERMS.

LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SUPPLIER WILL NOT BE LIABLE TO COMPANY



FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. NOTWITHSTANDING ANY OTHER PROVISION OF THESE TERMS, SUPPLIER'S LIABILITY TO COMPANY, WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED THE PRICE COMPANY PAID FOR THE PRODUCTS GIVING RISE TO THE LIABILITY.

Customer / end-user agrees that the limitations specified in this Section will survive and apply even if any limited remedy specified in these Terms is found to have failed of its essential purpose.

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Exhibit C

Modem TECHNOLOGY ASSURANCE PLAN ADDENDUM

Each Recording Telemetry Unit ("RTU") for which you have purchased a Modem Technology Assurance Plan ("MTAP") is eligible to receive one modem upgrade (e.g, 1XRTT to LTE/Category 1) within three years of your MTAP purchase date, subject to the following:

- 1. The MTAP incorporates and is controlled by the applicable Order Form and the General Terms & Conditions of Sale ("Terms") for your RTU.
2. The MTAP applies only to the RTUs identified on the Order Form for your MTAP.
3. You must have paid the MTAP fees associated with your RTU.
4. Each upgraded modem will be covered by Trimble's Limited Warranty (Terms sections 7 and 8) for the first 12 months from the date of delivery of the modem.
5. The upgrade right expires for each RTU upon the first to occur of (i) your first upgrading of the modem for that RTU, or (ii) three years from the purchase date for the MTAP applicable to that RTU.
6. The program description found at http://trimblewater.com

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Exhibit D

Professional Services Agreement

Professional Services Agreement
Signature Page

Table with 2 columns and 4 rows: Customer Name, Customer Notice Address, Agreement No., Effective Date.

This Professional Services Agreement (the "Agreement"), effective as of the date specified above (the "Effective Date"), sets forth terms under which Trimble Inc. or any of its affiliates, or any Trimble entity as identified on our order acknowledgment ("Trimble") will provide the Customer identified above ("Customer") with certain services in connection with Trimble products ("Products") separately purchased or licensed by Customer, as those services are described in one or more statement(s) of work referring this Agreement (each a "Statement of Work" or "SOW"). This Agreement consists of the terms and conditions attached hereto as Exhibit A and any other attachments or exhibits identified and referenced herein or in an associated Statement of Work.



ATTACHMENTS

- 1. Exhibit A - Terms and Conditions
- 2. Exhibit B - Statement of Work No. 1

The parties by their duly authorized representatives accept and agree to this Agreement as of the Effective Date:

CUSTOMER

Signature: [Signature]
 Name: Tom Grossmann
 Title: Member Date: 9.22.20

Trimble

Signature: [Signature]
 Name: Benjamin Maus
 Title: Inside Sales - 9-9-20
 (if applicable)
 Signature: _____
 Name: _____
 Title: _____ Date: _____

APPROVED AS TO FORM

[Signature]
Adam M. Nice
Asst. Prosecuting Attorney

Notice Address: Trimble Inc
 935 Stewart Drive
 Sunnyvale, CA 94085
 Attention: General Counsel - Legal Notice

Exhibit A - to the Professional Services Agreement

Terms and Conditions

1. **Services.** Trimble agrees to use diligent efforts to render the services described on the Statement(s) of Work which reference this Agreement ("Services") by the delivery dates specified therein, if any. Any deliverables provided to Customer as part of the Services will be deemed "Deliverables". The parties may execute additional Statements of Work describing Services, which will become part of this Agreement upon execution. Customer agrees to provide Trimble with reasonable access to Customer technical data, computer programs, files, documentation, and/or other materials ("Customer Materials"), resources, personnel, equipment or facilities to the extent such access is necessary for the performance of Services. Customer will be responsible for, and assumes the risk of any problems resulting from the content, accuracy, completeness, competence or consistency of Customer Materials or its personnel. To the extent that Customer does not timely provide the foregoing access required for Trimble to perform the Services or deliver the Deliverables, Trimble shall be excused from performance until such items/access are provided.
2. **Changes to Scope of Services.** If Customer desires to change a Statement of Work, Customer will submit a written request to Trimble detailing the proposed changes. If Trimble has the resources available to accommodate such changes, Trimble shall prepare an amendment to the Statement of Work detailing the changes, any fee adjustments required as a result of such changes, any adjustments to the delivery schedule required as a result of such changes, and any other necessary



adjustments. If the Statement of Work amendment is agreeable to Customer, both parties will execute the amendment. If Customer and Trimble are not able to agree to an adjustment to the Statement of Work, it will remain unchanged.

3. **Payment.** Customer will pay Trimble the amounts and at the times set forth on the applicable Statement of Work. If not specified, Customer will pay Trimble its customary rates for Services monthly. Customer agrees to reimburse Trimble for pre-approved travel, lodging and meal expenses incurred in the course of performing the Services at any location other than Trimble's site. Trimble will invoice Customer for expenses incurred and at Customer's request and expense, Trimble will provide copies of receipts for which charges are incurred. All payments are non-refundable and shall be made in U.S. dollars (or such other currency specified in a Statement of Work) within thirty (30) days from the date of Trimble's invoice. Customer will be responsible for all taxes, withholdings, duties and levies in connection with the Services (excluding taxes based on the net income of Trimble). Any late payments shall be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less.
4. **Term and Termination.** This Agreement remains in effect until terminated in accordance with this Section 4. Either party may terminate this Agreement at any time by giving the other party thirty (30) days written notice. Either party may terminate this Agreement or any Statement of Work if the other party: (a) fails to cure any material breach of this Agreement within thirty (30) days after written notice of such breach; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against such part (and not dismissed within sixty (60) days thereafter). Following termination, Sections 5 (License and Ownership), 7 (Limitation of Remedies and Damages), 8 (Confidential Information), 9 (Customer Reference), 10 (Export Compliance) and 11 (General Provisions) will survive. Section 3 (Payment) will survive with respect to unpaid fees for work performed prior to termination.
5. **License and Ownership.**
 - 5.1. **Customer Materials.** Customer hereby grants Trimble a limited right to use any Customer technical data, computer programs, files, documentation, and/or other materials provided to Trimble in connection with the Services (the "Customer Materials") solely for the purpose of performing the Services for Customer. Customer owns and will retain ownership (including all intellectual property rights) in the Customer Materials.
 - 5.2. **Deliverables.** Trimble hereby grants Customer a perpetual, worldwide, royalty-free, non-exclusive license to reproduce and use the Deliverables but only for Customer's internal business purposes and otherwise in accordance with the description of Customer's use and any restrictions set forth in the applicable Statement of Work. Trimble owns and will retain ownership (including all intellectual property rights) in and to the Deliverables (excluding any Customer Materials) and any modifications, improvements and derivative works thereof (including any such materials to the extent incorporating any ideas, feedback or suggestions of Customer ("Feedback"). Customer acknowledges that Trimble is free to exploit, use, license and distribute, any Feedback provided to Trimble as it sees fit, without obligation of compensation or attribution.
 - 5.3. **Other Agreements.** Trimble and Customer have entered into one or more separate agreements under which Trimble purchases or licenses certain Products to Customer, including software and updates and enhancements to that software

The delivery and use of any such Product is governed by the terms of such other agreement and not the terms of this Agreement. Even if listed in a Statement of Work any such Product shall not be considered a Deliverable hereunder.

- 5.4. **Assignment of Ownership to Customer.** If the parties have agreed that Trimble will assign ownership of Deliverables to Customer, the relevant Statement of Work must set forth the terms and conditions regarding such assignment.
6. **Limited Warranty.** Trimble will perform the Services and deliver the Deliverables in a professional and workmanlike manner. Trimble will, as its sole liability and obligation to Customer for failure to provide Services or Deliverables meeting this warranty, (a) reperform the non-conforming Services or (b) re-deliver the non-conforming Deliverables at no additional cost to Customer if notified of the non-conformity within thirty (30) days of delivery of the applicable Service or Deliverable, or if Trimble determines such remedies to be impracticable within a reasonable period of time, (c) terminate the applicable Statement of Work and refund the portion of fees attributable to such non-conforming Services or Deliverables. EXCEPT FOR THE FOREGOING LIMITED WARRANTY, TRIMBLE DOES NOT MAKE ANY OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND OR NATURE, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, OR ARISING BY STATUTE, CUSTOM, COURSE OF DEALING OR TRADE USAGE, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT. TRIMBLE SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.
7. **Limitation of Liability.**



7.1. NEITHER PARTY WILL BE LIABLE FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS, LOST PROFITS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. IN NO EVENT WILL TRIMBLE'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE NET AMOUNT COMPANY HAS ACTUALLY RECEIVED FROM CUSTOMER UNDER THE STATEMENT OF WORK APPLICABLE TO SUCH CLAIM. THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THIS LIMIT. THIS SECTION 7 DOES NOT APPLY TO EITHER PARTY WITH RESPECT TO ITS BREACH UNDER SECTION 8 (CONFIDENTIALITY) OR TO CUSTOMER WITH RESPECT TO ANY CLAIM ARISING AS A RESULT OF CUSTOMER'S VIOLATION OF LICENSE RESTRICTIONS APPLICABLE TO THE DELIVERABLES UNDER SECTION 5.2 (DELIVERABLES), OR ITS INDEMNITY OBLIGATIONS. THE PARTIES AGREE THAT THE LIMITATIONS SPECIFIED IN THIS SECTION 7 WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

8. **Confidential Information.** Each party ("Receiving Party") agrees that all code, inventions, know-how, business, technical and financial information it obtains from the disclosing party ("Disclosing Party") constitute the confidential property of the Disclosing Party ("Confidential Information"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be Confidential Information due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any software, documentation or technical information provided by Trimble (or its agents) and the terms of this Agreement will be deemed Confidential Information of Trimble without any marking or further designation. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information. The Receiving Party's nondisclosure obligation will not apply to information which the Receiving Party can document: (a) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (b) is or has become public knowledge through no fault of the Receiving Party; (c) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; (d) is independently developed by employees of the Receiving Party who had no access to such information; or (e) is required to be disclosed pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Disclosing Party). The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to appropriate equitable relief in addition to whatever other remedies it might have at law. Customer acknowledges that nothing in this Agreement will prohibit Trimble or its customers from developing software programs that are similar to or compete with the Software provided that Trimble does not violate any of its confidentiality obligations under this Agreement in connection with such development.
9. **Customer Reference.** Customer agrees that upon execution of this Agreement, Trimble may add Customer to Trimble's publicly disclosed customer list, (which may include use of Customer's name and logo in customer lists on Trimble's website and marketing materials), and may issue a press release describing this agreement and the parties' relationship hereunder. Other than this, neither party may use the other party's name in advertisements nor otherwise publicly disclose the terms and content of this Agreement without the other's prior written consent.
10. **Export Compliance.** Customer shall not and shall not allow any third-party to remove or export from the United States or allow the export or re-export of any part of the Deliverables or any direct product thereof in violation of any applicable export or import restrictions, laws or regulations of the United States or any other country.
11. **Governing Law.**

If Customer purchases the Services from and through Trimble Inc. then these Terms will be governed by and construed in accordance with the laws of the State of Ohio and applicable United States federal law, without reference to "conflicts of laws" provisions or principles. The parties hereby consent and agree to the exclusive jurisdiction of, and venue in, the state and federal courts located in Warren County, Ohio. .

If Customer purchases the Services from and through Trimble Europe B.V. then these Terms will be governed by and construed in accordance with the laws of The Netherlands, without reference to "conflicts of laws" provisions or principles. Any dispute, controversy or claim relating to this Agreement, and any subsequent amendments of this Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, will be finally determined by arbitration conducted in accordance with the Rules of Arbitration of the International Chamber of Commerce applicable to commercial disputes by a single arbitrator who will be (A) fluent in written and spoken English; and (B) skilled and experienced in software and software licensing. The place of such arbitration will be in Amsterdam, the Netherlands or such other place mutually agreed to by the Parties. The sole and exclusive language of arbitration will be English. The judgment of the arbitration will be final, non-appealable (to the extent not inconsistent with applicable law) and binding upon the Parties, and



judgment may be entered upon the arbitral award in any court of competent jurisdiction. The arbiter will issue a written opinion setting forth the arbiter's decision and the reasons therefor within 30 days after the arbitration proceeding is concluded.

The United Nations Convention on Contracts for the International Sale of Goods shall not apply. No dispute or legal action arising under this Agreement, may be brought by either party more than one (1) year after such cause of action accrued, except that an action for nonpayment may be brought within two (2) years of the date of the last payment.

12. General Provisions. Each party is an independent contractor of the other and neither is an employee, agent, partner or joint venturer of the other. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party shall assign this Agreement without the advance written consent of the other party, except that Trimble may assign this Agreement to an affiliate, including its parent company, Trimble Navigation Limited and/or in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of Trimble's assets or voting securities. Neither party shall make any commitment, by contract or otherwise, binding upon the other or represent that it has any authority to do so. The parties hereby agree that there are no third party beneficiaries of this Agreement. Any notice, report, approval or consent required or permitted under this Agreement will be in writing to the address(es) specified on the signature page hereto. Any waiver by either party of any breach of this Agreement, whether express or implied, will not constitute a waiver of any other or subsequent breach. No provision of the Agreement will be waived by any act, omission or knowledge of a party or its agents or employees except by an instrument in writing expressly waiving such provision and signed by a duly authorized officer of the waiving party. If any provision of this Agreement is adjudicated by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Neither party shall be liable to the other for any delay of failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to events which are beyond the reasonable control of such party, including but not limited to any strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power or of telecommunications or data networks or services, or refusal of approval or a license by a government agency. Any waivers or amendments will be effective only if made in writing signed by a representative of the respective parties authorized to bind the parties. No provision of any purchase order or other business form employed by Customer will supersede the terms and conditions of this Agreement, and any such document relating to this Agreement shall be for administrative purposes only and shall have no legal effect. Both parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties, and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. This Agreement may be executed in any number of counterparts, each of which will be considered an original and all of which when taken together will constitute a single fully-signed original. Facsimile and other electronic means of signatures on this Agreement are binding.

[Remainder of Page Intentionally Left Blank]

Exhibit B - to the Professional Services Agreement

Statement of Work

[See attached]

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1327

Adopted Date September 22, 2020

AUTHORIZE THE VICE PRESIDENT OF THE BOARD TO SIGN A REAL ESTATE PURCHASES AND SALES AGREEMENT WITH LORI HOLTZMAN AND GINGER SPICER MANDELSTEIN FOR PURCHASE OF PROPERTY WITHIN WARREN COUNTY, OHIO

WHEREAS, it is the desire of this Board to purchase five parcels totaling approximately 45.005 acres of undeveloped land located in the Village of South Lebanon and Union Township, and as identified in the attached Purchase and Sales Agreement; and

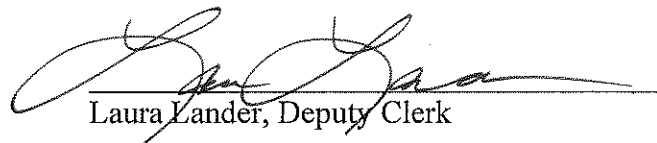
NOW THEREFORE BE IT RESOLVED, that the Vice President of the Board is authorized to sign A Real Estate Purchase and Sales Agreement with Lori Holtzman and Ginger Spicer Mandelstein. Copy of said agreement attached hereto and made a part hereof.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS


Laura Lander, Deputy Clerk

cgb

cc: c/a—Holtzman, Lori
c/a—Mandelstein, Ginger Spicer
Water/Sewer (File)

REAL ESTATE PURCHASE AND SALES AGREEMENT

THIS REAL ESTATE PURCHASE AND SALES AGREEMENT ("Agreement") is entered into at Warren County, Ohio and effective as of the latest date of execution of the Agreement by the parties, (the "Effective Date"), by and between Lori Holtzman, John Kevin Spicer, and Ginger Spicer Mandelstein (aka Ginger Spicer and fka Ginger Spicer Pierson) _____ (collectively the "Seller"), and the WARREN COUNTY BOARD OF COUNTY COMMISSIONERS, a county and political subdivision of the State of Ohio (the "Buyer").

RECITALS

A. Seller is the owner of the following identified parcels of land, which are more particularly described in the vesting deeds attached hereto as Exhibit A.

Parcel #	Account #	Jurisdiction	Owner	Acres
13-31-301-008	6808441	S. Leb. Village	Lori Holtzman	0.276/ Lots 24 & 25 Amburgy Sub.
13-31-301-006-1	6808468	S. Leb. Village	Lori Holtzman	7.15
13-31-301-006-2	6808476	S. Leb. Village	Lori Holtzman	10.16
13-31-301-007	6810721	S. Leb. Village	Ginger Spicer Pierson & John Kevin Spicer	0.138/ Lot 26 Amburgy Sub. <i>L.H.</i>
13-31-326-003-1	6802796	S. Leb. Village	Ginger Spicer Mandelstein	9.9931
13-31-326-003-2	6604412	Union Twp.	Ginger Spicer Mandelstein	17.4259
TOTAL:				45.143

The foregoing identified lands, together with all appurtenant rights, easements and privileges are the real property and improvements thereon (the "Premises") subject of this Agreement.

B. Seller is willing to sell the Premises to Buyer and Buyer is willing to buy the Premises on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows.

a

TERMS AND CONDITIONS

1. **DEFINITIONS.** Certain terms used herein are defined below; other terms are defined within the text of this Agreement. Any word used in this Agreement shall be construed to mean either singular or plural as indicated by the number of signatures at the end of this Agreement.

1.1 **Closing** shall mean the consummation of the purchase and sale of the Premises in accordance with the terms and conditions of this Agreement which shall survive the closing and not be subject to merger by deed or estoppel.

1.2 **Earnest Money Deposit** shall mean the NINE HUNDRED and 00/100 Dollars (\$900.00) deposit toward the Purchase Price given by Buyer to Seller that shall be applicable toward the purchase price at closing, or to be refunded to Buyer as provided herein.

1.3 **Effective Date** of this Agreement shall be the date on which the last party to sign executes this Agreement.

1.4 **Purchase Price** shall mean the Purchase Price calculated at the rate of TWENTY THOUSAND and 00/100 Dollars (\$20,000.00) per acre, for a total of NINE HUNDRED TWO THOUAND, EIGHT HUNDRED SIXTY and 00/100 Dollars (\$902,860.00).

1.5 **Permitted Exceptions** are those items described in Section 5 hereof.

1.6 **Review Period** shall mean a period of ninety (90) days following the Effective Date of this Agreement.

1.7 **Title Company** shall mean any Title Insurance Company selected by Buyer. All costs relating to the services of the Title Company shall be borne by Buyer.

2. **PURCHASE AND SALE OF PREMISES.** Subject to the terms and conditions set forth herein, Seller hereby agrees to sell the Premises to Buyer, and Buyer hereby agrees to purchase the Premises from Seller.

3. **PURCHASE PRICE.** The Purchase Price for the Premises shall be payable in the following manner.

3.1 **Earnest Money Deposit.** Within ten (10) days after the Effective Date, Buyer will deposit with Seller the sum of Nine Hundred and 00/100 Dollars (\$900.00) payable to Seller collectively as the Earnest Money Deposit, which deposit the Seller shall hold and apply or refund in accordance with Section 4 hereof.

3.2 **Balance of Purchase Price.** The balance of the Purchase Price, subject to such adjustments as set forth below, credits, deductions and prorations, as required herein, shall be paid by check issued by the Warren County Auditor payable to each Seller separately pursuant to written instructions signed by each Seller setting forth the percentage each Seller is to receive. The written instructions along with the attached form w-9 from each Seller shall be completed, executed and returned to Buyer at the time of execution of this Agreement.

4. DUE DILIGENCE CONTINGENCIES; REVIEW PERIOD.

4.1 Review Period. During the Review Period, Buyer may conduct review, inspection, and feasibility studies of the Premises and its usefulness for Buyer's intended purposes, and may pursue obtaining any approvals, consents and agreements, as Buyer deems necessary or appropriate in Buyer's sole judgment.

4.2 Termination. If Buyer determines for any reason in Buyer's sole judgment that the Premises are not suitable in any respect, Buyer may terminate this Agreement by delivering written notice of termination to Seller on or before the expiration of the Review Period. Upon such termination, the Earnest Money Deposit shall be returned to Buyer by Seller within three (3) business days of receipt of such notice of termination and neither party shall have any further obligations hereunder.

4.3 Specific Review Items. Without limiting the scope or extent of Buyer's review of the Premises as described in 4.1 above, the satisfaction or waiver of each of the following conditions shall be included among the items to be reviewed by Buyer during the Review Period and shall be conditions precedent to Buyer's obligations hereunder:

(a) Title and Survey. Within ninety (90) days following the execution of this Agreement by both parties, Buyer may obtain, at Buyer's expense, a commitment for an owner's fee title insurance policy ("Commitment") from a Title Company. In addition, Buyer may obtain, at Buyer's expense, a survey of the Premises ("Survey") within ninety (90) days following the execution of this Agreement, which survey shall depict all easements, available utility service, encroachments, rights-of-way and other matters of record pertaining to or affecting the Premises plotted thereon and showing the location, area and dimensions of all improvements, easements, streets, roads, railroad spurs, flood hazards and alleys on or abutting the Premises, and providing the legal description of the Premises, prepared and certified in accordance with the ALTA minimum Standards for Ohio Land Title Surveys. Buyer may object to any easements, encroachments, and rights-of-way including without limitation any benefiting any property other than the Premises. If the Commitment and/or Survey shows that the Premises is unmarketable or is subject to matters other than the Permitted Exceptions, Buyer shall deliver written notice of such defect and evidence of the same including a copy of Buyer's Commitment, to Seller within thirty (30) days following the receipt of the Commitment and Survey. Seller, at Seller's sole cost shall have the option to remedy or remove such unacceptable exceptions prior to the expiration of the Review Period (unless the parties mutually agree to an extension of time by executing an addendum to this Agreement), or to terminate this Agreement. If Seller cannot or will not remedy or remove such unacceptable exceptions on or before the expiration of the Review Period, Seller shall so notify Buyer in writing prior to the expiration of the Review Period. Buyer thereafter may either waive such unacceptable exceptions or may cancel this Agreement as provided for in Section 4.2 hereof. Notwithstanding the foregoing, any monetary liens and encumbrances shall be paid for and removed at Closing out of the Purchase Price unless otherwise removed by Seller prior to Closing.

(b) Contract Review. Within thirty days of the Effective Date, Seller shall provide to Buyer who may review all of the contracts, leases, and licenses affecting the Premises and inspect all books and records relating to the operation of Premises, the results of which review must be satisfactory to Buyer in its sole discretion. Any contract or agreement which Buyer does not desire to assume, in Buyer's sole determination, must be cancelled by Seller on or before the date of Closing.

(c) Building, Floodway, Zoning and Other Permits. Confirmation by Buyer to Buyer's satisfaction that Buyer has or will be able to obtain all Permits necessary, in Buyer's sole judgment, for the development and operation of the Premises for Buyer's intended use. "Permits" shall mean all building permits, floodway permits, zoning permits including without limitation rezoning, classifications, zoning modifications, variances, special use permits, special exceptions, and any other governmental approvals, investigations and authorizations necessary, in Buyer's sole judgment, to allow Buyer to utilize the Premises for Buyer's intended use. Seller and Buyer shall cooperate with each other in seeking building, floodway, zoning and any other required local Permits, and Seller will join with Buyer in the execution of any applications for Permits, as required.

(d) Environmental and Physical Inspections. Inspections by Buyer and Buyer's various agents, at Buyer's sole expense, including, without limitation, the following to determine, in Buyer's sole discretion, that the Premises is in condition suitable for Buyer's intended use:

i) Geotechnical/Hydrogeological Analysis. During the Review Period, Buyer and its various agents, to perform geotechnical borings at up to four locations on the Premises with the exact location of which shall be determined by the Buyer. A hydrogeological analysis will be performed by Buyer to confirm the Premises can be developed as a wellfield at sufficient production rates, in the Buyer's sole determination, to meet Buyer's needs.

ii) Groundwater Analysis. As part of the hydrogeological analysis, Buyer will collect groundwater samples from the four borings and perform analysis of the chemical constituents required by the Ohio EPA for wellfield development. Test results must meet the Buyer's and the Ohio EPA's requirements.

iii) Ohio EPA Site Visit. The Ohio EPA shall be entitled to enter the Premises and perform a visual inspection and evaluation.

Seller hereby grants a temporary license to Buyer and its various agents to enter onto the Premises and to conduct all of the environmental and physical inspections during the Review Period. Buyer shall repair or restore the Premises to as reasonably close to its condition prior to Buyer or its agents entering onto the Premises, except, Buyer shall not be responsible for any repairing, restoring or paying for damage to growing crops or gardens.

In the event that any condition described in this Section 4.3 remains unsatisfied as of the Closing, in the Buyer's sole judgment, then the Buyer may elect to proceed with Closing, waiving

any such condition, or the Buyer may, by written notice, terminate this Agreement, and shall receive a full and prompt refund of the Earnest Money Deposit from Seller within three (3) business days of receipt of such notice and neither party shall have any further obligations hereunder.

4.4 Prior to Closing. In addition to the due diligence contingencies set out above, Buyer's obligations under this Agreement are conditioned upon the satisfaction, in Buyer's sole discretion, of the following specific conditions prior to the Closing:

(a) Access Rights. The Buyer shall be satisfied that the necessary access, easements, cross-easements and other rights are in place and benefiting the Premises sufficient to provide unrestricted access to and from the Premises.

(b) No Breach of Representations. There shall be no breach or violation of the representations and warranties made by Seller under this Agreement.

(c) Performance of All Covenants. Seller shall have performed all covenants, agreements, and obligations and complied with all conditions required by this Agreement to be performed or complied with by Seller prior to the Closing Date, and no default hereunder by Seller shall have occurred and be occurring.

(d) No Title Exceptions. No exceptions to title shall exist except the Permitted Exceptions and acts done or suffered to be done by Buyer.

(e) Use Disclosure. Seller shall execute an Affidavit of Use in the presence of a Notary Public that discloses present and previous land uses creating any risk of chemical contamination resulting from any activities that occurred on the Premises including without limitation buried chemical or fuel storage tanks, and further discloses any present or past disposal of residential, commercial, industrial or construction debris.

(f) No Environmental Condition. No environmental condition shall have first occurred, have been first disclosed, or have first manifested itself subsequent to the Buyer's waiver of such condition or the end of the Review Period, which condition constitutes a Hazardous Substance as defined herein.

(g) Ohio EPA Approval. Buyer must obtain an approval by the Ohio EPA during the Review Period for use of the Premises by Buyer for a wellfield.

In the event that any condition described in this Section 4.4 remains unsatisfied as of the Closing, in the Buyer's sole judgment, then the Buyer may elect to proceed with Closing, waiving any such condition, or the Buyer may, by written notice, terminate this Agreement, and shall receive a full and prompt refund of the Earnest Money Deposit from Seller within three (3) business days of receipt of such notice, and neither party shall have any further obligations hereunder.

5. CONDITION OF TITLE. At the Closing, Seller shall convey to Buyer, by General Warranty Deed, with proper release of dower on said deed executed by each Seller's spouse, if married, good, merchantable, transferable and insurable fee simple title to the Premises, free from

all liens, encumbrances, restrictions, rights-of-way and other matters, excepting only the "Permitted Exceptions" as follows: (i) the lien of general real estate taxes and assessments not yet due and payable, subject to proration of taxes as provided herein; (ii) liens or encumbrances of a definite or ascertainable monetary amount which will be paid and discharged in full by or for Seller at or prior to the Closing; and (iii) local ordinances and easements, covenants, conditions and restrictions of record, if any, not otherwise objected to by Buyer under Section 4.3(a) hereof. For clarity purposes, any easement, encroachment, and rights-of-way benefiting any property other than the Premises is not a Permitted Exception.

6. **SELLER'S COVENANTS.** Seller agrees that:

6.1 Within ten (10) days after the Effective Date, Seller shall provide Buyer with true, complete, and accurate copies of the following:

(a) Utility bills incurred on the Premises during the twelve (12) months immediately prior to the date hereof.

(b) All leases, contracts, agreements and commitments, written or unwritten, relating to the Premises include, but not limited to, farm or agricultural use, mineral or gravel extraction, mining, and wellfield production or water extraction.

(c) All surveys, title insurance policies, and all engineering reports relating to the Premises, or any part thereof, that were prepared for Seller or are in Seller's possession or reasonably obtainable by Seller.

(d) Copies of any reports concerning soil, ground water, underground tanks, subsurface conditions, environmental conditions or other information concerning the Premises of which Seller is aware.

6.2 Seller shall maintain the Premises in the same condition as it is on the date of the Seller's execution of this Agreement and in accordance with all requirements of any governmental authority.

6.3 After the Effective Date hereof, and so long as this Agreement remains in effect, Seller shall not encumber the Premises or permit the Premises to become encumbered with any easements, agreements, concessions, licenses, leases, or other third party rights, except as otherwise may be agreed to by Buyer and Seller from time to time prior to Closing.

7. **RESERVED.**

8. **SELLER'S WARRANTIES AND REPRESENTATIONS.** As a material inducement to Buyer to enter into this Agreement, each Seller hereby warrants and represents to the Buyer as follows, which representations and warranties shall survive the Closing:

8.1 To the best of Seller's knowledge, the Premises are currently zoned to permit all current uses being made of the Premises, and no portion of the Premises constitutes a non-conforming use. Seller has not received any notice of, nor does it have any knowledge of, any

violation or alleged violation of any law, zoning ordinance, fire, building, health, environmental or other code, regulation or rule affecting the Premises.

8.2 Seller has not received any notice and does not have any knowledge of or information as to any existing or threatened condemnation or other legal action of any kind affecting the Premises.

8.3 Seller has not received notice of, nor does it have knowledge of any actual or contemplated special assessments against the Premises, or assessments for general real estate tax purposes affecting the Premises, except as otherwise referred to in this Agreement or as may be disclosed in the Title Commitment.

8.4 No commitments that impose any obligation to make any contribution of land or to install or maintain any improvements have been made by Seller, nor to the best of Seller's knowledge do any exist which do not appear of record, and none will be made, to any governmental unit or agency, utility company, authority, school board, church or other religious body, or to any other organization, group or individual relating to the Premises or its use and development. Any commitments that impose any obligation to make any contribution or reimbursement of money relating to any improvements on the land, such obligation shall remain the obligation of Seller.

8.5 Seller owns fee simple marketable title to the Premises on the date of Closing and will take and perform those acts, which are necessary hereunder in order to fulfill the terms and conditions hereof.

8.6 There are no pending lawsuits, no threatened lawsuits, and no asserted or threatened violations which may affect the Premises or any part thereof or Seller's ability to perform this Agreement.

8.7 There are no private restrictions or conditions by deed or contract relating to the Premises which do not appear of record. Seller has not executed or caused to be executed any document, restricting the development, use, or occupancy of the Premises.

8.8 Seller has not ordered any material, labor or services which could result in the filing of any mechanics' or materialmen's lien against the Premises. As of the date of Closing, the Premises shall be free from mechanic's liens or the possibility of the rightful filing thereof. If any material or labor has been furnished to the Premises within the ninety (90) day period immediately preceding the date of Closing, Seller shall furnish evidence reasonably satisfactory to the Buyer and Title Company that the payment in full for all such material and labor has been made or provided for.

8.9 The Premises consist of all the parcels described in Exhibit A.

8.10 Seller is not a foreign person under Section 1445 of the Internal Revenue Code.

8.11 Seller has full authority to enter into and carry out the terms of this Agreement, and if married, Seller's spouse will execute the deed of conveyance releasing his or her dower interest.

8.12 To the best knowledge of Seller, neither Seller nor any other persons, have used or permitted any Hazardous Materials, as hereinafter defined, to be placed, held, stored or disposed of on the Premises or any portion thereof, in violation of any Hazardous Material Laws, as hereinafter defined, and to Seller's knowledge, the Premises does not now contain any Hazardous Materials or any underground storage tanks.

(a) For purposes of this Agreement, the term "Hazardous Materials" shall mean and include those substances, including without limitation, asbestos or any substance containing asbestos and deemed hazardous under any Hazardous Material Law (defined below), the group of organic compounds known as polychlorinated biphenyls, flammable explosives, radioactive materials, chemicals known to cause cancer or reproductive toxicity, pollutants, effluents, contaminants, emissions or related materials, or petroleum (including crude oil or any fraction thereof) and any items included in the definition of hazardous or toxic waste, materials or substances under any Hazardous Material Law.

(b) "Hazardous Material Laws" collectively means and includes any present and future local, state, and federal law relating to the environment and environmental conditions without limitation, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. §6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§9601-9658, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. §6901, et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§1251 et seq., the Clean Air Act, 42 U.S.C. §§741 et seq., the Clean Water Act, 33 U.S.C. §7401 et seq., the Toxic Substances Control Act, 15 U.S.C. §§2601-2629, the Safe Drinking Water Act, 42 U.S.C. §§300f-300j, and all the regulations, orders, decrees now or hereafter promulgated thereunder.

9. **RESERVED.**

10. **REAL ESTATE TAXES.** Seller shall be responsible for paying all 2019 and prior year real property taxes and assessments, interest and penalties, if unpaid, plus real estate taxes and assessments unable to be paid for 2020 shall be prorated from January 1, 2020 through the date of closing based on the most recent available tax duplicate and credited to Buyer on the Settlement Statement as an adjustment for items unpaid by Seller. Any special assessments applicable to the Property for improvements previously made to benefit the Property certified prior to Closing shall be paid in full by Seller on or before the date of Closing.

11. **CLOSING.**

11.1 Provided all conditions set forth herein have been satisfied or waived, the Closing shall take place on or prior to seven (7) days after the Review Period has expired or otherwise extended as provided herein or by agreement of the parties (the "Closing Date"). The Closing shall occur at such place as agreed by Buyer and Seller. At Closing, Seller and Buyer, as applicable, shall deliver to the other the following:

(a) Satisfactory evidence of the authority and/or identification of the persons executing the conveyance documents to sign such documents and consummate the

transaction on behalf of Seller, including a certified copy of the resolution authorizing the transaction contemplated by this Agreement;

(b) A duly authorized and executed General Warranty Deed of Seller with proper release of dower rights, prepared by Buyer's legal counsel at no cost to Seller, in recordable and transferable form conveying good and marketable title to the Premises, subject only to current taxes and assessments not yet due and payable, and Permitted Exceptions;

(c) A duly authorized and executed Seller's Affidavit, in form and substance satisfactory to Buyer and Buyer's Title Company;

(d) An affidavit in form and substance satisfactory to Buyer stating that all the representations and warranties set forth herein by Seller are true and correct as of the date of Closing and that Seller is not a "foreign persons" as such term is used in section 1445 of the Internal Revenue Code; and

(e) All other documents which may be reasonably required by the Buyer or Buyer's Title Company to insure Buyer of good and marketable title to the Premises and/or are customary for similar closings in southern Ohio.

11.2 Except as otherwise provided herein, the Seller and Buyer shall each pay for their own respective attorneys. Each party shall be responsible for its own costs and expenses in accordance with the obligations or conditions to be performed by each party hereto. At the time of Closing, Seller and Buyer shall execute and deliver a settlement statement setting forth the Purchase Price with such closing adjustments thereto as may be applicable.

12. **REMEDIES UPON DEFAULT.** In the event Buyer fails, due to no fault or delay caused by Seller, to close on the purchase of the Premises prior to the expiration of the final Review Period, Seller's remedies shall be limited to retaining the Earnest Money Deposit made by Buyer hereunder.

In the event Seller breaches or defaults under any of the terms of this Agreement, and such default is not cured within thirty (30) days after written notice of default from Buyer, Buyer shall be entitled to compel specific performance of this Agreement and recover all costs and reasonable attorney's fees related thereto.

13. **NOTICES.** All notices, elections, requests and other communications hereunder shall be in writing, and shall be deemed sufficiently given when personally delivered or when deposited in the United States mail, postage prepaid, certified or registered, or when delivered to a nationally recognized overnight delivery service and addressed as follows:

If to Seller:

Lori Holtzman
500 Morrow Road
South Lebanon, OH 45065
Ph. () - _____
Email: _____

Copy to (if desired):

Ph. () - _____
Email: _____

Ginger Spicer Mandelstein
500 Morrow Road
South Lebanon, OH 45065
Ph. () - _____
Email: _____

Ph. () - _____
Email: _____

John Kevin Spicer
380 King Avenue
South Lebanon, OH 45065
Ph. () - _____
Email: _____

Ph. () - _____
Email: _____

If to Buyer:

Copy to:

Attn. Tiffany Zindel,
County Administrator
Warren County Board of Commissioners
406 Justice Drive
Lebanon, OH 45036
Ph. 513.695.1241
Email: tiffany.zindel@co.warren.oh.us

Attn. Bruce A. McGary
Assistant Prosecuting Attorney
Warren County Prosecutor's Office
520 Justice Drive, 2nd Floor
Lebanon, OH 45036
Ph. 513.695.1384
Email: bruce.mcgary@warrencountyprosecutor.com

14. **BROKERAGE COMMISSION.** Seller and Buyer each represents to the other that it has no knowledge of any agreement, understanding or fact which would entitle any person, firm or corporation to any such real estate fee or commission in connection with this transaction.

15. **EMINENT DOMAIN.** If, prior to the date of the Closing, Seller acquires knowledge of any pending or threatening claim, suit, or proceeding to condemn and/or take all or any part of the Premises under the power of eminent domain; Seller shall immediately notify Buyer, who will have the right to terminate this Agreement by delivering notice thereof to Seller within fifteen (15) days after receiving notice from Seller of such condemnation or taking; and thereupon the Earnest Money Deposit shall be refunded to Buyer and rights and obligations of the parties hereto shall cease. If Buyer elects not to terminate this Agreement pursuant to this Section, the parties shall proceed with the Closing in accordance with the terms hereof without abatement of the Purchase Price, but all proceeds of any condemnation award shall be payable solely to Buyer, and Seller shall have no interest therein.

16. **MISCELLANEOUS.**

16.1 **Survival of Agreement.** The representations, warranties and covenants of Buyer and Seller herein contained or in any a deed of conveyance or any other document executed by Buyer or Seller to effect or consummate the transactions herein intended, shall survive the Closing and be exempt from merger by agreement, deed or estoppel.

16.2 **Agreement Binding.** This Agreement shall be binding upon and shall inure to the benefit of the Seller, their successors and assigns and Buyer and its successors and assigns.

16.3 Headings and Captions. The several headings and captions of the Sections and Subsections used herein are for convenience or reference only and shall, in no way, be deemed to limit, define or restrict the substantive provisions of this Agreement.

16.4 Entire Agreement. This Agreement constitutes the entire agreement of Buyer and Seller with respect to the purchase and sale of the Premises superseding any prior or contemporaneous agreement with respect thereto. No amendment or modification of this Agreement shall be binding upon the parties unless made in writing and signed by both the Seller and Buyer.

16.5 Cooperation. Buyer and Seller shall cooperate fully with each other to carry out and effectuate the purchase and sale of the Premises in accordance herewith and the satisfaction and compliance with all of the conditions and requirements set forth herein. Wherever the approvals of Buyer and Seller as herein set forth are so required, such approvals shall not unreasonably be withheld.

16.6 Governing Law and Venue. This Agreement and the rights of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Ohio. The venue for any and all disputes, interpretations, claims or causes of action of any kind shall be brought exclusively in the Warren County [Ohio] Court of Common Pleas, General Division (unless the parties mutually agree in writing to mediation to be conducted in Warren County, Ohio). The parties irrevocably waive the right to bring or remove any and all disputes, interpretations, claims or causes of action of any kind in any other county, state or federal court. Should either party breach this exclusive venue provision, the breaching party shall pay the reasonable attorney's fees and court costs that the other party incurs relating to such action having to be removed to the Warren County [Ohio] Court of Common Pleas, General Division.


16.7 Assignment. Any assignments of this Agreement shall be prohibited unless consented to in writing by all of the parties.

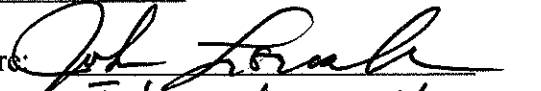
16.8 Risk of Loss. Risk of loss to the Premises shall remain on the Seller until the Closing.

[the remainder of this page is blank, signature pages and Exhibit A are on following pages]

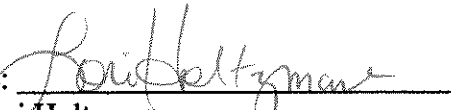
IN EXECUTION WHEREOF, the Sellers have executed this Agreement on the dates set forth below.

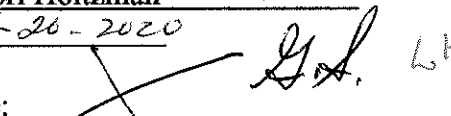
Two witnesses as to all Sellers:

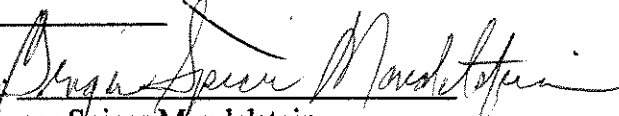
Signature: 
Print Name: James Spicer III
Date: 8-20-2020

Signature: 
Print Name: John Koualle
Date: 8-20-2020

Sellers:


Signature: 
Name: Lori Holtzman
Date: 8-20-2020

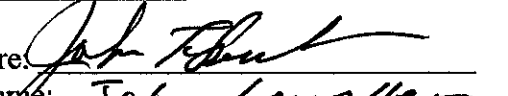
Signature: ~~~~
Name: John Kevin Spicer
Date: ~~_____~~

Signature: 
Name: Ginger Spicer Mandelstein
Date: 8-20-2020

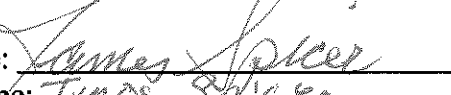
Two witnesses as to Spouse of each Seller:


Witnesses:

Signature: 
Print Name: James Spicer III
Date: 8-20-2020


Signature: 
Print Name: John Koualle
Date: 8-20-2020

Spouse of Lori Holtzman:

Signature: 
Print Name: JAMES SPICER
Date: 8-20-2020

Spouse of John Kevin Spicer: ~~~~
Signature: ~~_____~~
Print Name: ~~_____~~
Date: ~~_____~~

Spouse of Ginger Spicer Mandelstein:

Signature: 
Print Name: None
Date: 8-20-2020

[continued on next pages for signatures and Exhibit A only]

BUYER:

IN EXECUTION WHEREOF, the BOARD OF COMMISSIONERS OF WARREN COUNTY, OHIO has caused this agreement to be executed by Tom Grossmann, its President or Vice-President, on the date stated below, pursuant to Resolution # 20-1327, dated 9/22/20 a copy of which is attached hereto.

**BOARD OF COMMISSIONERS
OF WARREN COUNTY, OHIO**

SIGNATURE: 

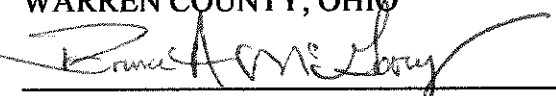
PRINTED NAME: Tom Grossmann

TITLE: Member

DATE: 9/22/20

Prepared and approved as to form:

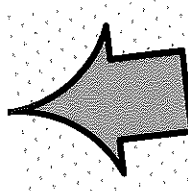
DAVID P. FORNSHELL
PROSECUTING ATTORNEY
WARREN COUNTY, OHIO


By: Bruce A. McGary, Assistant Prosecutor
Date: 9/15/2020

FISCAL OFFICER'S CERTIFICATE

The undersigned, fiscal officer of the Warren County, Ohio, hereby certifies that the funds required to meet the obligations of Warren County during the year 2020 under the foregoing Agreement have been lawfully appropriated for such purposes and are in the treasury of Warren County or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Auditor,
Warren County, Ohio



Dated: _____, 2020.

EXHIBIT A
Legal Description of Parent Parcel

[Insert or attach]

“

AFFIDAVIT OF NON COLLUSION

STATE OF OHIO
COUNTY OF WARREN

I, James Spicer, holding the title and position of representing at the firm _____, affirm that I am authorized to speak on behalf of the company, board directors and owners in setting the price on the contract, bid or proposal. I understand that any misstatements in the following information will be treated as fraudulent concealment of true facts on the submission of the contract, bid or proposal.

I hereby swear and depose that the following statements are true and factual to the best of my knowledge:

The contract, bid or proposal is genuine and not made on the behalf of any other person, company or client, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS.

The price of the contract, bid or proposal was determined independent of outside consultation and was not influenced by other companies, clients or contractors, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS.

No companies, clients or contractors, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS have been solicited to propose a fake contract, bid or proposal for comparative purposes.

No companies, clients or contractors, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS have been solicited to refrain from bidding or to submit any form of noncompetitive bidding.

Relative to sealed bids, the price of the bid or proposal has not been disclosed to any client, company or contractor, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS, and will not be disclosed until the formal bid/proposal opening date.

Jori Holtzman
AFFIANT

Subscribed and sworn to before me this 10th day of September 20 20

Carla M Oeder
(Notary Public),

Warren County.

My commission expires 5-15 20 21



Carla M. Oeder
Notary Public, State of Ohio
My Commission Expires May 15, 2021

AFFIDAVIT OF NON COLLUSION

STATE OF Ohio
COUNTY OF Warren

I, James Spicer, holding the title and position of representing at the firm _____, affirm that I am authorized to speak on behalf of the company, board directors and owners in setting the price on the contract, bid or proposal. I understand that any misstatements in the following information will be treated as fraudulent concealment of true facts on the submission of the contract, bid or proposal.

I hereby swear and depose that the following statements are true and factual to the best of my knowledge:

The contract, bid or proposal is genuine and not made on the behalf of any other person, company or client, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS.

The price of the contract, bid or proposal was determined independent of outside consultation and was not influenced by other companies, clients or contractors, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS.

No companies, clients or contractors, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS have been solicited to propose a fake contract, bid or proposal for comparative purposes.

No companies, clients or contractors, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS have been solicited to refrain from bidding or to submit any form of noncompetitive bidding.

Relative to sealed bids, the price of the bid or proposal has not been disclosed to any client, company or contractor, INCLUDING ANY MEMBER OF THE WARREN COUNTY BOARD OF COMMISSIONERS, and will not be disclosed until the formal bid/proposal opening date.

James Spicer
AFFIANT

Subscribed and sworn to before me this 10th day of September 20 20

Carla M Oeder
(Notary Public),

Warren County.

My commission expires 5-15 20 21



Carla M. Oeder
Notary Public, State of Ohio
My Commission Expires May 15, 2021

Resolution

Number 20-1328

Adopted Date September 22, 2020

AMEND THE WIOA YOUTH SERVICE CONTRACT WITH EASTER SEALS TRISTATE, LLC ON BEHALF OF THE WORKFORCE INVESTMENT BOARD OF BUTLER, CLERMONT, AND WARREN COUNTIES

BE IT RESOLVED, to amend the contract between Warren County (Administrative Agent) and Easter Seals Tristate LLC, on behalf of the Workforce Investment Board of Butler, Clermont, and Warren Counties, increasing the current contract amount with WIOA Youth funds in total by \$246,868, reflecting adjustments, carryforward amounts and the new allocation. Copy of amendment is attached hereto and made a part hereof.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: c/a—Easter Seals Tristate, LLC
Area 12 WIB Administrator
Workforce Investment Board (file)

Amendment #1

Workforce Investment Board | Butler – Clermont – Warren
WIOA Youth Purchase of Service Contract

The approved and entered into WIOA Youth Purchase of Service Contract Agreement beginning July 1, 2019 was entered into by and between the Workforce Development Board of Butler, Clermont, and Warren Counties / Ohio Area 12 WDB (hereinafter "WIBBCW"), through the Board of Warren County Commissioners who has been designated as the Administrative Entity and Fiscal Agent and Easter Seals Tristate LLC, (hereinafter "Provider"), with its main office located at 2901 Gilbert Ave, Cincinnati, Ohio, 45206, for the purchase of Workforce Investment WIOA Youth Services identified under Exhibit 1, Services to be Purchased, is hereby modified by the Amendment 1.

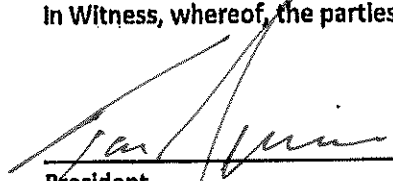
All parties agree to the modified / amended as follows:

1. TERM/ CONTRACT AMOUNT

Increase the current contract amount with WIOA Youth funds in total by \$246,868.
This increase reflects adjustments, carryforward amounts and the new allocation.


Except as modified and changed by Amendment Number 1, the WIOA Youth Purchase of Service Contract Agreement beginning July 1, 2019, by and between the Board of Warren County Commissioners on behalf of the WIBBCW, shall remain as written in full force and effect.

In Witness, whereof, the parties hereunto set for their hands on the attached signature pages therefore.



President
Board of Warren County Commissioners

9/22/20
Date




Easter Seals Tristate LLC

09/10/2020
Date

Approved as to Form:

PROSECUTING ATTORNEY
WARREN COUNTY, OHIO


By: Keith Anderson, Asst. Prosecutor



Workforce Development Board
Executive Director

9/16/20
Date

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1329

Adopted Date September 22, 2020

ACKNOWLEDGE PAYMENT OF BILLS

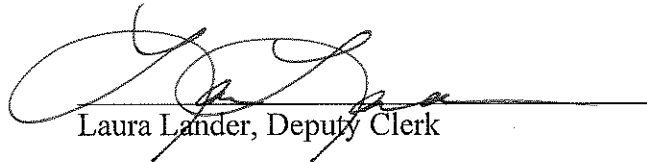
BE IT RESOLVED, to acknowledge payment of bills from 9/15/20 and 9/17/20 as attached hereto and made a part hereof.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

/tao

cc: Auditor

Resolution

Number 20-1330

Adopted Date September 22, 2020

APPROVE A SUBDIVISION PUBLIC IMPROVEMENT PERFORMANCE AND MAINTENANCE SECURITY RELEASE FOR MT. PLEASANT BLACKTOPPING CO., INC. FOR THE WOODLANDS AT MORROW, PHASE 2D SITUATED IN THE VILLAGE OF MORROW

BE IT RESOLVED, upon recommendation of the Warren County Sanitary Engineer, to approve the following security release:

RELEASE

Bond Number	:	18-017 (W/S)
Development	:	The Woodlands at Morrow, Phase 2D
Developer	:	Mt. Pleasant Blacktopping Co., Inc.
Location	:	Village of Morrow
Amount	:	\$7,043.69
Surety Company	:	Philadelphia Indemnity Insurance Co. (PB00424500006)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cgb

cc: Mt. Pleasant Blacktopping, 3199 Production Dr., Fairfield, OH 45014
Philadelphia Indemnity Ins. Co. One Bala Plaza, Suite 100, Bala Cynwyd, PA 19004
Water/Sewer (file)
Bond Agreement file

Resolution

Number 20-1331

Adopted Date September 22, 2020

APPROVE A SUBDIVISION PUBLIC IMPROVEMENT PERFORMANCE AND MAINTENANCE SECURITY RELEASE FOR M/I HOMES OF CINCINNATI, LLC FOR HUDSON HILLS, SECTION 3, BLOCK "C", SITUATED IN DEERFIELD TOWNSHIP

BE IT RESOLVED, upon recommendation of the Warren County Sanitary Engineer, to approve the following security release:

RELEASE

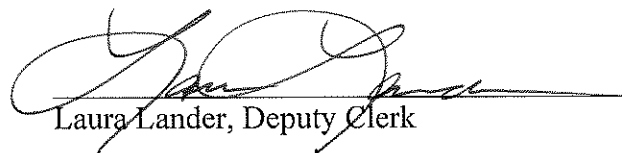
Bond Number	:	18-021 (W/S)
Development	:	Hudson Hills, Section 3, Block "C",
Developer	:	M/I Homes of Cincinnati, LLC
Township	:	Deerfield
Amount	:	\$15,667.10
Surety Company	:	Capitol Indemnity Corporation (60128159)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cgb

cc: M/I Homes of Cincinnati, LLC, 9349 Waterstone Blvd., Suite 100, Cincinnati OH 45249
Capitol Indemnity Corporation, PO Box 5900, Madison WI 53705
Water/Sewer (file)
Bond Agreement file

Resolution

Number 20-1332

Adopted Date September 22, 2020

APPROVE BOND RELEASE FOR HIGHLANDS ONE, LLC FOR COMPLETION OF IMPROVEMENTS IN HIGHLANDS AT HERITAGE HILL SITUATED IN UNION TOWNSHIP

BE IT RESOLVED to approve the following bond release upon recommendation of the Warren County Soil and Water Conservation District:

EROSION CONTROL PERFORMANCE BOND RELEASE


Bond Number	:	N/A
Development	:	Highlands at Heritage Hill
Developer	:	Highlands One, LLC
Township	:	Union
Amount	:	\$10,878.82
Surety Company	:	Fifth Third Bank/Certified Check #26612729

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Developer
OMB – S. Spencer
Soil & Water (file)
Bond Agreement file

Resolution

Number 20-1333

Adopted Date September 22, 2020

ENTER INTO STREET AND APPURTENANCES (INCLUDING SIDEWALKS) SECURITY AGREEMENT WITH VWC HOLDINGS, LTD FOR INSTALLATION OF CERTAIN IMPROVEMENTS IN THE VILLAGES OF WINDING CREEK, THE BOULEVARDS AT WINDING CREEK, SECTION NINE SITUATED IN CLEARCREEK TOWNSHIP

BE IT RESOLVED, upon recommendation of the Warren County Engineer, to enter into the following Street and Appurtenances (including sidewalks) Security Agreement:

SECURITY AGREEMENT


Bond Number	:	0-021 (P/S)
Development	:	The Villages of Winding Creek, The Boulevards at Winding Creek, Section Nine
Developer	:	VWC Holdings, LTD
Township	:	Clearcreek
Amount	:	\$95,404.98
Surety Company	:	The Old Fort Banking Company (LOC 10143097-3)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS


Laura Lander, Deputy Clerk

cc: Developer
Surety Company
Engineer (file)
Bond Agreement file

**SUBDIVISION PUBLIC IMPROVEMENT PERFORMANCE AND MAINTENANCE
SECURITY AGREEMENT**

STREETS AND APPURTENANCES
(Including Sidewalks)

Security Agreement No.

20-021 (P/S)

This Agreement made and concluded at Lebanon, Ohio, by and between VWC Holdings, LTD (1) (hereinafter the "Developer") and the Warren County Board of County Commissioners, (hereinafter the "County Commissioners"), and The Old Fort Banking Company (2) (hereinafter the "Surety").

WITNESSETH:

WHEREAS, the Developer is required to install certain improvements in The Villages of Winding Creek The Boulevards at Winding Creek Subdivision, Section ~~Phase~~ Nine (3) (hereinafter the "Subdivision") situated in Clearcreek (4) Township, Warren County, Ohio, in accordance with the Warren County Subdivision regulations (hereinafter called the "Improvements"); and,

WHEREAS, it is estimated that the total cost of the Improvements is \$477,024.92, and that the Improvements that have yet to be completed and approved may be constructed in the sum of \$30,160.00; and,

WHEREAS, the County Commissioners require all developers to post security in the sum of one hundred thirty percent (130%) of the estimated cost of uncompleted or unapproved Improvements to secure the performance of the construction of uncompleted or unapproved Improvements in accordance with Warren County subdivision regulations and to require all Developers to post security in the sum of twenty percent (20%) of the estimated total cost of the Improvements after the completion of the Improvements and their tentative acceptance by the County Commissioners to secure the performance of all maintenance upon the Improvements as may be required between the completion and tentative acceptance of the Improvements and their final acceptance by the County Commissioners.

NOW, THEREFORE, be it agreed:

1. The Developer will provide **performance security** to the County Commissioners in the sum of \$95,404.98 to secure the performance of the construction of the uncompleted or unapproved Improvements in accordance with Warren County subdivision regulations (hereinafter the Performance Obligation). If any sum greater than zero (0) is inserted herein, the **minimum performance security** shall be twenty percent (20%) of the total cost of the Improvements.

2. The County Commissioners will, upon approval of the County Engineer of all Improvements in the Subdivision, tentatively accept all Improvements.
3. The Developer shall be in default of the Performance Obligation if the construction or installation of any Improvement by the Developer is not completed within 2 years from the date of the execution of this agreement, as determined by the County Engineer. The same shall apply whenever construction of the Improvements is not performed in accordance with the Warren County subdivision regulations.
4. The condition of the Performance Obligation shall be that whenever the Developer shall be declared by the County Commissioners to be in default, the Surety and the Developer shall, upon written notification of default by the County Commissioners to the Surety promptly make sufficient funds available to the County Commissioners to pay the cost of the completion of the construction of the uncompleted or unapproved Improvements in accordance with Warren County subdivision regulations, including any costs incurred by the County Commissioners which are incidental to the completion of the construction of the uncompleted or unapproved Improvements, including, but not limited to costs associated with publication of legal notices, preparation of such additional plans, specifications and drawings as may, in the judgment of the County Commissioners, be necessary, preparation of bid documents, etc., but not exceeding the amount set forth in Item 1 hereof. The Developer shall have the opportunity to respond in writing within two (2) weeks of receipt of notice of intent to find the Developer in default. In the case that the performance security given is in the form of a cashier's check or certified check provided directly to the County Commissioners, the County Commissioners may apply such funds as set forth herein upon notification of default to the Surety. The determination of the amount of funds to be disbursed by Surety to the County Commissioners as set forth in the aforesaid notification is final and binding upon the parties hereto. However, the foregoing shall not release Developer from any liability for any deficiency between the amount of funds disbursed and the actual costs incurred by the County Commissioners in the completion of the construction or installation of the uncompleted or unapproved Improvements and Developer expressly agrees to be liable to the County Commissioners for any such deficiency.
5. **The County Commissioners, the Developer and Surety mutually agree that the Performance Obligation created herein shall continue until the completion of the installation of the Improvements in accordance with Warren County subdivision regulations and that upon the Improvements having been inspected and approved for two years maintenance, the Performance Obligation shall become null and void after the Developer posts the maintenance security provided for herein.**
6. The Developer will provide **maintenance security** to the County Commissioners in the sum of \$95,404.98 to secure the performance of all maintenance upon the Improvements as determined to be necessary by the County Engineer (hereinafter the Maintenance Obligation). In no event shall the sum provided for herein be less than twenty percent (20%) of the estimated total cost of the Improvements as set forth above.

7. The Developer, upon being notified by the County Engineer of the maintenance required upon the Improvements to bring the same into compliance with Warren County Subdivision regulations shall immediately undertake to perform and complete such required maintenance within the time set forth in the notice from the County Engineer.
8. The Developer shall be in default of the Maintenance Obligation should the Developer fail to complete or cause to be undertaken and completed required maintenance upon the Improvements as set forth in Item 7 hereof.
9. The condition of the Maintenance Obligation shall be that whenever the Developer shall be declared by the County Commissioners to be in default, the Surety and the Developer shall, upon written notification of default by the County Commissioners to the Surety promptly make sufficient funds available to the County Commissioners to pay the cost of the required maintenance upon the Improvements, including any costs incurred by the County Commissioners which are incidental to the performance of such maintenance, including, but not limited to costs associated with the publication of legal notices, preparation of additional plans, specifications and drawings, as may, in the judgment of the County Commissioners, be necessary, preparation of bid documents, etc. but not exceeding the amount set forth in Item 6 hereof. The Developer shall have the opportunity to respond in writing within two (2) weeks of receipt of notice of intent to find the Developer in default. In the case that the maintenance security given is in the form of a cashier's check or certified check provided directly to the County Commissioners, the County Commissioners may apply such funds to the completion of the required maintenance upon the Improvements upon notification of default to the Surety. The determination of the amount of funds to be disbursed by Surety to the County Commissioners as set forth in the aforesaid notification is final and binding upon the parties hereto. However, the foregoing shall not release Developer from any liability for any deficiency between the amount of funds disbursed and the actual costs incurred by the County Commissioners in the performance of maintenance upon the Improvements and Developer expressly agrees to be liable to the County Commissioners for any such deficiency.
10. That upon expiration of the two years from the date of the tentative acceptance of the Improvements by the County Commissioners and upon satisfactory completion of any required maintenance upon the Improvements to bring the Improvements into compliance with Warren County subdivision regulations, the County Commissioners hereby agree to release the maintenance security and give final acceptance to the Improvements. The Developer shall request, in writing directed to the County Engineer, a final inspection of the Improvements and the Developer shall be responsible for all maintenance as may be necessary and as may accrue from the commencement of the **two year maintenance period** and until such written request for inspection is delivered.
11. In the case of default pursuant to Items 3 and 4 or 8 and 9 hereof, Developer shall make available to the County Commissioners all plans, specifications and drawing relating to the Improvements and hereby directs all third parties, including engineers and consultants, who may possess such plans, specifications and drawings, or copies thereof, to provide the same

to the County Commissioners upon request and presentation of this security agreement or a copy thereof and agrees to hold such third parties harmless from the provision of such plan specifications and drawings pursuant to this item. Developer does hereby consent to the use of such plans, specifications and drawings by the County Commissioners to complete the construction of the uncompleted or unapproved Improvements or the performance of maintenance upon the same in the case of default pursuant to Items 3 and 4 or 8 and 9 hereof.

12. In the case of conflict between the provisions of this agreement and any other security agreement relating to the same Improvements, the provisions of this agreement shall take precedence.
13. Any notice, correspondence, inquiry or request for inspection permitted or required under this security agreement shall be given as follows:

A. To the County Commissioners:

Warren County Board of County Commissioners
Attn: County Administrator
406 Justice Drive
Lebanon, OH 45036
Ph. (513) 695-1250

B. To the County Engineer:

Warren County Engineer
105 Markey Road
Lebanon, OH 45036
Ph. (513) 695-3336

C. To the Developer:

VWC Holdings, LTD

3601 Rigby Rd, Suite 300

Miamisburg, OH 45324

Ph. (937) 435 - 8584

D. To the Surety:

Old Fort Banking Company

6430 Wilmington Pike

Sugarcreek Township, OH 45459

Ph. () -

All notices and requests for inspection, unless otherwise specifically provided herein, shall be by certified mail, return receipt requested, and shall be complete upon mailing. **All parties are obligated to give notice of any change of address.**

14. The security to be provided herein shall be by:

_____ **Certified check or cashier's check** (attached) (**CHECK #** _____)

X _____ **Original Letter of Credit** (attached) (**LETTER OF CREDIT #** 10143097-3)

_____ **Original Escrow Letter** (attached)

_____ **Surety Bond** (this security agreement shall serve as the bond when signed by an authorized representative of a surety company authorized to do business within the State of Ohio with a **power of attorney attached** evidencing such authorized signature).

_____ **Surety obligation of national bank** (by signing this security agreement the authorized representative of the national bank undertaking this surety obligation does certify, for and on behalf of the undersigned national bank, that the bank has a segregated deposit sufficient in amount to the bank's total potential liability).

15. **The term "Surety" as used herein includes a bank, savings and loan or other financial institution where the security provided is a letter of credit, escrow letter or surety obligation of a national bank. The term "Surety" when referring to a bank, savings and loan or other financial institution is not intended to create obligations beyond those provided by Paragraphs 4 and/or 9 of this security agreement.**

16. **In the event that Surety shall fail to make funds available to the County Commissioners in accordance with Paragraphs 4 or 9, as applicable, within thirty (30) days after notification of default, then amounts due shall bear interest at eight per cent (8%) per annum.**

17. This Agreement shall not be assignable or transferrable by the Developer or Surety to any third party or parties without the express written consent of the County Commissioners. Developer and Surety waive any successor developer or successor surety claim or defense unless the County Commissioners have executed a written consent of assignment.
18. This Agreement shall be construed under the laws of the State of Ohio. The Developer and Surety hereby stipulate to the venue for any and all claims, disputes, interpretations and litigation of any kind arising out of this Agreement, being exclusively in the Warren County, Ohio Court of Common Pleas (unless both parties mutually agree in writing to attempt to resolve by alternate dispute resolution prior to litigation), and do further waive any right to bring or remove such claims, disputes, interpretation and litigation of any kind arising out of this Agreement, in or to any other state or a federal court.

IN EXECUTION WHEREOF, the Developer and the Surety have caused this security agreement to be executed on the date stated below.

DEVELOPER:

Pursuant to a resolution authorizing the undersigned to execute this agreement.

SIGNATURE: 

PRINTED NAME: David C. Oakes

TITLE: Manager

DATE: 8/31/20

SURETY:

Pursuant to an instrument authorizing the undersigned to execute this agreement.

SIGNATURE: 

PRINTED NAME: Richard J. Demko


TITLE: Sr Vice President

DATE: 8-31-2020

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IN EXECUTION WHEREOF, the Warren County Board of County Commissioners have caused this security agreement to be executed by the President of the Board, on the date stated below, pursuant to Board Resolution Number 20-1333, dated 9/22/20.

**WARREN COUNTY
BOARD OF COUNTY COMMISSIONERS**

SIGNATURE: 

PRINTED NAME: Tom Grossmann

TITLE: President

DATE: 9/22/20

RECOMMENDED BY:

By:  / KW
COUNTY ENGINEER

APPROVED AS TO FORM:

By: 
COUNTY PROSECUTOR

Key:

1. Name of Developer
2. Name of Person, Firm, Entity, etc. who is providing the security whether that be a bank or other financial institution (in the case of a letter of credit or escrow letter) (Surety Company in the case of a bond) or the Developer itself (in the case of a certified check or cashier's check)
3. Name of subdivision with section number and phase number where applicable
4. Name of Township



Irrevocable Standby Letter of Credit No. 10143097-3

Beneficiary: Warren County Board of Commissioners
406 Justice Drive
Lebanon, OH 45036

Applicant: VWC Holdings, Ltd.
3601 Rigby Road, Ste 300
Miamisburg, OH 45342

Issue Date: August 31, 2020
Expiration Date: August 31, 2022
Amount: USD \$95,404.98
Reference No.: 10143097-3

Your Reference: The Villages of Winding Creek
The Boulevards Section 9
Streets and Appurtenances

We hereby establish our Irrevocable Standby Letter of Credit No. 10143097-3 in your favor for the account of VWC Holdings, Ltd. 3601 Rigby Road, Ste 300, Miamisburg, OH 45342 up to an aggregate amount of USD \$95,404.98 available by your draft(s) at sight drawn on The Old Fort Banking Company, Old Fort, Ohio.

Drafts to be accompanied by the following document(s):

1. Beneficiary's statement signed by one purporting to be an authorized signer of the Warren County Board of Commissioners certifying that "VWC Holdings, Ltd. is in default of the installation and/or maintenance of Streets and Appurtenances, **The Boulevards Section 9, The Villages of Winding Creek Subdivision, Clearcreek Township, Warren County, Ohio.**"
2. Original Letter of Credit and any amendments.

Partial drawings are permitted.

"It is a condition of this Irrevocable Letter of Credit that it shall be deemed automatically extended without amendment for successive one year periods from its present or any future expiration date unless at least sixty (60) days before any such expiration date we notify the Warren County Administrator, at the address listed above in writing, in writing by certified or registered mail, that we elect not to consider this Letter of Credit renewed for any such additional period, at such time

the Board of Warren County Commissioners may declare the Developer to be in default and demand immediate payment of all sums under this Letter of Credit.”

Draft(s) must be marked: “Drawn under The Old Fort Banking Company Standby Letter of credit No. 10143097-3 dated August 31, 2020.”

We hereby agree with you that drafts drawn under and in strict compliance with the terms of this credit will by duly honored by us upon presentation at **The Old Fort Banking Company, 8034 Main St., Old Fort, Ohio 44861**, on or before our close of business on August 31, 2022 or any automatically extended expiry date.

“The draft presentment deadline set forth in this letter of credit shall automatically be extended for one year periods unless at least sixty (60) days prior to any draft presentment deadline, or any prior extension thereof, **The Old Fort Banking Company** notifies the Warren County Administrator, 406 Justice Drive, Lebanon, Ohio 45036, that the draft presentment deadline shall not be extended for a successive one year period, at such time the Board of Warren County Commissioners may declare the Developer to be in default and demand immediate payment of all sums under this Letter of Credit.”

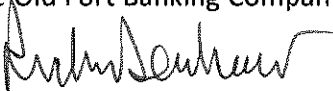
This letter of credit sets forth in full the terms of our undertaking and such undertaking shall not in any way be modified, amended or amplified by reference to any document, instrument, or agreement referred to herein or in which this letter of credit is referred to or to which this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement.

The Security Agreement referenced by this Letter of Credit and all its terms and conditions, is attached hereto, made a part hereof, and fully incorporated herein, as if fully rewritten.

Except as otherwise expressly stated herein, this Letter of Credit is issued subject to the International Standby Practices of the International Chamber of Commerce, Publication 590 (“ISP98”). This Letter of Credit shall be deemed to be a contract made under the laws of the State of Ohio and shall, as to matters not governed by ISP98, be governed by and construed in accordance with the laws of the State of Ohio, other than its conflict of laws rules, which would result in the application of the law of any jurisdiction other than the laws of the State of Ohio.

Sincerely,

The Old Fort Banking Company



Richard J. Demko
Senior Vice President

Resolution

Number 20-1334

Adopted Date September 22, 2020

ENTER INTO STREET AND APPURTENANCES (INCLUDING SIDEWALKS) SECURITY AGREEMENT WITH VWC HOLDINGS, LTD FOR INSTALLATION OF CERTAIN IMPROVEMENTS IN THE VILLAGES OF WINDING CREEK, THE BOULEVARDS AT WINDING CREEK, SECTION EIGHT A SITUATED IN CLEARCREEK TOWNSHIP

BE IT RESOLVED, upon recommendation of the Warren County Engineer, to enter into the following Street and Appurtenances (including sidewalks) Security Agreement:

SECURITY AGREEMENT

Bond Number	:	20-020 (P/S)
Development	:	The Villages of Winding Creek, The Boulevards at Winding Creek, Section Eight A
Developer	:	VWC Holdings, LTD
Township	:	Clearcreek
Amount	:	\$18,658.94
Surety Company	:	The Old Fort Banking Company (LOC 10143097-4)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Developer
Surety Company
Engineer (file)
Bond Agreement file

**SUBDIVISION PUBLIC IMPROVEMENT PERFORMANCE AND MAINTENANCE
SECURITY AGREEMENT**

STREETS AND APPURTENANCES
(Including Sidewalks)

Security Agreement No.

20-020 (P/S)

This Agreement made and concluded at Lebanon, Ohio, by and between _____
VWC Holdings, LTD (1) (hereinafter the "Developer") and the
Warren County Board of County Commissioners, (hereinafter the "County Commissioners"), and
The Old Fort Banking Company (2) (hereinafter the "Surety").

WITNESSETH:

WHEREAS, the Developer is required to install certain improvements in The Villages of Winding Creek
The Boulevards at Winding Creek ~~Subdivision, Section/Phase~~ Eight A (3) (hereinafter the "Subdivision") situated in
Clearcreek (4) Township, Warren County, Ohio, in accordance with the Warren County
Subdivision regulations (hereinafter called the "Improvements"); and,

WHEREAS, it is estimated that the total cost of the Improvements is \$93,294.72,
and that the Improvements that have yet to be completed and approved may be constructed in the sum of
\$7,960.00; and,

WHEREAS, the County Commissioners require all developers to post security in the sum of one
hundred thirty percent (130%) of the estimated cost of uncompleted or unapproved Improvements to secure
the performance of the construction of uncompleted or unapproved Improvements in accordance with
Warren County subdivision regulations and to require all Developers to post security in the sum of twenty
percent (20%) of the estimated total cost of the Improvements after the completion of the Improvements
and their tentative acceptance by the County Commissioners to secure the performance of all maintenance
upon the Improvements as may be required between the completion and tentative acceptance of the
Improvements and their final acceptance by the County Commissioners.

NOW, THEREFORE, be it agreed:

1. The Developer will provide **performance security** to the County Commissioners in the sum
of \$18,658.94 to secure the performance of the construction of the
uncompleted or unapproved Improvements in accordance with Warren County subdivision
regulations (hereinafter the Performance Obligation). If any sum greater than zero (0) is
inserted herein, the **minimum performance security** shall be twenty percent (20%) of the
total cost of the Improvements.

2. The County Commissioners will, upon approval of the County Engineer of all Improvements in the Subdivision, tentatively accept all Improvements.
3. The Developer shall be in default of the Performance Obligation if the construction or installation of any Improvement by the Developer is not completed within 2 years from the date of the execution of this agreement, as determined by the County Engineer. The same shall apply whenever construction of the Improvements is not performed in accordance with the Warren County subdivision regulations.
4. The condition of the Performance Obligation shall be that whenever the Developer shall be declared by the County Commissioners to be in default, the Surety and the Developer shall, upon written notification of default by the County Commissioners to the Surety promptly make sufficient funds available to the County Commissioners to pay the cost of the completion of the construction of the uncompleted or unapproved Improvements in accordance with Warren County subdivision regulations, including any costs incurred by the County Commissioners which are incidental to the completion of the construction of the uncompleted or unapproved Improvements, including, but not limited to costs associated with publication of legal notices, preparation of such additional plans, specifications and drawings as may, in the judgment of the County Commissioners, be necessary, preparation of bid documents, etc., but not exceeding the amount set forth in Item 1 hereof. The Developer shall have the opportunity to respond in writing within two (2) weeks of receipt of notice of intent to find the Developer in default. In the case that the performance security given is in the form of a cashier's check or certified check provided directly to the County Commissioners, the County Commissioners may apply such funds as set forth herein upon notification of default to the Surety. The determination of the amount of funds to be disbursed by Surety to the County Commissioners as set forth in the aforesaid notification is final and binding upon the parties hereto. However, the foregoing shall not release Developer from any liability for any deficiency between the amount of funds disbursed and the actual costs incurred by the County Commissioners in the completion of the construction or installation of the uncompleted or unapproved Improvements and Developer expressly agrees to be liable to the County Commissioners for any such deficiency.
5. **The County Commissioners, the Developer and Surety mutually agree that the Performance Obligation created herein shall continue until the completion of the installation of the Improvements in accordance with Warren County subdivision regulations and that upon the Improvements having been inspected and approved for two years maintenance, the Performance Obligation shall become null and void after the Developer posts the maintenance security provided for herein.**
6. The Developer will provide **maintenance security** to the County Commissioners in the sum of \$18,658.94 to secure the performance of all maintenance upon the Improvements as determined to be necessary by the County Engineer (hereinafter the Maintenance Obligation). In no event shall the sum provided for herein be less than twenty percent (20%) of the estimated total cost of the Improvements as set forth above.

7. The Developer, upon being notified by the County Engineer of the maintenance required upon the Improvements to bring the same into compliance with Warren County Subdivision regulations shall immediately undertake to perform and complete such required maintenance within the time set forth in the notice from the County Engineer.
8. The Developer shall be in default of the Maintenance Obligation should the Developer fail to complete or cause to be undertaken and completed required maintenance upon the Improvements as set forth in Item 7 hereof.
9. The condition of the Maintenance Obligation shall be that whenever the Developer shall be declared by the County Commissioners to be in default, the Surety and the Developer shall, upon written notification of default by the County Commissioners to the Surety promptly make sufficient funds available to the County Commissioners to pay the cost of the required maintenance upon the Improvements, including any costs incurred by the County Commissioners which are incidental to the performance of such maintenance, including, but not limited to costs associated with the publication of legal notices, preparation of additional plans, specifications and drawings, as may, in the judgment of the County Commissioners, be necessary, preparation of bid documents, etc. but not exceeding the amount set forth in Item 6 hereof. The Developer shall have the opportunity to respond in writing within two (2) weeks of receipt of notice of intent to find the Developer in default. In the case that the maintenance security given is in the form of a cashier's check or certified check provided directly to the County Commissioners, the County Commissioners may apply such funds to the completion of the required maintenance upon the Improvements upon notification of default to the Surety. The determination of the amount of funds to be disbursed by Surety to the County Commissioners as set forth in the aforesaid notification is final and binding upon the parties hereto. However, the foregoing shall not release Developer from any liability for any deficiency between the amount of funds disbursed and the actual costs incurred by the County Commissioners in the performance of maintenance upon the Improvements and Developer expressly agrees to be liable to the County Commissioners for any such deficiency.
10. That upon expiration of the two years from the date of the tentative acceptance of the Improvements by the County Commissioners and upon satisfactory completion of any required maintenance upon the Improvements to bring the Improvements into compliance with Warren County subdivision regulations, the County Commissioners hereby agree to release the maintenance security and give final acceptance to the Improvements. The Developer shall request, in writing directed to the County Engineer, a final inspection of the Improvements and the Developer shall be responsible for all maintenance as may be necessary and as may accrue from the commencement of the **two year maintenance period** and until such written request for inspection is delivered.
11. In the case of default pursuant to Items 3 and 4 or 8 and 9 hereof, Developer shall make available to the County Commissioners all plans, specifications and drawing relating to the Improvements and hereby directs all third parties, including engineers and consultants, who may possess such plans, specifications and drawings, or copies thereof, to provide the same

to the County Commissioners upon request and presentation of this security agreement or a copy thereof and agrees to hold such third parties harmless from the provision of such plan specifications and drawings pursuant to this item. Developer does hereby consent to the use of such plans, specifications and drawings by the County Commissioners to complete the construction of the uncompleted or unapproved Improvements or the performance of maintenance upon the same in the case of default pursuant to Items 3 and 4 or 8 and 9 hereof.

- 12. In the case of conflict between the provisions of this agreement and any other security agreement relating to the same Improvements, the provisions of this agreement shall take precedence.
- 13. Any notice, correspondence, inquiry or request for inspection permitted or required under this security agreement shall be given as follows:

A. To the County Commissioners:

Warren County Board of County Commissioners
Attn: County Administrator
406 Justice Drive
Lebanon, OH 45036
Ph. (513) 695-1250

B. To the County Engineer:

Warren County Engineer
105 Markey Road
Lebanon, OH 45036
Ph. (513) 695-3336

C. To the Developer:

VWC Holdings, LTD

3601 Rigby Rd, Suite 300

Miamisburg, OH 45324

Ph. (937) 435 - 8584

D. To the Surety:

Old Fort Banking Company

6430 Wilmington Pike

Sugarcreek Township, OH 45459

Ph. () -

All notices and requests for inspection, unless otherwise specifically provided herein, shall be by certified mail, return receipt requested, and shall be complete upon mailing. **All parties are obligated to give notice of any change of address.**

14. The security to be provided herein shall be by:

_____ **Certified check or cashier's check** (attached) (**CHECK #** _____)

Original Letter of Credit (attached) (**LETTER OF CREDIT #** 10143097-4)

_____ **Original Escrow Letter** (attached)

_____ **Surety Bond** (this security agreement shall serve as the bond when signed by an authorized representative of a surety company authorized to do business within the State of Ohio with a **power of attorney attached** evidencing such authorized signature).

_____ **Surety obligation of national bank** (by signing this security agreement the authorized representative of the national bank undertaking this surety obligation does certify, for and on behalf of the undersigned national bank, that the bank has a segregated deposit sufficient in amount to the bank's total potential liability).

15. **The term "Surety" as used herein includes a bank, savings and loan or other financial institution where the security provided is a letter of credit, escrow letter or surety obligation of a national bank. The term "Surety" when referring to a bank, savings and loan or other financial institution is not intended to create obligations beyond those provided by Paragraphs 4 and/or 9 of this security agreement.**

16. **In the event that Surety shall fail to make funds available to the County Commissioners in accordance with Paragraphs 4 or 9, as applicable, within thirty (30) days after notification of default, then amounts due shall bear interest at eight per cent (8%) per annum.**

17. This Agreement shall not be assignable or transferrable by the Developer or Surety to any third party or parties without the express written consent of the County Commissioners. Developer and Surety waive any successor developer or successor surety claim or defense unless the County Commissioners have executed a written consent of assignment.
18. This Agreement shall be construed under the laws of the State of Ohio. The Developer and Surety hereby stipulate to the venue for any and all claims, disputes, interpretations and litigation of any kind arising out of this Agreement, being exclusively in the Warren County, Ohio Court of Common Pleas (unless both parties mutually agree in writing to attempt to resolve by alternate dispute resolution prior to litigation), and do further waive any right to bring or remove such claims, disputes, interpretation and litigation of any kind arising out of this Agreement, in or to any other state or a federal court.

IN EXECUTION WHEREOF, the Developer and the Surety have caused this security agreement to be executed on the date stated below.

DEVELOPER:

Pursuant to a resolution authorizing the undersigned to execute this agreement.

SIGNATURE: 


PRINTED NAME: David C. Oakes

TITLE: Manager

DATE: 8/31/20

SURETY:

Pursuant to an instrument authorizing the undersigned to execute this agreement.

SIGNATURE: 

PRINTED NAME: Richard J. Deablo

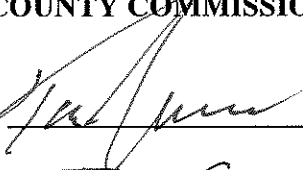
TITLE: Sr. Vice President

DATE: 8-31-2020

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IN EXECUTION WHEREOF, the Warren County Board of County Commissioners have caused this security agreement to be executed by the President of the Board, on the date stated below, pursuant to Board Resolution Number 20-1334, dated 9/22/20

**WARREN COUNTY
BOARD OF COUNTY COMMISSIONERS**

SIGNATURE: 

PRINTED NAME: Tom Grassmann

TITLE: President

DATE: 9/22/20

RECOMMENDED BY:

By: 
COUNTY ENGINEER

APPROVED AS TO FORM:

By: 
COUNTY PROSECUTOR

Key:

1. Name of Developer
2. Name of Person, Firm, Entity, etc. who is providing the security whether that be a bank or other financial institution (in the case of a letter of credit or escrow letter) (Surety Company in the case of a bond) or the Developer itself (in the case of a certified check or cashier's check)
3. Name of subdivision with section number and phase number where applicable
4. Name of Township



Irrevocable Standby Letter of Credit No. 10143097-4

Beneficiary: Warren County Board of Commissioners
406 Justice Drive
Lebanon, OH 45036

Applicant: VWC Holdings, Ltd.
3601 Rigby Road, Ste 300
Miamisburg, OH 45342

Issue Date: August 31, 2020
Expiration Date: August 31, 2022
Amount: USD \$18,658.94
Reference No.: 10143097-4

Your Reference: The Villages of Winding Creek
The Boulevards Section 8A
Streets and Appurtenances

We hereby establish our Irrevocable Standby Letter of Credit No. 10143097-4 in your favor for the account of VWC Holdings, Ltd. 3601 Rigby Road, Ste 300, Miamisburg, OH 45342 up to an aggregate amount of USD \$18,658.94 available by your draft(s) at sight drawn on The Old Fort Banking Company, Old Fort, Ohio.

Drafts to be accompanied by the following document(s):

1. Beneficiary's statement signed by one purporting to be an authorized signer of the Warren County Board of Commissioners certifying that "VWC Holdings, Ltd. is in default of the installation and/or maintenance of Streets and Appurtenances, **The Boulevards Section 8A, The Villages of Winding Creek Subdivision, Clearcreek Township, Warren County, Ohio.**"
2. Original Letter of Credit and any amendments.

Partial drawings are permitted.

"It is a condition of this Irrevocable Letter of Credit that it shall be deemed automatically extended without amendment for successive one year periods from its present or any future expiration date unless at least sixty (60) days before any such expiration date we notify the Warren County Administrator, at the address listed above in writing, in writing by certified or registered mail, that we elect not to consider this Letter of Credit renewed for any such additional period, at such time

the Board of Warren County Commissioners may declare the Developer to be in default and demand immediate payment of all sums under this Letter of Credit.”

Draft(s) must be marked: “Drawn under The Old Fort Banking Company Standby Letter of credit No. 10143097-4 dated August 31, 2020.”

We hereby agree with you that drafts drawn under and in strict compliance with the terms of this credit will be duly honored by us upon presentation at **The Old Fort Banking Company, 8034 Main St., Old Fort, Ohio 44861**, on or before our close of business on August 31, 2022 or any automatically extended expiry date.

“The draft presentment deadline set forth in this letter of credit shall automatically be extended for one year periods unless at least sixty (60) days prior to any draft presentment deadline, or any prior extension thereof, **The Old Fort Banking Company** notifies the Warren County Administrator, 406 Justice Drive, Lebanon, Ohio 45036, that the draft presentment deadline shall not be extended for a successive one year period, at such time the Board of Warren County Commissioners may declare the Developer to be in default and demand immediate payment of all sums under this Letter of Credit.”

This letter of credit sets forth in full the terms of our undertaking and such undertaking shall not in any way be modified, amended or amplified by reference to any document, instrument, or agreement referred to herein or in which this letter of credit is referred to or to which this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement.

The Security Agreement referenced by this Letter of Credit and all its terms and conditions, is attached hereto, made a part hereof, and fully incorporated herein, as if fully rewritten.

Except as otherwise expressly stated herein, this Letter of Credit is issued subject to the International Standby Practices of the International Chamber of Commerce, Publication 590 (“ISP98”). This Letter of Credit shall be deemed to be a contract made under the laws of the State of Ohio and shall, as to matters not governed by ISP98, be governed by and construed in accordance with the laws of the State of Ohio, other than its conflict of laws rules, which would result in the application of the law of any jurisdiction other than the laws of the State of Ohio.

Sincerely,

The Old Fort Banking Company



Richard J. Demko

Senior Vice President

Resolution

Number 20-1335

Adopted Date September 22, 2020

ENTER INTO A SUBDIVISION PUBLIC IMPROVEMENT PERFORMANCE AND MAINTENANCE SECURITY AGREEMENT WITH VWC HOLDINGS, LTD FOR INSTALLATION OF CERTAIN IMPROVEMENTS IN THE VILLAGES OF WINDING CREEK, THE BOULEVARDS AT WINDING CREEK, SECTIONS EIGHT, EIGHT A, NINE, AND NINE A SITUATED IN CLEARCREEK TOWNSHIP

BE IT RESOLVED, upon recommendation of the Warren County Sanitary Engineer, to enter into the following security agreement:

AGREEMENT


Bond Number	:	20-020 (W/S)
Development	:	The Villages of Winding Creek, The Boulevards at Winding Creek, Sections Eight, Eight A, Nine, and Nine A
Developer	:	VWC Holdings, LTD
Township	:	Clearcreek
Amount	:	\$43,938.00
Surety Company	:	Old Fort Banking Company (10143097-1)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cgb

cc: VWC Holdings, LTD, 3601 Rigby Rd., Suite 300, Miamisburg, OH 45342
Old Fort Banking Company, 6430 Wilmington Pike, Dayton, OH 45459
Water/Sewer (file)
Bond Agreement file

**SUBDIVISION PUBLIC IMPROVEMENT PERFORMANCE AND MAINTENANCE
SECURITY AGREEMENT**

WATER AND/OR SANITARY SEWER

Security Agreement No.

20-020 (w/s)

This Agreement made and concluded at Lebanon, Ohio, by and between VWC HOLDINGS, LTD
(1) (hereinafter the "Developer") and the
Warren County Board of County Commissioners, (hereinafter the "County Commissioners"), and
OLD FORT BANKING COMPANY (2) (hereinafter the "Surety").

WITNESSETH:

WHEREAS, the Developer is required to install certain improvements in Villages of Winding Creek
The Boulevards at Winding Creek **Subdivision, Section/Phase** 8,9,8A&9A (3) (hereinafter the "Subdivision") situated in
Clearcreek (4) Township, Warren County, Ohio, in accordance with the Warren County
Subdivision regulations (hereinafter called the "Improvements"); and,

WHEREAS, it is estimated that the total cost of the Improvements is \$439,380.00,
and that the Improvements that have yet to be completed and approved may be constructed in the sum of
0.00; and,

WHEREAS, the County Commissioners have determined to require all developers to post security
in the sum of one hundred thirty percent (130%) of the estimated cost of uncompleted or unapproved
Improvements to secure the performance of the construction of uncompleted or unapproved Improvements
in accordance with Warren County subdivision regulations and to require all Developers to post security in
the sum of ten percent (10%) of the estimated total cost of the Improvements after the completion of the
Improvements and their tentative acceptance by the County Commissioners to secure the performance of
all maintenance upon the Improvements as may be required between the completion and tentative
acceptance of the Improvements and their final acceptance by the County Commissioners.

NOW, THEREFORE, be it agreed:

1. The Developer will provide **performance security** to the County Commissioners in the sum
of 0.00 to secure the performance of the construction of the
uncompleted or unapproved Improvements in accordance with Warren County subdivision
regulations (hereinafter the Performance Obligation). If any sum greater than zero (0) is
inserted herein, the **minimum performance security** shall be ten percent (10%) of the total
cost of the Improvements.

2. The County Commissioners will, upon approval of the County Sanitary Engineer of all Improvements in the Subdivision, tentatively accept all Improvements.
3. The Developer shall be in default of the Performance Obligation if the construction or installation of any Improvement by the Developer is not completed within 2 years from the date of the execution of this agreement, as determined by the County Sanitary Engineer. The same shall apply whenever construction of the Improvements is not performed in accordance with the Warren County subdivision regulations.
4. The condition of the Performance Obligation shall be that whenever the Developer shall be declared by the County Commissioners to be in default, the Surety and the Developer shall, upon written notification of default by the County Commissioners to the Surety promptly make sufficient funds available to the County Commissioners to pay the cost of the completion of the construction of the uncompleted or unapproved Improvements in accordance with Warren County subdivision regulations, including any costs incurred by the County Commissioners which are incidental to the completion of the construction of the uncompleted or unapproved Improvements, including, but not limited to costs associated with publication of legal notices, preparation of such additional plans, specifications and drawings as may, in the judgment of the County Commissioners, be necessary, preparation of bid documents, etc., but not exceeding the amount set forth in Item 1 hereof. The Developer shall have the opportunity to respond in writing within two (2) weeks of receipt of notice of intent to find the Developer in default. In the case that the performance security given is in the form of a cashier's check or certified check provided directly to the County Commissioners, the County Commissioners may apply such funds as set forth herein upon notification of default to the Surety. The determination of the amount of funds to be disbursed by Surety to the County Commissioners as set forth in the aforesaid notification is final and binding upon the parties hereto. However, the foregoing shall not release Developer from any liability for any deficiency between the amount of funds disbursed and the actual costs incurred by the County Commissioners in the completion of the construction or installation of the uncompleted or unapproved Improvements and Developer expressly agrees to be liable to the County Commissioners for any such deficiency.
5. The County Commissioners, the Developer and Surety mutually agree that the Performance Obligation created herein shall continue until the completion of the installation of the Improvements in accordance with Warren County subdivision regulations and that upon the Improvements having been inspected and approved for one year maintenance, the Performance Obligation shall become null and void.
6. The Developer will provide **maintenance security** to the County Commissioners in the sum of \$43,938.00 to secure the performance of all maintenance upon the Improvements as determined to be necessary by the County Sanitary Engineer (hereinafter the Maintenance Obligation). In no event shall the sum provided for herein be less than ten percent (10%) of the estimated total cost of the Improvements as set forth above.

7. The Developer, upon being notified by the County Sanitary Engineer of the maintenance required upon the Improvements to bring the same into compliance with Warren County Subdivision regulations shall immediately undertake to perform and complete such required maintenance within the time set forth in the notice from the County Sanitary Engineer.
8. The Developer shall be in default of the Maintenance Obligation should the Developer fail to complete or cause to be undertaken and completed required maintenance upon the Improvements as set forth in Item 7 hereof.
9. The condition of the Maintenance Obligation shall be that whenever the Developer shall be declared by the County Commissioners to be in default, the Surety and the Developer shall, upon written notification of default by the County Commissioners to the Surety promptly make sufficient funds available to the County Commissioners to pay the cost of the required maintenance upon the Improvements, including any costs incurred by the County Commissioners which are incidental to the performance of such maintenance, including, but not limited to costs associated with the publication of legal notices, preparation of additional plans, specifications and drawings, as may, in the judgment of the County Commissioners, be necessary, preparation of bid documents, etc. but not exceeding the amount set forth in Item 6 hereof. The Developer shall have the opportunity to respond in writing within two (2) weeks of receipt of notice of intent to find the Developer in default. In the case that the maintenance security given is in the form of a cashier's check or certified check provided directly to the County Commissioners, the County Commissioners may apply such funds to the completion of the required maintenance upon the Improvements upon notification of default to the Surety. The determination of the amount of funds to be disbursed by Surety to the County Commissioners as set forth in the aforesaid notification is final and binding upon the parties hereto. However, the foregoing shall not release Developer from any liability for any deficiency between the amount of funds disbursed and the actual costs incurred by the County Commissioners in the performance of maintenance upon the Improvements and Developer expressly agrees to be liable to the County Commissioners for any such deficiency.
10. That upon expiration of the one year from the date of the tentative acceptance of the Improvements by the County Commissioners and upon satisfactory completion of any required maintenance upon the Improvements to bring the Improvements into compliance with Warren County subdivision regulations, the County Commissioners hereby agree to release the maintenance security and give final acceptance to the Improvements. The Developer shall request, in writing directed to the County Sanitary Engineer, a final inspection of the Improvements and the Developer shall be responsible for all maintenance as may be necessary and as may accrue from the commencement of the one year maintenance period and until such written request for inspection is delivered.
11. In the case of default pursuant to Items 3 and 4 or 8 and 9 hereof, Developer shall make available to the County Commissioners all plans, specifications and drawing relating to the Improvements and hereby directs all third parties, including engineers and consultants, who may possess such plans, specifications and drawings, or copies thereof, to provide the same

to the County Commissioners upon request and presentation of this security agreement or a copy thereof and agrees to hold such third parties harmless from the provision of such plan specifications and drawings pursuant to this item. Developer does hereby consent to the use of such plans, specifications and drawings by the County Commissioners to complete the construction of the uncompleted or unapproved Improvements or the performance of maintenance upon the same in the case of default pursuant to Items 3 and 4 or 8 and 9 hereof.

12. In the case of conflict between the provisions of this agreement and any other security agreement relating to the same Improvements, the provisions of this agreement shall take precedence.
13. Any notice, correspondence, inquiry or request for inspection permitted or required under this security agreement shall be given as follows:

A. To the County Commissioners:

Warren County Commissioners
Attn: County Administrator
406 Justice Drive
Lebanon, OH 45036
Ph. (513) 695-1250

B. To the County Sanitary Engineer:

Warren County Water & Sewer Department
Attn: Sanitary Engineer
406 Justice Drive
Lebanon, OH 45036
Ph. (513) 695-1380

C. To the Developer:

VWC Holdings, LTD

3601 Rigby Rd Suite 300

Miamisburg, OH 45342

Ph. (937) 435 - 8584

D. To the Surety:

Old Fort Banking Co

6430 Wilmington Pike

Dayton, OH 45459

Ph. (937) 848 - 6700

All notices and requests for inspection, unless otherwise specifically provided herein, shall be by certified mail, return receipt requested and shall be complete upon mailing. **All parties are obligated to give notice of any change of address.**

14. The security to be provided herein shall be by:

_____ **Certified check or cashier's check** (attached) (**CHECK #** _____)

Original Letter of Credit (attached) (**LETTER OF CREDIT #** 10143097-1)

_____ **Original Escrow Letter** (attached)

_____ **Surety Bond** (this security agreement shall serve as the bond when signed by an authorized representative of a surety company authorized to do business within the State of Ohio with a **power of attorney attached** evidencing such authorized signature).

_____ **Surety obligation of national bank** (by signing this security agreement the authorized representative of the national bank undertaking this surety obligation does certify, for and on behalf of the undersigned national bank, that the bank has a segregated deposit sufficient in amount to the bank's total potential liability).

15. **The term "Surety" as used herein includes a bank, savings and loan or other financial institution where the security provided is a letter of credit, escrow letter or surety obligation of a national bank. The term "Surety" when referring to a bank, savings and loan or other financial institution is not intended to create obligations beyond those provided by Paragraphs 4 and/or 9 of this security agreement.**

16. **In the event that Surety shall fail to make funds available to the County Commissioners in accordance with Paragraphs 4 or 9, as applicable, within thirty (30) days after notification of default, then amounts due shall bear interest at eight per cent (8%) per annum.**

17. This Agreement shall not be assignable or transferrable by the Developer or Surety to any third party or parties without the express written consent of the County Commissioners. Developer and Surety waive any successor developer or successor surety claim or defense unless the County Commissioners have executed a written consent of assignment.

18. This Agreement shall be construed under the laws of the State of Ohio. The Developer and Surety hereby stipulate to the venue for any and all claims, disputes, interpretations and litigation of any kind arising out of this Agreement, being exclusively in the Warren County, Ohio Court of Common Pleas (unless both parties mutually agree in writing to attempt to resolve by alternate dispute resolution prior to litigation), and do further waive any right to bring or remove such claims, disputes, interpretation and litigation of any kind arising out of this Agreement, in or to any other state or a federal court.

IN EXECUTION WHEREOF, the Developer and the Surety have caused this security agreement to be executed on the date stated below.

DEVELOPER:

Pursuant to a resolution authorizing the undersigned to execute this agreement.

SIGNATURE: 

PRINTED NAME: David C. Oakes

TITLE: Manager

DATE: 8/31/20

SURETY:

Pursuant to an instrument authorizing the undersigned to execute this agreement.

SIGNATURE: 

PRINTED NAME: Richard Demko

TITLE: sp. vic
President

DATE: 8/31/2020

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IN EXECUTION WHEREOF, the Warren County Board of County Commissioners have caused this security agreement to be executed by the President of the Board, on the date stated below, pursuant to Board Resolution Number 20-1335, dated 9/22/20

**WARREN COUNTY
BOARD OF COUNTY COMMISSIONERS**

SIGNATURE: [Signature]

PRINTED NAME: Tom Cro

TITLE: President

DATE: 9/22/20

RECOMMENDED BY:

By: [Signature]
SANITARY ENGINEER

APPROVED AS TO FORM:

By: [Signature]
COUNTY PROSECUTOR

Key:

1. Name of Developer
2. Name of Person, Firm, Entity, etc. who is providing the security whether that be a bank or other financial institution (in the case of a letter of credit or escrow letter) (Surety Company in the case of a bond) or the Developer itself (in the case of a certified check or cashier's check)
3. Name of subdivision with section number and phase number where applicable
4. Name of Township



Irrevocable Standby Letter of Credit No. 10143097-1

Beneficiary: Warren County Board of Commissioners
406 Justice Drive
Lebanon, OH 45036

Applicant: VWC Holdings, Ltd.
3601 Rigby Road, Ste 300
Miamisburg, OH 45342

Issue Date: August 31, 2020
Expiration Date: August 31, 2022
Amount: USD \$43,938.00
Reference No.: 10143097-1

Your Reference: The Villages of Winding Creek
The Boulevards Section 8, 9, 8A and 9A
Water and/or Sanitary Sewer

We hereby establish our Irrevocable Standby Letter of Credit No. 10143097-1 in your favor for the account of VWC Holdings, Ltd. 3601 Rigby Road, Ste 300, Miamisburg, OH 45342 up to an aggregate amount of USD \$43,938.00 available by your draft(s) at sight drawn on The Old Fort Banking Company, Old Fort, Ohio.

Drafts to be accompanied by the following document(s):

1. Beneficiary's statement signed by one purporting to be an authorized signer of the Warren County Board of Commissioners certifying that "VWC Holdings, Ltd. is in default of the installation and/or maintenance of Water and/or Sanitary Sewer, **The Boulevards Section 8, 9, 8A and 9A, The Villages of Winding Creek Subdivision, Clearcreek Township, Warren County, Ohio.**"
2. Original Letter of Credit and any amendments.

Partial drawings are permitted.

"It is a condition of this Irrevocable Letter of Credit that it shall be deemed automatically extended without amendment for successive one year periods from its present or any future expiration date unless at least sixty (60) days before any such expiration date we notify the Warren County Administrator, at the address listed above in writing, in writing by certified or registered mail, that

we elect not to consider this Letter of Credit renewed for any such additional period, at such time the Board of Warren County Commissioners may declare the Developer to be in default and demand immediate payment of all sums under this Letter of Credit.”

Draft(s) must be marked: “Drawn under The Old Fort Banking Company Standby Letter of credit No. 10143097-1 dated August 31, 2020.”

We hereby agree with you that drafts drawn under and in strict compliance with the terms of this credit will be duly honored by us upon presentation at **The Old Fort Banking Company, 8034 Main St., Old Fort, Ohio 44861**, on or before our close of business on August 31, 2022 or any automatically extended expiry date.

“The draft presentment deadline set forth in this letter of credit shall automatically be extended for one year periods unless at least sixty (60) days prior to any draft presentment deadline, or any prior extension thereof, **The Old Fort Banking Company** notifies the Warren County Administrator, 406 Justice Drive, Lebanon, Ohio 45036, that the draft presentment deadline shall not be extended for a successive one year period, at such time the Board of Warren County Commissioners may declare the Developer to be in default and demand immediate payment of all sums under this Letter of Credit.”

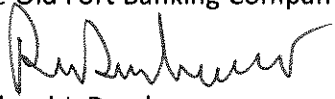
This letter of credit sets forth in full the terms of our undertaking and such undertaking shall not in any way be modified, amended or amplified by reference to any document, instrument, or agreement referred to herein or in which this letter of credit is referred to or to which this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement.

The Security Agreement referenced by this Letter of Credit and all its terms and conditions, is attached hereto, made a part hereof, and fully incorporated herein, as if fully rewritten.

Except as otherwise expressly stated herein, this Letter of Credit is issued subject to the International Standby Practices of the International Chamber of Commerce, Publication 590 (“ISP98”). This Letter of Credit shall be deemed to be a contract made under the laws of the State of Ohio and shall, as to matters not governed by ISP98, be governed by and construed in accordance with the laws of the State of Ohio, other than its conflict of laws rules, which would result in the application of the law of any jurisdiction other than the laws of the State of Ohio.

Sincerely,

The Old Fort Banking Company



Richard J. Demko
Senior Vice President

Resolution

Number 20-1336

Adopted Date September 22, 2020

ENTER INTO STREET AND APPURTENANCES (INCLUDING SIDEWALKS) SECURITY AGREEMENT WITH VWC HOLDINGS, LTD FOR INSTALLATION OF CERTAIN IMPROVEMENTS IN THE VILLAGES OF WINDING CREEK, THE BOULEVARDS AT WINDING CREEK, SECTION EIGHT SITUATED IN CLEARCREEK TOWNSHIP

BE IT RESOLVED, upon recommendation of the Warren County Engineer, to enter into the following Street and Appurtenances (including sidewalks) Security Agreement:

SECURITY AGREEMENT


Bond Number	:	20-019 (P/S)
Development	:	The Villages of Winding Creek, The Boulevards at Winding Creek, Section Eight
Developer	:	VWC Holdings, LTD
Township	:	Clearcreek
Amount	:	\$142,997.24
Surety Company	:	The Old Fort Banking Company (LOC 10143097-2)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Developer
Surety Company
Engineer (file)
Bond Agreement file

**SUBDIVISION PUBLIC IMPROVEMENT PERFORMANCE AND MAINTENANCE
SECURITY AGREEMENT**

STREETS AND APPURTENANCES
(Including Sidewalks)

Security Agreement No.

20-019(P/S)

This Agreement made and concluded at Lebanon, Ohio, by and between VWC Holdings, LTD (1) (hereinafter the "Developer") and the Warren County Board of County Commissioners, (hereinafter the "County Commissioners"), and The Old Fort Banking Company (2) (hereinafter the "Surety").

WITNESSETH:

WHEREAS, the Developer is required to install certain improvements in The Villages of Winding Creek The Boulevards at Winding Creek Clearcreek **Subdivision, Section/Phase** Eight (3) (hereinafter the "Subdivision") situated in Clearcreek (4) Township, Warren County, Ohio, in accordance with the Warren County Subdivision regulations (hereinafter called the "Improvements"); and,

WHEREAS, it is estimated that the total cost of the Improvements is \$714,986.22, and that the Improvements that have yet to be completed and approved may be constructed in the sum of \$35,664.00; and,

WHEREAS, the County Commissioners require all developers to post security in the sum of one hundred thirty percent (130%) of the estimated cost of uncompleted or unapproved Improvements to secure the performance of the construction of uncompleted or unapproved Improvements in accordance with Warren County subdivision regulations and to require all Developers to post security in the sum of twenty percent (20%) of the estimated total cost of the Improvements after the completion of the Improvements and their tentative acceptance by the County Commissioners to secure the performance of all maintenance upon the Improvements as may be required between the completion and tentative acceptance of the Improvements and their final acceptance by the County Commissioners.

NOW, THEREFORE, be it agreed:

1. The Developer will provide **performance security** to the County Commissioners in the sum of \$142,997.24 to secure the performance of the construction of the uncompleted or unapproved Improvements in accordance with Warren County subdivision regulations (hereinafter the Performance Obligation). If any sum greater than zero (0) is inserted herein, the **minimum performance security** shall be twenty percent (20%) of the total cost of the Improvements.

2. The County Commissioners will, upon approval of the County Engineer of all Improvements in the Subdivision, tentatively accept all Improvements.
3. The Developer shall be in default of the Performance Obligation if the construction or installation of any Improvement by the Developer is not completed within 2 years from the date of the execution of this agreement, as determined by the County Engineer. The same shall apply whenever construction of the Improvements is not performed in accordance with the Warren County subdivision regulations.
4. The condition of the Performance Obligation shall be that whenever the Developer shall be declared by the County Commissioners to be in default, the Surety and the Developer shall, upon written notification of default by the County Commissioners to the Surety promptly make sufficient funds available to the County Commissioners to pay the cost of the completion of the construction of the uncompleted or unapproved Improvements in accordance with Warren County subdivision regulations, including any costs incurred by the County Commissioners which are incidental to the completion of the construction of the uncompleted or unapproved Improvements, including, but not limited to costs associated with publication of legal notices, preparation of such additional plans, specifications and drawings as may, in the judgment of the County Commissioners, be necessary, preparation of bid documents, etc., but not exceeding the amount set forth in Item 1 hereof. The Developer shall have the opportunity to respond in writing within two (2) weeks of receipt of notice of intent to find the Developer in default. In the case that the performance security given is in the form of a cashier's check or certified check provided directly to the County Commissioners, the County Commissioners may apply such funds as set forth herein upon notification of default to the Surety. The determination of the amount of funds to be disbursed by Surety to the County Commissioners as set forth in the aforesaid notification is final and binding upon the parties hereto. However, the foregoing shall not release Developer from any liability for any deficiency between the amount of funds disbursed and the actual costs incurred by the County Commissioners in the completion of the construction or installation of the uncompleted or unapproved Improvements and Developer expressly agrees to be liable to the County Commissioners for any such deficiency.
5. **The County Commissioners, the Developer and Surety mutually agree that the Performance Obligation created herein shall continue until the completion of the installation of the Improvements in accordance with Warren County subdivision regulations and that upon the Improvements having been inspected and approved for two years maintenance, the Performance Obligation shall become null and void after the Developer posts the maintenance security provided for herein.**
6. The Developer will provide **maintenance security** to the County Commissioners in the sum of \$142,997.24 to secure the performance of all maintenance upon the Improvements as determined to be necessary by the County Engineer (hereinafter the Maintenance Obligation). In no event shall the sum provided for herein be less than twenty percent (20%) of the estimated total cost of the Improvements as set forth above.

7. The Developer, upon being notified by the County Engineer of the maintenance required upon the Improvements to bring the same into compliance with Warren County Subdivision regulations shall immediately undertake to perform and complete such required maintenance within the time set forth in the notice from the County Engineer.
8. The Developer shall be in default of the Maintenance Obligation should the Developer fail to complete or cause to be undertaken and completed required maintenance upon the Improvements as set forth in Item 7 hereof.
9. The condition of the Maintenance Obligation shall be that whenever the Developer shall be declared by the County Commissioners to be in default, the Surety and the Developer shall, upon written notification of default by the County Commissioners to the Surety promptly make sufficient funds available to the County Commissioners to pay the cost of the required maintenance upon the Improvements, including any costs incurred by the County Commissioners which are incidental to the performance of such maintenance, including, but not limited to costs associated with the publication of legal notices, preparation of additional plans, specifications and drawings, as may, in the judgment of the County Commissioners, be necessary, preparation of bid documents, etc. but not exceeding the amount set forth in Item 6 hereof. The Developer shall have the opportunity to respond in writing within two (2) weeks of receipt of notice of intent to find the Developer in default. In the case that the maintenance security given is in the form of a cashier's check or certified check provided directly to the County Commissioners, the County Commissioners may apply such funds to the completion of the required maintenance upon the Improvements upon notification of default to the Surety. The determination of the amount of funds to be disbursed by Surety to the County Commissioners as set forth in the aforesaid notification is final and binding upon the parties hereto. However, the foregoing shall not release Developer from any liability for any deficiency between the amount of funds disbursed and the actual costs incurred by the County Commissioners in the performance of maintenance upon the Improvements and Developer expressly agrees to be liable to the County Commissioners for any such deficiency.
10. That upon expiration of the two years from the date of the tentative acceptance of the Improvements by the County Commissioners and upon satisfactory completion of any required maintenance upon the Improvements to bring the Improvements into compliance with Warren County subdivision regulations, the County Commissioners hereby agree to release the maintenance security and give final acceptance to the Improvements. The Developer shall request, in writing directed to the County Engineer, a final inspection of the Improvements and the Developer shall be responsible for all maintenance as may be necessary and as may accrue from the commencement of the **two year maintenance period** and until such written request for inspection is delivered.
11. In the case of default pursuant to Items 3 and 4 or 8 and 9 hereof, Developer shall make available to the County Commissioners all plans, specifications and drawing relating to the Improvements and hereby directs all third parties, including engineers and consultants, who may possess such plans, specifications and drawings, or copies thereof, to provide the same

to the County Commissioners upon request and presentation of this security agreement or a copy thereof and agrees to hold such third parties harmless from the provision of such plan specifications and drawings pursuant to this item. Developer does hereby consent to the use of such plans, specifications and drawings by the County Commissioners to complete the construction of the uncompleted or unapproved Improvements or the performance of maintenance upon the same in the case of default pursuant to Items 3 and 4 or 8 and 9 hereof.

12. In the case of conflict between the provisions of this agreement and any other security agreement relating to the same Improvements, the provisions of this agreement shall take precedence.
13. Any notice, correspondence, inquiry or request for inspection permitted or required under this security agreement shall be given as follows:

A. To the County Commissioners:

Warren County Board of County Commissioners
Attn: County Administrator
406 Justice Drive
Lebanon, OH 45036
Ph. (513) 695-1250

B. To the County Engineer:

Warren County Engineer
105 Markey Road
Lebanon, OH 45036
Ph. (513) 695-3336

C. To the Developer:

VWC Holdings, LTD

3601 Rigby Rd, Suite 300

Miamisburg, OH 45324

Ph. (937) 435 - 8584

D. To the Surety:

Old Fort Banking Company

6430 Wilmington Pike

Sugarcreek Township, OH 45459

Ph. () -

All notices and requests for inspection, unless otherwise specifically provided herein, shall be by certified mail, return receipt requested, and shall be complete upon mailing. **All parties are obligated to give notice of any change of address.**

14. The security to be provided herein shall be by:

_____ **Certified check or cashier's check** (attached) (**CHECK #** _____)

Original Letter of Credit (attached) (**LETTER OF CREDIT #** 10143097-2)

_____ **Original Escrow Letter** (attached)

_____ **Surety Bond** (this security agreement shall serve as the bond when signed by an authorized representative of a surety company authorized to do business within the State of Ohio with a **power of attorney attached** evidencing such authorized signature).

_____ **Surety obligation of national bank** (by signing this security agreement the authorized representative of the national bank undertaking this surety obligation does certify, for and on behalf of the undersigned national bank, that the bank has a segregated deposit sufficient in amount to the bank's total potential liability).

15. **The term "Surety" as used herein includes a bank, savings and loan or other financial institution where the security provided is a letter of credit, escrow letter or surety obligation of a national bank. The term "Surety" when referring to a bank, savings and loan or other financial institution is not intended to create obligations beyond those provided by Paragraphs 4 and/or 9 of this security agreement.**

16. **In the event that Surety shall fail to make funds available to the County Commissioners in accordance with Paragraphs 4 or 9, as applicable, within thirty (30) days after notification of default, then amounts due shall bear interest at eight per cent (8%) per annum.**

17. This Agreement shall not be assignable or transferrable by the Developer or Surety to any third party or parties without the express written consent of the County Commissioners. Developer and Surety waive any successor developer or successor surety claim or defense unless the County Commissioners have executed a written consent of assignment.

18. This Agreement shall be construed under the laws of the State of Ohio. The Developer and Surety hereby stipulate to the venue for any and all claims, disputes, interpretations and litigation of any kind arising out of this Agreement, being exclusively in the Warren County, Ohio Court of Common Pleas (unless both parties mutually agree in writing to attempt to resolve by alternate dispute resolution prior to litigation), and do further waive any right to bring or remove such claims, disputes, interpretation and litigation of any kind arising out of this Agreement, in or to any other state or a federal court.

IN EXECUTION WHEREOF, the Developer and the Surety have caused this security agreement to be executed on the date stated below.

DEVELOPER:

Pursuant to a resolution authorizing the undersigned to execute this agreement.

SIGNATURE: 

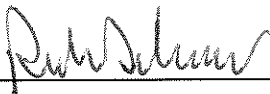
PRINTED NAME: David C. Oakes

TITLE: Manager

DATE: 8/31/20

SURETY:

Pursuant to an instrument authorizing the undersigned to execute this agreement.

SIGNATURE: 

PRINTED NAME: Richard J Demko

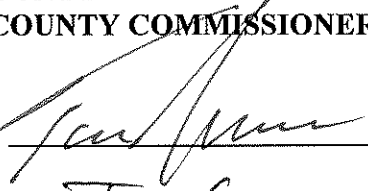
TITLE: Sr. Vice President

DATE: 8-31-2020

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IN EXECUTION WHEREOF, the Warren County Board of County Commissioners have caused this security agreement to be executed by the President of the Board, on the date stated below, pursuant to Board Resolution Number 20-1336, dated 9.22.20

**WARREN COUNTY
BOARD OF COUNTY COMMISSIONERS**

SIGNATURE: 

PRINTED NAME: Tom Grossmann

TITLE: President

DATE: 9/22/20

RECOMMENDED BY:

By: 
COUNTY ENGINEER

APPROVED AS TO FORM:

By: 
COUNTY PROSECUTOR

Key:

1. Name of Developer
2. Name of Person, Firm, Entity, etc. who is providing the security whether that be a bank or other financial institution (in the case of a letter of credit or escrow letter) (Surety Company in the case of a bond) or the Developer itself (in the case of a certified check or cashier's check)
3. Name of subdivision with section number and phase number where applicable
4. Name of Township



Irrevocable Standby Letter of Credit No. 10143097-2

Beneficiary: Warren County Board of Commissioners
406 Justice Drive
Lebanon, OH 45036

Applicant: VWC Holdings, Ltd.
3601 Rigby Road, Ste 300
Miamisburg, OH 45342

Issue Date: August 31, 2020
Expiration Date: August 31, 2022
Amount: USD \$142,997.24
Reference No.: 10143097-2

Your Reference: The Villages of Winding Creek
The Boulevards Section 8
Streets and Appurtenances

We hereby establish our Irrevocable Standby Letter of Credit No. 10143097-2 in your favor for the account of VWC Holdings, Ltd. 3601 Rigby Road, Ste 300, Miamisburg, OH 45342 up to an aggregate amount of USD \$142,997.24 available by your draft(s) at sight drawn on The Old Fort Banking Company, Old Fort, Ohio.

Drafts to be accompanied by the following document(s):

1. Beneficiary's statement signed by one purporting to be an authorized signer of the Warren County Board of Commissioners certifying that "VWC Holdings, Ltd. is in default of the installation and/or maintenance of Streets and Appurtenances, **The Boulevards Section 8, The Villages of Winding Creek Subdivision, Clearcreek Township, Warren County, Ohio.**"
2. Original Letter of Credit and any amendments.

Partial drawings are permitted.

"It is a condition of this Irrevocable Letter of Credit that it shall be deemed automatically extended without amendment for successive one year periods from its present or any future expiration date unless at least sixty (60) days before any such expiration date we notify the Warren County Administrator, at the address listed above in writing, in writing by certified or registered mail, that we elect not to consider this Letter of Credit renewed for any such additional period, at such time

the Board of Warren County Commissioners may declare the Developer to be in default and demand immediate payment of all sums under this Letter of Credit.”

Draft(s) must be marked: “Drawn under The Old Fort Banking Company Standby Letter of credit No. 10143097-2 dated August 31, 2020.”

We hereby agree with you that drafts drawn under and in strict compliance with the terms of this credit will be duly honored by us upon presentation at **The Old Fort Banking Company, 8034 Main St., Old Fort, Ohio 44861**, on or before our close of business on August 31, 2022 or any automatically extended expiry date.

“The draft presentment deadline set forth in this letter of credit shall automatically be extended for one year periods unless at least sixty (60) days prior to any draft presentment deadline, or any prior extension thereof, **The Old Fort Banking Company** notifies the Warren County Administrator, 406 Justice Drive, Lebanon, Ohio 45036, that the draft presentment deadline shall not be extended for a successive one year period, at such time the Board of Warren County Commissioners may declare the Developer to be in default and demand immediate payment of all sums under this Letter of Credit.”

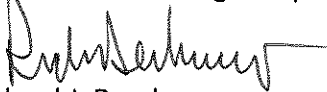
This letter of credit sets forth in full the terms of our undertaking and such undertaking shall not in any way be modified, amended or amplified by reference to any document, instrument, or agreement referred to herein or in which this letter of credit is referred to or to which this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement.

The Security Agreement referenced by this Letter of Credit and all its terms and conditions, is attached hereto, made a part hereof, and fully incorporated herein, as if fully rewritten.

Except as otherwise expressly stated herein, this Letter of Credit is issued subject to the International Standby Practices of the International Chamber of Commerce, Publication 590 (“ISP98”). This Letter of Credit shall be deemed to be a contract made under the laws of the State of Ohio and shall, as to matters not governed by ISP98, be governed by and construed in accordance with the laws of the State of Ohio, other than its conflict of laws rules, which would result in the application of the law of any jurisdiction other than the laws of the State of Ohio.

Sincerely,

The Old Fort Banking Company



Richard J. Demko
Senior Vice President

Resolution

Number 20-1337

Adopted Date September 22, 2020

ENTER INTO STREET AND APPURTENANCES (INCLUDING SIDEWALKS) SECURITY AGREEMENT WITH VWC HOLDINGS, LTD FOR INSTALLATION OF CERTAIN IMPROVEMENTS IN THE VILLAGES OF WINDING CREEK, THE BOULEVARDS AT WINDING CREEK, SECTION NINE A SITUATED IN CLEARCREEK TOWNSHIP

BE IT RESOLVED, upon recommendation of the Warren County Engineer, to enter into the following Street and Appurtenances (including sidewalks) Security Agreement:

SECURITY AGREEMENT

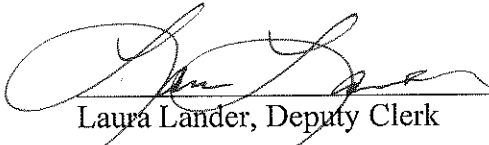
Bond Number	:	20-022 (P/S)
Development	:	The Villages of Winding Creek, The Boulevards at Winding Creek, Section Nine A
Developer	:	VWC Holdings, LTD
Township	:	Clearcreek
Amount	:	\$85,799.88
Surety Company	:	The Old Fort Banking Company (LOC 10143097-5)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Developer
Surety Company
Engineer (file)
Bond Agreement file

**SUBDIVISION PUBLIC IMPROVEMENT PERFORMANCE AND MAINTENANCE
SECURITY AGREEMENT**

STREETS AND APPURTENANCES
(Including Sidewalks)

Security Agreement No.

20-022(P/S)

This Agreement made and concluded at Lebanon, Ohio, by and between _____
VWC Holdings, LTD (1) (hereinafter the "Developer") and the
Warren County Board of County Commissioners, (hereinafter the "County Commissioners"), and
The Old Fort Banking Company (2) (hereinafter the "Surety").

WITNESSETH:

WHEREAS, the Developer is required to install certain improvements in The Villages of Winding Creek
The Boulevards at Winding Creek **Subdivision, Section/Phase** Nine A (3) (hereinafter the "Subdivision") situated in
Clearcreek (4) Township, Warren County, Ohio, in accordance with the Warren County
Subdivision regulations (hereinafter called the "Improvements"); and,

WHEREAS, it is estimated that the total cost of the Improvements is \$428,999.40,
and that the Improvements that have yet to be completed and approved may be constructed in the sum of
\$22,568.00; and,

WHEREAS, the County Commissioners require all developers to post security in the sum of one
hundred thirty percent (130%) of the estimated cost of uncompleted or unapproved Improvements to secure
the performance of the construction of uncompleted or unapproved Improvements in accordance with
Warren County subdivision regulations and to require all Developers to post security in the sum of twenty
percent (20%) of the estimated total cost of the Improvements after the completion of the Improvements
and their tentative acceptance by the County Commissioners to secure the performance of all maintenance
upon the Improvements as may be required between the completion and tentative acceptance of the
Improvements and their final acceptance by the County Commissioners.

NOW, THEREFORE, be it agreed:

1. The Developer will provide **performance security** to the County Commissioners in the sum
of \$85,799.88 to secure the performance of the construction of the
uncompleted or unapproved Improvements in accordance with Warren County subdivision
regulations (hereinafter the Performance Obligation). If any sum greater than zero (0) is
inserted herein, the **minimum performance security** shall be twenty percent (20%) of the
total cost of the Improvements.

2. The County Commissioners will, upon approval of the County Engineer of all Improvements in the Subdivision, tentatively accept all Improvements.
3. The Developer shall be in default of the Performance Obligation if the construction or installation of any Improvement by the Developer is not completed within 2 years from the date of the execution of this agreement, as determined by the County Engineer. The same shall apply whenever construction of the Improvements is not performed in accordance with the Warren County subdivision regulations.
4. The condition of the Performance Obligation shall be that whenever the Developer shall be declared by the County Commissioners to be in default, the Surety and the Developer shall, upon written notification of default by the County Commissioners to the Surety promptly make sufficient funds available to the County Commissioners to pay the cost of the completion of the construction of the uncompleted or unapproved Improvements in accordance with Warren County subdivision regulations, including any costs incurred by the County Commissioners which are incidental to the completion of the construction of the uncompleted or unapproved Improvements, including, but not limited to costs associated with publication of legal notices, preparation of such additional plans, specifications and drawings as may, in the judgment of the County Commissioners, be necessary, preparation of bid documents, etc., but not exceeding the amount set forth in Item 1 hereof. The Developer shall have the opportunity to respond in writing within two (2) weeks of receipt of notice of intent to find the Developer in default. In the case that the performance security given is in the form of a cashier's check or certified check provided directly to the County Commissioners, the County Commissioners may apply such funds as set forth herein upon notification of default to the Surety. The determination of the amount of funds to be disbursed by Surety to the County Commissioners as set forth in the aforesaid notification is final and binding upon the parties hereto. However, the foregoing shall not release Developer from any liability for any deficiency between the amount of funds disbursed and the actual costs incurred by the County Commissioners in the completion of the construction or installation of the uncompleted or unapproved Improvements and Developer expressly agrees to be liable to the County Commissioners for any such deficiency.
5. **The County Commissioners, the Developer and Surety mutually agree that the Performance Obligation created herein shall continue until the completion of the installation of the Improvements in accordance with Warren County subdivision regulations and that upon the Improvements having been inspected and approved for two years maintenance, the Performance Obligation shall become null and void after the Developer posts the maintenance security provided for herein.**
6. The Developer will provide **maintenance security** to the County Commissioners in the sum of \$85,799.88 to secure the performance of all maintenance upon the Improvements as determined to be necessary by the County Engineer (hereinafter the Maintenance Obligation). In no event shall the sum provided for herein be less than twenty percent (20%) of the estimated total cost of the Improvements as set forth above.

7. The Developer, upon being notified by the County Engineer of the maintenance required upon the Improvements to bring the same into compliance with Warren County Subdivision regulations shall immediately undertake to perform and complete such required maintenance within the time set forth in the notice from the County Engineer.
8. The Developer shall be in default of the Maintenance Obligation should the Developer fail to complete or cause to be undertaken and completed required maintenance upon the Improvements as set forth in Item 7 hereof.
9. The condition of the Maintenance Obligation shall be that whenever the Developer shall be declared by the County Commissioners to be in default, the Surety and the Developer shall, upon written notification of default by the County Commissioners to the Surety promptly make sufficient funds available to the County Commissioners to pay the cost of the required maintenance upon the Improvements, including any costs incurred by the County Commissioners which are incidental to the performance of such maintenance, including, but not limited to costs associated with the publication of legal notices, preparation of additional plans, specifications and drawings, as may, in the judgment of the County Commissioners, be necessary, preparation of bid documents, etc. but not exceeding the amount set forth in Item 6 hereof. The Developer shall have the opportunity to respond in writing within two (2) weeks of receipt of notice of intent to find the Developer in default. In the case that the maintenance security given is in the form of a cashier's check or certified check provided directly to the County Commissioners, the County Commissioners may apply such funds to the completion of the required maintenance upon the Improvements upon notification of default to the Surety. The determination of the amount of funds to be disbursed by Surety to the County Commissioners as set forth in the aforesaid notification is final and binding upon the parties hereto. However, the foregoing shall not release Developer from any liability for any deficiency between the amount of funds disbursed and the actual costs incurred by the County Commissioners in the performance of maintenance upon the Improvements and Developer expressly agrees to be liable to the County Commissioners for any such deficiency.
10. That upon expiration of the two years from the date of the tentative acceptance of the Improvements by the County Commissioners and upon satisfactory completion of any required maintenance upon the Improvements to bring the Improvements into compliance with Warren County subdivision regulations, the County Commissioners hereby agree to release the maintenance security and give final acceptance to the Improvements. The Developer shall request, in writing directed to the County Engineer, a final inspection of the Improvements and the Developer shall be responsible for all maintenance as may be necessary and as may accrue from the commencement of the **two year maintenance period** and until such written request for inspection is delivered.
11. In the case of default pursuant to Items 3 and 4 or 8 and 9 hereof, Developer shall make available to the County Commissioners all plans, specifications and drawing relating to the Improvements and hereby directs all third parties, including engineers and consultants, who may possess such plans, specifications and drawings, or copies thereof, to provide the same

to the County Commissioners upon request and presentation of this security agreement or a copy thereof and agrees to hold such third parties harmless from the provision of such plan specifications and drawings pursuant to this item. Developer does hereby consent to the use of such plans, specifications and drawings by the County Commissioners to complete the construction of the uncompleted or unapproved Improvements or the performance of maintenance upon the same in the case of default pursuant to Items 3 and 4 or 8 and 9 hereof.

12. In the case of conflict between the provisions of this agreement and any other security agreement relating to the same Improvements, the provisions of this agreement shall take precedence.
13. Any notice, correspondence, inquiry or request for inspection permitted or required under this security agreement shall be given as follows:

A. To the County Commissioners:

Warren County Board of County Commissioners
Attn: County Administrator
406 Justice Drive
Lebanon, OH 45036
Ph. (513) 695-1250

B. To the County Engineer:

Warren County Engineer
105 Markey Road
Lebanon, OH 45036
Ph. (513) 695-3336

C. To the Developer:

VWC Holdings, LTD

3601 Rigby Rd, Suite 300

Miamisburg, OH 45324

Ph. (937) 435 - 8584

D. To the Surety:

Old Fort Banking Company

6430 Wilmington Pike

Sugarcreek Township, OH 45459

Ph. () -

All notices and requests for inspection, unless otherwise specifically provided herein, shall be by certified mail, return receipt requested, and shall be complete upon mailing. **All parties are obligated to give notice of any change of address.**

14. The security to be provided herein shall be by:

_____ **Certified check or cashier's check** (attached) (**CHECK #** _____)

 X **Original Letter of Credit** (attached) (**LETTER OF CREDIT #** 10143097-5)

_____ **Original Escrow Letter** (attached)

_____ **Surety Bond** (this security agreement shall serve as the bond when signed by an authorized representative of a surety company authorized to do business within the State of Ohio with a **power of attorney attached** evidencing such authorized signature).

_____ **Surety obligation of national bank** (by signing this security agreement the authorized representative of the national bank undertaking this surety obligation does certify, for and on behalf of the undersigned national bank, that the bank has a segregated deposit sufficient in amount to the bank's total potential liability).

15. **The term "Surety" as used herein includes a bank, savings and loan or other financial institution where the security provided is a letter of credit, escrow letter or surety obligation of a national bank. The term "Surety" when referring to a bank, savings and loan or other financial institution is not intended to create obligations beyond those provided by Paragraphs 4 and/or 9 of this security agreement.**

16. **In the event that Surety shall fail to make funds available to the County Commissioners in accordance with Paragraphs 4 or 9, as applicable, within thirty (30) days after notification of default, then amounts due shall bear interest at eight per cent (8%) per annum.**

17. This Agreement shall not be assignable or transferrable by the Developer or Surety to any third party or parties without the express written consent of the County Commissioners. Developer and Surety waive any successor developer or successor surety claim or defense unless the County Commissioners have executed a written consent of assignment.

18. This Agreement shall be construed under the laws of the State of Ohio. The Developer and Surety hereby stipulate to the venue for any and all claims, disputes, interpretations and litigation of any kind arising out of this Agreement, being exclusively in the Warren County, Ohio Court of Common Pleas (unless both parties mutually agree in writing to attempt to resolve by alternate dispute resolution prior to litigation), and do further waive any right to bring or remove such claims, disputes, interpretation and litigation of any kind arising out of this Agreement, in or to any other state or a federal court.

IN EXECUTION WHEREOF, the Developer and the Surety have caused this security agreement to be executed on the date stated below.

DEVELOPER:

Pursuant to a resolution authorizing the undersigned to execute this agreement.

SIGNATURE: 

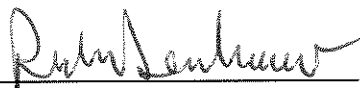
PRINTED NAME: David C. Oakes

TITLE: Manager

DATE: 8/31/20

SURETY:

Pursuant to an instrument authorizing the undersigned to execute this agreement.

SIGNATURE: 

PRINTED NAME: Edward J. Demko

TITLE: Sr. Vice President

DATE: 8-31-2020

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN EXECUTION WHEREOF, the Warren County Board of County Commissioners have caused this security agreement to be executed by the President of the Board, on the date stated below, pursuant to Board Resolution Number 20-1327, dated 9.22.20.

**WARREN COUNTY
BOARD OF COUNTY COMMISSIONERS**

SIGNATURE: 

PRINTED NAME: Tom Grossmann

TITLE: President

DATE: 9/22/20

RECOMMENDED BY:

By: 
COUNTY ENGINEER

APPROVED AS TO FORM:

By: 
COUNTY PROSECUTOR

Key:

1. Name of Developer
2. Name of Person, Firm, Entity, etc. who is providing the security whether that be a bank or other financial institution (in the case of a letter of credit or escrow letter) (Surety Company in the case of a bond) or the Developer itself (in the case of a certified check or cashier's check)
3. Name of subdivision with section number and phase number where applicable
4. Name of Township



Irrevocable Standby Letter of Credit No. 10143097-5

Beneficiary: Warren County Board of Commissioners
406 Justice Drive
Lebanon, OH 45036

Applicant: VWC Holdings, Ltd.
3601 Rigby Road, Ste 300
Miamisburg, OH 45342

Issue Date: August 31, 2020
Expiration Date: August 31, 2022
Amount: USD \$85,799.88
Reference No.: 10143097-5

Your Reference: The Villages of Winding Creek
The Boulevards Section 9A
Streets and Appurtenances

We hereby establish our Irrevocable Standby Letter of Credit No. 10143097-5 in your favor for the account of VWC Holdings, Ltd. 3601 Rigby Road, Ste 300, Miamisburg, OH 45342 up to an aggregate amount of USD \$85,799.88 available by your draft(s) at sight drawn on The Old Fort Banking Company, Old Fort, Ohio.

Drafts to be accompanied by the following document(s):

1. Beneficiary's statement signed by one purporting to be an authorized signer of the Warren County Board of Commissioners certifying that "VWC Holdings, Ltd. is in default of the installation and/or maintenance of Streets and Appurtenances, **The Boulevards Section 9A, The Villages of Winding Creek Subdivision, Clearcreek Township, Warren County, Ohio.**"
2. Original Letter of Credit and any amendments.

Partial drawings are permitted.

"It is a condition of this Irrevocable Letter of Credit that it shall be deemed automatically extended without amendment for successive one year periods from its present or any future expiration date unless at least sixty (60) days before any such expiration date we notify the Warren County Administrator, at the address listed above in writing, in writing by certified or registered mail, that we elect not to consider this Letter of Credit renewed for any such additional period, at such time

the Board of Warren County Commissioners may declare the Developer to be in default and demand immediate payment of all sums under this Letter of Credit.”

Draft(s) must be marked: “Drawn under The Old Fort Banking Company Standby Letter of credit No. 10143097-5 dated August 31, 2020.”

We hereby agree with you that drafts drawn under and in strict compliance with the terms of this credit will be duly honored by us upon presentation at **The Old Fort Banking Company, 8034 Main St., Old Fort, Ohio 44861**, on or before our close of business on August 31, 2022 or any automatically extended expiry date.

“The draft presentment deadline set forth in this letter of credit shall automatically be extended for one year periods unless at least sixty (60) days prior to any draft presentment deadline, or any prior extension thereof, **The Old Fort Banking Company** notifies the Warren County Administrator, 406 Justice Drive, Lebanon, Ohio 45036, that the draft presentment deadline shall not be extended for a successive one year period, at such time the Board of Warren County Commissioners may declare the Developer to be in default and demand immediate payment of all sums under this Letter of Credit.”

This letter of credit sets forth in full the terms of our undertaking and such undertaking shall not in any way be modified, amended or amplified by reference to any document, instrument, or agreement referred to herein or in which this letter of credit is referred to or to which this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement.

The Security Agreement referenced by this Letter of Credit and all its terms and conditions, is attached hereto, made a part hereof, and fully incorporated herein, as if fully rewritten.

Except as otherwise expressly stated herein, this Letter of Credit is issued subject to the International Standby Practices of the International Chamber of Commerce, Publication 590 (“ISP98”). This Letter of Credit shall be deemed to be a contract made under the laws of the State of Ohio and shall, as to matters not governed by ISP98, be governed by and construed in accordance with the laws of the State of Ohio, other than its conflict of laws rules, which would result in the application of the law of any jurisdiction other than the laws of the State of Ohio.

Sincerely,

The Old Fort Banking Company



Richard J. Demko
Senior Vice President

Resolution

Number 20-1338

Adopted Date September 22, 2020

APPROVE VARIOUS RECORD PLATS AND AUTHORIZE COUNTY ADMINISTRATOR TO SIGN DOCUMENTS RELATIVE THERETO

BE IT RESOLVED, upon recommendation of the Warren County Regional Planning Commission, to approve the following Record Plats:


- Tuft's Addition to Maineville Section 1 – Hamilton Township
- The Villages of Winding Creek, The Boulevards at Winding Creek Section Eight – Clearcreek Township
- The Villages of Winding Creek, The Boulevards at Winding Creek Section Eight A – Clearcreek Township
- The Villages of Winding Creek, The Boulevards at Winding Creek Section Nine – Clearcreek Township
- The Villages of Winding Creek, The Boulevards at Winding Creek Section Nine A – Clearcreek Township

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Plat File
RPC

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1339

Adopted Date September 22, 2020

APPROVE AN OPERATIONAL TRANSFER FROM COMMISSIONERS FUND #11011112 INTO HUMAN SERVICES FUND #2203

WHEREAS, the Department of Human Services has requested that the third disbursement of their mandated share for SFY 2021 be transferred into the Human Services Public Assistance Fund #2203; and

NOW THEREFORE BE IT RESOLVED, to approve the following operational transfer from Commissioners Fund #1101 into Human Services Fund #2203:

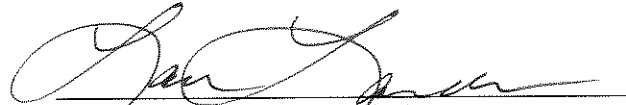
\$15,933.00	from	#11011112-5742	(Commissioners Grants - Public Assistance)
	into	#2203-49000	(Human Services - Public Assistance)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
Operational Transfer file
Human Services (file)
OMB

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1340

Adopted Date September 22, 2020

APPROVE SUPPLEMENTAL APPROPRIATION INTO COMMISSIONERS GENERAL
FUND #11011112

BE IT RESOLVED, to approve the following supplemental appropriation:


\$888,300.00 into #11011112-5997 (Genl Fund – BOCC Operational Transfer)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
Supplemental Appropriation file
OMB (file)

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1341

Adopted Date September 22, 2020

APPROVE A SUPPLEMENTAL APPROPRIATION INTO HUMAN SERVICES FUND 2203

BE IT RESOLVED, to approve the following supplemental appropriation:

\$50,000.00 into 22035310-5749 (Children Services)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
Supplemental App. file
Human Services (file)

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1342

Adopted Date September 22, 2020

APPROVE SUPPLEMENTAL APPROPRIATION INTO LOCAL CORONAVIRUS RELIEF
FUND #2210

BE IT RESOLVED, to approve the following supplemental appropriation:

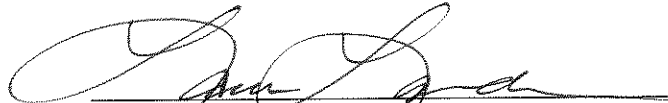
\$ 25,000.00 into #22101110-5210 (Material & Supplies)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
Supplemental Appropriation file
OMB (file)

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1343

Adopted Date September 22, 2020

APPROVE SUPPLEMENTAL APPROPRIATION INTO JAIL SALES TAX FUND #4495

BE IT RESOLVED, to approve a supplemental appropriation within Fund #4495 as follows:

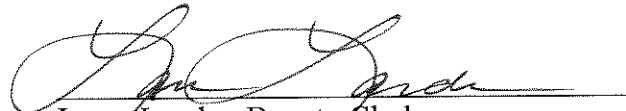
\$40,000.00 into 44953712-5320 (Capital Purchases)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
Supplemental Appropriation file
Facilities Management (file)

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1344

Adopted Date September 22, 2020

APPROVE SUPPLEMENTAL APPROPRIATIONS INTO HEALTH INS #6632

BE IT RESOLVED, to approve the following supplemental appropriations:

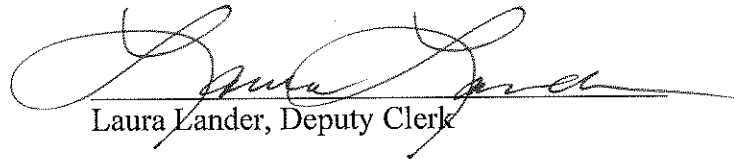
\$7,100.00 into #66320100-5820 (Health – Health & Life Insurance)
\$1,000.00 into #66320100-5400 (Health – Purchased Services)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
Supplemental Appropriation file
OMB (file)

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1345

Adopted Date September 22, 2020

APPROVE APPROPRIATION ADJUSTMENT FROM JUVENILE COURT FUND #1011240
INTO PROBATE COURT FUND #11011250

BE IT RESOLVED, to approve the following appropriation adjustment:

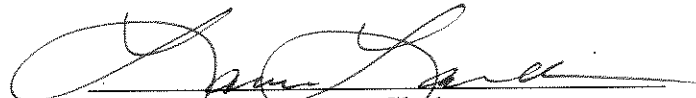
\$10,000.00	from	11011240-5415	(Indigent Attorneys)
	into	11011250-5102	(Regular Salaries)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
Appropriation Adj. file
Juvenile (file)

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1346

Adopted Date September 22, 2020

APPROVE APPROPRIATION ADJUSTMENT FROM JUVENILE COURT FUND #10111240
INTO PROBATE COURT FUND #11011250

BE IT RESOLVED, to approve the following appropriation adjustment:

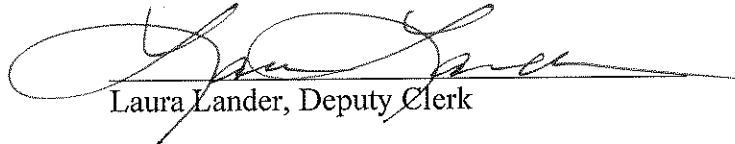
\$10,000.00	from	11012600-5102	(Regular Salaries)
	into	11011250-5102	(Regular Salaries)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
Appropriation Adj. file
Juvenile (file)

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1347

Adopted Date September 22, 2020

APPROVE APPROPRIATION ADJUSTMENTS WITHIN SHERIFF'S OFFICE FUNDS
#11012200, 11012210, AND 11012211

BE IT RESOLVED, to approve the following appropriation adjustments:


\$23,000.00	from 11012200-5811	(PERS)
	into 11012200-5820	(Health & Life Insurance)
\$95,000.00	from 11012210-5102	(Regular Salaries)
	into 11012210-5114	(Overtime Pay)
\$30,000.00	from 11012210-5811	(PERS)
	into 11012210-5114	(Overtime Pay)
\$5800.00	from 11012200-5102	(Regular Salaries)
	into 11012211-5102	(Regular Salaries)
\$800.00	from 11012200-5102	(Regular Salaries)
	into 11012211-5114	(Overtime Pay)
\$300.00	from 11012200-5102	(Regular Salaries)
	into 11012211-5820	(Health & Life Insurance)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
Appropriation Adjustment file
Sheriff's Office (file)

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1348

Adopted Date September 22, 2020

APPROVE APPROPRIATION ADJUSTMENT WITHIN DOG AND KENNEL FUND #2206

BE IT RESOLVED, to approve the following appropriation adjustment:

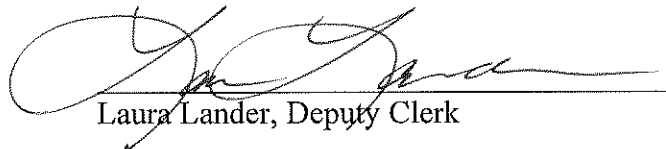
\$800.00 from #22062700-5210 (Material & Supply)
 into #22062700-5910 (Other Expense)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
Appropriation Adj. File
Dog & Kennel (file)

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1349

Adopted Date September 22, 2020

APPROVE APPROPRIATION ADJUSTMENT WITHIN JUVENILE COURT RECLAIM
GRANT FUND #2247

BE IT RESOLVED, to approve the following appropriation adjustment within Juvenile Court
Reclaim Grant Fund #2247:

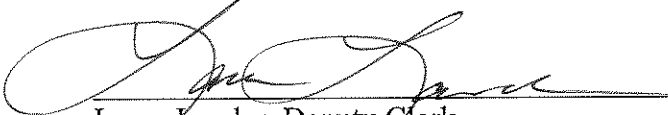
\$ 2000.00 from 22471242-5210 (Materials and Supplies)
 into 22471242-5317 (Non Capital Purchase)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann.
Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
Appropriation Adj. file
Juvenile (file)

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1350

Adopted Date September 22, 2020

APPROVE APPROPRIATION ADJUSTMENTS WITHIN SHERIFF'S OFFICE FUND #6630

BE IT RESOLVED, to approve the following appropriation adjustments within Warren County Sheriff's Office Fund #6630:

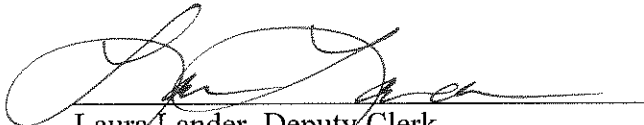
\$10,000.00	from	66302259-5811	(PERS)
	into	66302259-5820	(Health & Life Insurance)
\$5,000.00	from	66302259-5114	(Overtime Pay)
	into	66302259-5820	(Health & Life Insurance)

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Auditor
Appropriation Adjustment file
Sheriff's Office (file)

**BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO**

Resolution

Number 20-1351

Adopted Date September 22, 2020

APPROVE REQUISITIONS AND AUTHORIZE COUNTY ADMINISTRATOR TO SIGN DOCUMENTS RELATIVE THERETO

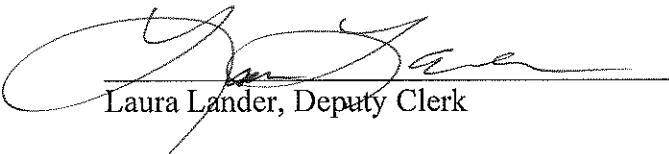
BE IT RESOLVED, to approve requisitions as listed in the attached document and authorize Tiffany Zindel, County Administrator, to sign on behalf of this Board of County Commissioners.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – yea
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: Commissioners file

Department	Vendor Name	Description	Amount
WAT	PETERSON CONSTRUCTION CO	FRANKLIN AREA WATER MEMBRANE SOFTENING	13,075,000.00
TEL	CDW LLC	BLADE SERVER/EQUIPMENT	35,760.98
ENG	REQ BLANKET	OREGONIA RD STREAM REALIGNMENT	1.00
WAT	TRIMBLE INC	REMOTE MONITORING ANNUAL	1,440.00
PRO	MATRIX POINTE SOFTWARE	CASE MANAGEMENT SYSTEM	18,949.58

PO CHANGE ORDER

Department	Vendor Name	Description	Amount
FAC	GRANGER CONSTRUCTION CO	NEW JAIL & SHERIFF'S OFFICE ADMIN PROJECT	23,218.28 INCREASE

9/22/2020 APPROVED:



Tiffany Zindel, County Administrator

Resolution

Number 20-1352

Adopted Date September 22, 2020

RESOLUTION CREATING THE WARREN COUNTY CARES ACT GRANT PROGRAM AND AUTHORIZE COUNTY ADMINISTRATOR TO SIGN DOCUMENTS RELATIVE THERETO

WHEREAS, in response to the economic impact of the global COVID-19 pandemic, Section 5001 of the Federal Coronavirus Aid, Relief, and Economic Security act (hereinafter "CARES" or "CARES Act") was passed establishing a fund to provide payments to State, Local and Tribal governments to mitigate the damages to the local economy; and

WHEREAS, Warren County, Ohio is a local government eligible for receipt of direct payment from the United States federal government under the CARES Act, and has received a total of \$2,417,184.07 from the relief fund as of the date of this resolution; and

WHEREAS, the local economy of Warren County, Ohio, especially small businesses and organizations have been greatly impacted from the interruptions of Stay At Home Orders and business operation closures issued by the Ohio Department of Health; and

WHEREAS, under the authority of Section 5001 of the CARES Act and Ohio House Bill 481, the Board of County Commissioners may expend CARES Act funds to provide grants to small businesses, including non-profit, to reimburse the costs of business interruption caused by required business closures; and

NOW THEREFORE BE IT RESOLVED, in order to mitigate damages suffered by the small business community within Warren County, the Board of County Commissioners hereby creates the Warren County CARES Act Grant Program as follows:

Small businesses with fifty or less full-time equivalent employees in the following three categories: general small businesses; non-profit businesses; or childcare related businesses may be considered as applicants. Sole proprietor and independent contractors may also be considered as applicants. The Board of County Commissioners have previously enacted a Resolution limiting purchase orders to \$10,000 or less. For the purpose of CARES Act Relief they are waiving that limitation and hereby encumbers as blanket purchases orders with non-specific vendors and dedicates from its awarded CARES Act relief fund \$350,000.00 for general Small Business grants, \$350,000.00 for Non-Profit Business grants, and \$350,000.00 for Childcare Business grants.

Grant applicants with one to twenty-five (1-25) full time equivalent employees, sole proprietors, and independent contractors in one of the three above categories of business may receive no more than one \$2,500.00 grant, if eligibility and application requirements are met.

Grant applicants with twenty-six to fifty (26-50) full time equivalent employees in one of the three above categories of business may receive no more than one \$5,000.00 grant, if eligibility and application requirements are met.

With regards to Childcare Business grants, Type B licensed Family Type Childcare Providers shall receive no more than one \$2,500.00 grant, and licensed Center Based Childcare Providers shall receive no more than one \$5,000.00 grant regardless of number of employees.

Further, mandatory grant eligibility requirements, terms, and conditions of this grant program are more fully expressed in the Warren County CARES Act Grant Program Application which is attached below and incorporated by reference as if fully re-written herein

To be receive a grant under this program, applicants shall meet all eligibility requirements as set forth in the Warren County CARES Act Grant Program Application, attached below. To receive a grant under this program, Applicants shall submit a fully completed application and shall agree to be bound by the terms and conditions of the Warren County CARES Act Grant Program Application, attached below; and

BE IT FURTHER RESOLVED, to dedicate and encumber \$25,000.00 of its awarded CARES Act relief fund specifically for small business grants that may be awarded solely to small businesses that are entirely volunteer based non-profit organizations that have had costs of business interruption caused by required business closures. Any grant awarded to volunteer based non-profit organizations shall be awarded only if the applicant meets the eligibility requirements, terms, and conditions of the Warren County CARES Act Grant Program Application for Volunteer Based Non-Profits which is attached below and incorporated by reference as if fully re-written herein; and

BE IT FURTHER RESOLVED, to enter the Coronavirus Aid, Relief, and Economic Security Act Section 5001 Grant Administration Agreement with the Warren County Small Business Development Alliance, attached below and incorporated by reference as if fully re-written herein, for the purposes of administration of the Warren County CARES Act Grant Program; and


BE IT FURTHER RESOLVED, to dedicate and encumber \$20,000.00 of its awarded CARES Act relief fund to pay the Warren County Small Business Development Alliance for the administration of the Warren County CARES Act Grant Program pursuant to the terms of the abovementioned agreement.

Mrs. Jones moved for adoption of the foregoing resolution being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young – absent
Mr. Grossmann – yea
Mrs. Jones – yea

Resolution adopted this 22nd day of September 2020.

BOARD OF COUNTY COMMISSIONERS



Laura Lander, Deputy Clerk

cc: c/a—Warren County Small Business Development Alliance
Economic Development (file)
Commissioners' file

**CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT SECTION 5001
GRANT ADMINISTRATION AGREEMENT**
between the
WARREN COUNTY BOARD OF COMMISSIONERS
and the
WARREN COUNTY SMALL BUSINESS DEVELOPMENT ALLIANCE

THIS AGREEMENT is made as of the date of the last signature below by and between the Warren County Board of County Commissioners (hereinafter “COUNTY”), a political subdivision of Ohio, with its principal place of business located at 406 Justice Drive, Lebanon, Ohio 45036 and the Warren County Small Business Development Alliance (hereinafter “SBDA”), an Ohio non-profit corporation, with its principal place of business located at 3525 North State Route 48, Lebanon, Ohio 45036;

WHEREAS, in response to the economic impact of the global COVID-19 pandemic, the Federal Coronavirus Aid, Relief, and Economic Security act (hereinafter “CARES” or “CARES Act”) was passed establishing a fund to provide payments to State, Local and Tribal governments to mitigate the damages to the local economy; and

WHEREAS, Warren County, Ohio is a local government eligible for receipt of direct payment from the United States federal government under the CARES Act, and has received approximately \$2,417,184.07 from the relief fund; and

WHEREAS, the County developed the Warren County CARES Act Grant Program (the “Program”) which will use \$1,075,000.00 of the CARES relief fund dollars to provide grants directly to eligible small businesses all across Warren County, Ohio that have been negatively impacted by the COVID-19 pandemic or have had business interruption from Ohio Department of Health “Stay at Home” orders and the like; and

WHEREAS, SBDA is a non-profit organization developed specifically to assist small businesses in Warren County, Ohio with programs that assist in growth, job creation, and accessing capital, and is willing to administer the Program on behalf of the COUNTY,

WHEREAS, through Resolution No. 20-1352, the COUNTY has developed the Program eligibility requirements, the Warren County CARES Act Grant Program Application [Exhibit A],

and the Warren County CARES Act Grant Program Application for Volunteer Based Non-Profits [Exhibit B], each attached below and incorporated by reference as if fully re-written herein

NOW THEREFORE, in consideration of the mutual covenants, promises, conditions and terms to be kept and performed, it is agreed between the parties as follows:

DUTIES OF PARTIES.

The COUNTY agrees to pay to the SBDA an amount not to exceed **\$20,000.00** to administer the Program (hereinafter “Grant Administration Fee”). County will encumber \$350,000.00 for grants towards eligible Small Businesses, \$350,000.00 for grants towards eligible Non-Profit Organizations, and \$350,000.00 for grants towards eligible Child Care Facilities impacted by the COVID-19 pandemic. The COUNTY will also encumber \$25,000.00 for grants towards eligible Non-Profit Organizations that are solely volunteer based.

Upon receiving an approved program application, COUNTY will issue a grant to the eligible and approved grantees in an amount of \$2,500.00 to grantees with 1-25 Full Time Equivalent Employees (FTE) or an amount of \$5,000.00 to eligible and approved grantees with 26-50 FTE, from the above designated and corresponding encumbered funds. Further, upon receiving an approved program application from a child care provider applicant, COUNTY will issue a grant to the eligible and approved child care grantee in an amount of \$2,500.00 to such grantee that is a Type B licensed Family Based Child Care Provider, and will issue a grant to the eligible and approved child care grantee in an amount of \$5,000.00 to such grantee that is a Center Based licensed Child Care Provider.

SBDA will administer the Program which will consist of marketing the program to the small businesses of Warren County, collecting, reviewing and approving the Exhibit A Program Applications, and notifying the County of eligible grantees pursuant to Program Eligibility and Requirements as set forth in Resolution No. 20-1352.

SBDA will also administer the Program by marketing the program to volunteer based non-profit organizations of Warren County, collecting and reviewing Exhibit B program applications and providing completed Exhibit B program applications to COUNTY, whereby the COUNTY will approve Exhibit B program applications and issue grants in an amount based on its sole

discretion to eligible volunteer based non-profit applicants.

TERMINATION; RECOUPMENT; TERM.

Either party may terminate this agreement for convenience by providing written notice to the other party. SBDA shall return any unused portion of the Grant Administration Fee to COUNTY if this agreement is terminated in advance of the term of this Agreement. This Agreement shall be effective upon the date last signed by the parties and shall continue in full force and effect until December 31, 2020, or until all encumbered grant funds are distributed, whichever may occur first. Should there be additional CARES Act funds available for small business grants in the future, this Agreement may be extended in writing by mutual agreement of the parties.

NON-DISCRIMINATION.

SBDA, its employees, agents, representatives, and any other party working on its behalf shall not discriminate in any manner in its performance under this Agreement by reason of race, color, sex, age, religion, national origin, ancestry, veteran status, disability, sexual orientation, gender identity or any other characteristic to the extent protected by law, and shall comply with all federal, State of Ohio and COUNTY non-discrimination and intimidation laws, as amended, and any applicable related rules, regulations and executive orders, as amended.

WORKERS' COMPENSATION.

SBDA shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this contract.

ACCOUNTABILITY FOR GRANT PROPERTY.

SBDA must maintain effective internal control and accountability for all grant cash, real and personal property and other assets. All grant property must be only used for the purpose authorized in this Grant Agreement.

REPORTS AND RECORDS.

SBDA agrees to maintain and provide to the COUNTY upon demand the following internal reports and records:

- Accounting and fiscal records adequate to allow the COUNTY and/or State of Ohio to

audit and verify that the funds provided under this Agreement are used for the purpose(s) stated in this Agreement.

- Other records and reports as required by the COUNTY to enable it to comply with local, state, and federal statutes and regulations.
- SBDA shall maintain all records related to this grant Agreement and the administration of the program for five (5) years after the COUNTY makes final payment hereunder and all other pending matters are closed. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the 5-year period, the SBDA shall retain the records until completion of the action and all issues which arise from it or until the end of the 5-year period, whichever is later.
- Performance reports which include information regarding actual accomplishments established during the grant period and other pertinent information. Such report shall be in the form required by the COUNTY.
- Final report of grant closeout.

The COUNTY shall have the right of access to any pertinent book, document, paper or other records of the SBDA and Applicants which are pertinent to grant in order to make audits or examinations.

FEDERAL, STATE AND LOCAL LAWS.

SBDA agrees to abide by all Federal, State and local laws, statutes, resolutions, ordinances, rules and/or regulations applicable to this Grant Agreement. Additionally, SBDA agrees that it will only approve grant applications for eligible uses pursuant to section 5001 of the federal Coronavirus Aid, Relief and Economic Security Act.

HOLD HARMLESS

SBDA hereby agrees to hold harmless, defend and indemnify the COUNTY from any and all claims, actions, suits, losses and judgments (including attorney's fees and court costs) whatsoever that arise out of the performance or nonperformance of the services or subject matter called for in this Agreement. Nothing herein shall be construed to make the SBDA liable for the negligence of the COUNTY.

INDEPENDENT CONTRACTOR.

Nothing contained in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer/employee between the parties. SBDA shall at all times remain an 'independent contractor' with respect to its performance under this Agreement.

SUCCESSORS AND ASSIGNMENT.

The COUNTY and SBDA each binds itself and its successors, executors, administrators, and assigns to the terms, conditions, and covenants of this Agreement. Neither the COUNTY nor SBDA shall assign or transfer its rights, interests, duties, or obligations under this Agreement without the express written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

NOTICES.

Any notice required or permitted under this Grant Agreement shall be given in writing and shall be deemed to have been given when personally delivered to any officer of the party receiving notice or when posted in the United States mail by certified mail addressed to the last known address of the party being served.

LAW OF OHIO.

This Grant Agreement shall be construed and enforced in accordance with the laws of the State of Ohio, without giving effect to its conflict of laws principles. The parties agree that any legal action, suit, or proceeding that arises out of this Grant Agreement shall be brought solely and exclusively in Warren County Common Pleas Court.

ENTIRE AGREEMENT, MODIFICATION AND SEVERABILITY.

This written Agreement represents the entire agreement between the parties and supersedes all previous agreements, written and oral, between the parties. This Grant Agreement shall not be modified except in writing signed by both parties. In the event any provision of this Grant Agreement is determined to be invalid by a court of competent jurisdiction, such determination

shall not affect the validity of other provisions in the Grant Agreement which shall be severable.

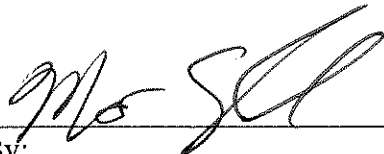
PUBLIC RECOGNITION AND COUNTY SUPPORT.

SBDA shall recognize the COUNTY on all printed materials and promotional media related to the Program. When there are press releases, photographs, newsletters or any published materials about the Program, the COUNTY shall be included on any and all mailing distributions. SBDA may include its name and/or logo on any and all printed materials, promotional media, and press releases about the Program.

(End of text. Execution on the following page.)

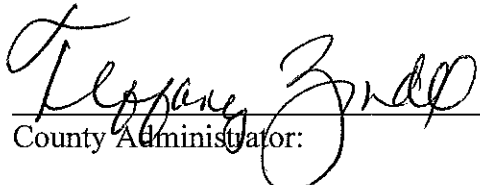
The parties hereunto have caused this AGREEMENT to be executed in duplicate on the date of the last signature below.

**WARREN COUNTY SMALL
BUSINESS DEVELOPMENT ALLIANCE
"GRANTEE"**




By:
Title: President & CEO
Date: 9/23/2020

**WARREN COUNTY BOARD OF
COUNTY COMMISSIONERS
"COUNTY"**



County Administrator:
Date: 9-22-2020
Resolution # 20-1352

APPROVED AS TO FORM:



By: Adam M. Nice
Assistant Prosecuting Attorney

EXHIBIT A

Warren County CARES Act Grant Program

**PROGRAM ELIGIBILITY GUIDELINES and APPLICATION, TERMS &
CONDITIONS**

Warren County CARES Act Grant Program Application – Instructions

Please fill out each field and return the application in Word format (or PDF if Word is not possible) to wccaresgrant@co.warren.oh.us. If you experience formatting challenges while filling out the application, you may provide a separate answer sheet with answers clearly labeled/numbered to their corresponding question. Any additional attachment and/or documentation submitted should also be clearly labeled.

The application window will open at 9:00am on October 1, 2020 and run until 11:59pm on October 31, 2020. **Applications received prior to 9:00am October 1, 2020 will need to be resubmitted during the application window to be eligible. Applications received after 11:59pm on October 31, 2020 will not be considered for the program.**

Along with the application, a completed vendor packet and W-9 must also be submitted. Those forms can be found, along with all program documents, at www.co.warren.oh.us.

For questions about the program, please send an email to wccaresgrant@co.warren.oh.us.

REQUIRED DOCUMENTATION CHECKLIST

- Prior 2 years completed tax returns
- Most recent payroll report and report from same period in previous year
- Interim financial records
 - March 1 – July 31, 2019 and March 1 – July 31, 2020
- Tax form 941
- Tax form 1023 or 990 (for the Non-profits with employees focus area)
- Childcare licensure documentation (for the Childcare focus area)
- Documentation of eligible expenses for which funding will be used
- Vendor Packet Info (attached to this application)
 - Completed W-9
 - New vendor form
 - Vendor information sheet
 - Independent contractor/worker acknowledgement (sole proprietor only)
- Completed terms and conditions (at the end of this application)

SUPPORTIVE DOCUMENTATION (IF AVAILABLE) CHECKLIST

- Documentation surrounding other assistance received (ex. SBA, PPP funding, or funding from other municipalities or private grant programs)
- Certificates of good standing from State of Ohio or local communities
- Tax form 1099 (if applicable)

Warren County CARES Act Grant Program Application

Applicants are eligible for funding even if previous assistance has been received (ex. SBA, PPP funding, or funding from other municipalities or private grant programs), but funds cannot be applied toward an expense already paid under a separate award.

Eligible applicants include small businesses and non-profit organizations so long as the entity has 50 or fewer full-time equivalent employees, and childcare related businesses or organizations. Sole proprietor and 1099 independent contractors are also eligible through this program.

Three separate focus areas of money have been dedicated:

- Small Business (\$350,000)
- Non-profit (with employees) (\$350,000)
- Childcare (\$350,000)

Applicants will be asked to identify which of the above category best fits their description.

Maximum Amount Available Per Applicant from the Small Business and Non-profit (with employees) focus areas is as follows:

1-25 FTE = \$2,500

26-50 FTE = \$5,000

Maximum Amount Available Per Applicant from the Childcare focus area is as follows:

Type B, Family Based Childcare Providers = \$2,500

Center Based Childcare Providers = \$5,000

Minimum Eligibility Requirements:

- 1.) Business/organization must be located in Warren County
- 2.) Business/organization must be able to demonstrate negative impact due to COVID-19
- 3.) Business/organization must be operational since at least January 1, 2019
- 4.) Business/organization must be 50 FTEs or less [sole proprietors and 1099 independent contractors may be eligible] if applying through the Small Business or Non-profit (with employees) focus areas
- 5.) Business/organization must be licensed if applying through the Childcare focus area
- 6.) Business/organization must be current on all local income and county property taxes
- 7.) Business/organization must be in good standing with local, state, and federal agencies
- 8.) Business/organization must not currently be in receivership or bankruptcy
- 9.) Business/organization must plan to continue operating following COVID-19 pandemic
- 10.) Business/organization must agree to terms and conditions at the end of this application.

CONTACT/GENERAL INFORMATION

1. Please select the description that best meets your business/organization:
 - a. Small Business
 - b. Non-Profit (with employees)
 - c. Childcare (or childcare related service)
 - i. **If childcare, please provide any certifications and/or sponsorship information in the documentation section. Childcare providers must be licensed to be eligible.**
2. Applicant's name:
3. Contact information (not generic email such as info@business.com):
4. Legal business/organization name:
5. Legal business/organization mailing address:
6. Business/organization website:
7. Federal tax ID (EIN):
8. State charter number:
9. NAICS Industry Code and/or SIC Code:
10. Type of business/organization (ex. LLC, S-Corp, 501 (c) (3), etc.):
11. Business/organization street address:
 - a. **Must be in located in Warren County to be eligible.**
12. Please describe the nature of your business/organization:
13. Names of officers/principals (names of all owners, principals, and/or primary officers of the company/organization (Name & Title):

UNDERSTANDING THE NEED

14. Amount of funding requested (maximum amount of grant per applicant \$5,000):
15. Provide a summary of how COVID-19 has had negative impacts on your business/organization:
 - a. **Must be able to demonstrate costs of business interruption caused by required COVID-19 closures to be eligible.**
 - b. **Please provide financial statements from March 1 – July 31, 2019 along with interim statements from March 1 – July 31, 2020 in the documentation section.**
16. List any other assistance your business/organization has received: (ex. SBA, PPP funding, or funding from other municipalities or private grant programs):
 - a. **Please provide backup evidence in the documentation section.**
 - b. **Businesses/organizations which have not received prior assistance will be given first priority.**

DETERMINING ELIGIBILITY

- 17. Number of years in business/operation (Years: ____ Months: ____):
 - a. **Must have been in business/operation since January 1, 2019 to be eligible.**
- 18. Employees & payroll expenses. Please state pay period length (weekly, bi-weekly, etc.):
 - a. **Must have 50 or fewer FTEs to be eligible (in the Small Business and Non-profit with employees focus areas).**
 - i. **1-25 FTE maximum grant amount is \$2,500**
 - ii. **26-50 FTE maximum grant amount is \$5,000**
 - b. **Please provide tax form 941 in the documentation section.**
 - c. **Please provide tax form 1099 if applicable.**

Full-time	Full-time payroll
Part-time (<20 hours)	Part-time payroll
Total	Total

- 19. Is your business either a Type B Family Based Child Care Provider or a Center Based Child Care Provider?
- 20. Is your business/organization current on all local income and county property taxes? Y/N
 - a. **Answer must be yes to be eligible.**
- 21. Is your business/organization in good standing with local, State, and federal agencies? Y/N
 - a. **Answer must be yes to be eligible.**
 - b. **If available, please provide certificates of good standing or similar documentation in the documentation section.**
- 22. Is your business/organization currently in receivership or bankruptcy? Y/N
 - a. **Answer must be no to be eligible.**
- 23. List/describe the eligible costs for which this funding will be used.
 - a. **Appropriate documentation of these expenses must be submitted with application in the documentation section.**
- 24. For each category, please estimate the amount to be expended by applicant’s business due to the COVID-19 pandemic. Expenses should be incurred or projected during the period March 1 – December 30, 2020:

Rent/Mortgage Payments	
Machinery/Equipment Payments	
Utility Payments	
Salaries/Wages (not covered by PPP)	
PPE/Restart Ohio Expenses	
Recovery Planning	
TOTAL	

- 25. Annual revenue in 2019: \$
- 26. Annual revenue 2020: \$
- 27. Estimated lost revenue due to COVID-19: \$
- 28. Is your business/organization closed? (State-mandated, required closures due to COVID-19 not included): Y/N
 - a. If yes, closure reason:

29. Do you plan to continue your business/organization following the COVID-19 pandemic: Y/N
a. **Answer must be yes to be eligible.**
30. Is your business/organization a privately held entity?

DOCUMENTATION

REQUIRED DOCUMENTATION – *If any of the following information is not submitted, your application may be rejected.

1. Prior 2 years completed tax returns
2. Most recent payroll report and report from same period in previous year
3. Interim financial records
 - a. March 1 – July 31, 2019 and March 1 – July 31, 2020
4. Tax form 941
5. Tax form 1023 or 990 (for the Non-profits with employees focus area)
6. Childcare licensure documentation (for the Childcare focus area)
7. Documentation of eligible expenses for which funding will be used
8. Vendor Packet Info (attached to this application)
 - a. Completed W-9
 - b. New vendor form
 - c. Vendor information sheet
 - d. Independent contractor/worker acknowledgement (sole proprietor only)
9. Completed terms and conditions (at the end of this application)

SUPPORTIVE DOCUMENTATION (IF AVAILABLE)

1. Documentation surrounding other assistance received (ex. SBA, PPP funding, or funding from other municipalities or private grant programs)
2. Certificates of good standing from State of Ohio or local communities
3. Tax form 1099 (if applicable)

TERMS & CONDITIONS –

The undersigned Applicant [also referred herein as “Grantee”], a duly authorized signatory or Officers of the Applicant, hereby certify that the statements made in the forgoing application and in all attachments submitted in connection with this application are true and correct to the best information and belief of the undersigned and are submitted as a basis for determining approval of the Warren County CARES Act Grant Program assistance.

Further, the undersigned Applicant agrees that a grant is only awarded based upon, and in reliance upon, the information provided by the Applicant. Further, a grant shall only be awarded Warren County Board of County Commissioners (hereinafter “County”) pursuant to and in consideration of the following promises and covenants, which shall be binding upon the County and Applicant/Grantee, the sufficiency of which is hereby acknowledged and agreed upon as follows:

1. **Funding Purpose.** This Agreement is meant to obligate and disburse funds in the amount set forth on the first page of this Agreement (“Program Grant Funds”) to be used by Grantee for eligible business expenses in accordance with the Program Guidelines, including costs related to business interruption as a result of required closures, this Agreement and Grantee’s Program Application (the “Program Application”) submitted by Grantee. In the event of a conflict between the body of this Agreement and any of the Program Guidelines, the body of this Agreement shall govern. The Grantee acknowledges that the County has relied upon the statements and representations made by the Grantee in the Program Application in awarding the Program Grant Funds, and as more fully set forth in Section 19, below, any knowingly false statements contained therein shall require Grantee to immediately return any Program grant Funds.
2. **Total Allocation.** Unless provided otherwise in writing, this Agreement, and the amount of the Program Grant Funds represents the total allocation to Grantee from the County. The County reserves the right to reduce, recapture, and/or reallocate any portion, or all, of the Program Grant Funds based on Grantee’s failure to abide by this Agreement.
3. **Use of the Program Grant Funds.** The Program Grant Funds must be used exclusively for such eligible business expenses as set forth in the Program Guidelines and below, including, but not limited to, the business expenses set forth in the Program Application and the first page of this Agreement. Eligible expenses are those that are related to business interruption as a result of required closures or that the business faces uncertainty as to its ability to pay due to the pandemic and that are deductible ordinary and necessary business expenses under the U.S. Internal Revenue Code, including, but not limited to:
 - a. **Mortgage payments** for Grantee’s principal place of business or such other business location in Warren County. Mortgage payments for the primary residence of any person owning an interest in Grantee are not eligible.
 - b. **Rent payments** for Grantee’s principal place of business or such other business location in Warren County. Rent payments for the primary residence of any person owning an interest in Grantee are not eligible.

- c. Utility payments – electric, gas, sewer, water, trash removal – for Grantee’s principal place of business or such other business location in Warren County. Utility payments for the primary residence of any person owning an interest in Grantee are not eligible.
- d. Health, property and casualty and liability insurance payments.
- e. Vehicle and equipment lease or rental payments for vehicles and equipment acquired on or prior to March 15, 2020. Lease payments for vehicles primarily used for the personal use of any person owning an interest in Grantee are not eligible.
- f. Salaries or wages of all employees employed by the business.
- g. Such other costs related to interruption of the business caused by required closures, including the closure of the business’s suppliers and/or customers.

Additionally, if the Grantee is a sole proprietor, it may use Program Grant Funds to replace a portion of its lost revenue, as follows:

If the Grantee filed IRS Form 1040 and Schedule C thereto for tax year 2019, or, in the event the Grantee has not filed IRS Form 1040 for tax year 2019, but has filed IRS Form 1040 and Schedule C thereto for tax year 2018, then the Grantee can use the grant funds to pay the Grantee the equivalent of up to 1/6 of the net profit reported by the Grantee on line 31 of the applicable Schedule C.

All expenses paid using Program Grant Funds must either be incurred by the Grantee or paid by the Grantee on or after March 15, 2020, and within ninety (90) calendar days of receipt of Program Grant Funds. No Program Grant Funds may be used to pay for vehicles or equipment leased or purchased after March 15, 2020 (this prohibition is not intended to apply to inventory of the Grantee).

All business expenses paid with Program Grant Funds shall be supported by documentation as set forth in Section 7, below.

4. Payment of Program Grant Funds. Upon receipt of an executed copy of this Agreement from Grantee, County shall produce and deliver to Grantee a check in the full amount of the Program Grant Funds, which will be mailed to Grantee by regular U.S. Mail. County shall use its best and reasonable efforts to deliver the Program Grant Funds as expeditiously as possible, but will not be liable to the Grantee for the length of time to deliver the Program Grant Funds to Grantee. In the event that Grantee has not received the Program Grant Funds within thirty (30) days of receiving a fully-executed copy of this Agreement from the County, Grantee shall notify the County of the same and the County shall use its best and reasonable efforts to identify the status of, and deliver, the payment of the Program Grant Funds.

5. Conditions. Grantee shall undertake all activities in accordance with the Program Guidelines, Program Application and this Agreement. The parties agree that this Agreement along with the Program Application are deemed to be the sole basis of payment of Program Grant Funds to Grantee.

Furthermore, as an express condition of receiving the Program Grant Funds, Grantee represents and warrants that it has not permanently closed as a result of the COVID-19 pandemic, that it does not intend to close as a result of the COVID-19 pandemic, and that it intends to resume business operations when, and to the extent, it can practically and lawfully do so.

The Program Grant Funds being received by Grantee are being provided by County as part of the Warren County Board of County Commissioners' response to the COVID-19 pandemic, and County, and the Program Grant Funds have been funded by the County through funds it received under section 5001 of the federal Coronavirus Aid, Relief and Economic Security Act ("CARES Act"). As a condition to this Grant, the Grantee shall use the funds received only for the purposes set forth in the Program Guidelines, which are consistent with the purposes authorized under the CARES Act.

6. Term. This Agreement shall be binding upon both parties during the period commencing on the Effective Date until the later of the date that (a) all Program Grant Funds have been paid by the County to the Grantee, the Program Grant Funds have been expended by the Grantee, and the Grantee has met all of its obligations pursuant to Section 7, below, or (b) this Agreement is earlier terminated pursuant to the terms and conditions of this Agreement (the "Term").

7. Reporting. No later than one hundred twenty (120) calendar days from the Effective Date, Grantee must submit a Grant Expense Report to the County substantially in the form attached hereto as Exhibit A, which is incorporated herein by reference ("Grant Expense Report") itemizing all business expenses paid using the Program Grant Funds. Additionally, Grantee shall attach to the Grant Expense Report supporting documentation evidencing that all expenses listed are eligible expenses and that the same has been paid. Such documentation shall include cancelled checks, paid invoices, bank statements, or similar documents evidencing payment.

In the event Grantee does not provide a Grant Expense Report by the date set forth in this section, County shall notify Grantee of such failure. Further failure to submit a Grant Expense Report within ten (10) business days after receiving written notice of such failure after such Grant Expense Report is due shall be a breach of this Agreement.

In the event the Grant Expense Report provided by Grantee is incomplete, identifies ineligible expenses or fails to include documentation of all eligible expenses, the County shall notify the Grantee of the same in writing. Grantee shall have thirty (30) calendar days after receipt of such notification to remedy any noticed deficiency, and failure to do the same shall be a breach of this Agreement.

8. Additional Information. Grantee shall provide to County any additional reports or information relating to this Agreement and its use of Program Grant Funds as the County may, from time to time, reasonably request to evidence Grantee's compliance with the terms of this Agreement.

9. Records, Access, and Maintenance. Grantee shall establish and maintain, for five (5) years from the termination of this Agreement, such records as are reasonably required by the County to confirm compliance with this Agreement, including, but not limited to, financial reports, contracts, invoices, leases, mortgage statements and other documentation of expenses, and all other relevant information related to the expense of the Program Grant Funds. The parties further agree that records required by the County with respect to any questioned costs, audit disallowances, litigation or dispute between the County and Grantee shall be maintained for five (5) years beyond the resolution of said matter. In the event of early termination of this Agreement, or if for any other reason the County shall require a review of the records related to this Agreement, Grantee shall, at its own cost and expense, segregate all such records related to the Program Grant Funds, and this Agreement, from its other records of operation.

10. Audits and inspections. At any time, during normal business hours, upon reasonable notice and as often as the County may reasonably deem necessary, and in such a manner as not to unreasonably interfere with the normal business operations of Grantee, Grantee shall make available to the County, for examination, all of its records with respect to matters expressly covered by this Agreement (provided that such records may be redacted by Grantee such that they only include information responsive to matters expressly covered by this Agreement, including, but not limited to, records of Grantee's personnel and conditions of employment and shall permit the County, or its agents, to audit, examine and make excerpts, transcripts, or copies of, or from, such records, at the sole expense of the County.

11. Default. Grantee shall be in default of this Agreement ("Event of Default") if, after the expiration of any notice requirement and right to cure set forth above:

- a. Grantee fails to expend the Program Grant Funds within ninety (90) calendar days of receipt of the same by the Grantee,
- b. Grantee fails to expend the Program Grant Funds in accordance with the terms and conditions of this Agreement,
- c. Grantee elects, in its sole discretion, to terminate this Agreement upon written notice to County,
- d. Grantee fails to comply with the reporting requirements contained in Section 7 of this Agreement, or
- e. Grantee fails to perform any other obligation under this Agreement, and

12. Remedies. Following an Event of Default by Grantee, the County may exercise one, or more, of the following remedies:

- a. Demand Repayment of Program Grant Funds. The County may demand repayment of the Program Grant Funds. Grantee shall not be required to repay an amount that exceeds the Program Grant Funds disbursed to Grantee.
- b. Other Legal Remedies. The County may pursue any other legal or equitable remedies the County may have under this Agreement or applicable law. Notwithstanding anything to the contrary in this Agreement, Grantee shall not be liable for: (a) any indirect, reliance, exemplary, incidental, speculative, punitive, special, consequential or similar damages that may arise in connection with this Agreement, or (b) any damages, liabilities, fees, costs, expenses, penalties, diminishments in value, losses or payments (including any lost or foregone tax revenues) that exceed, in the aggregate, the Program Grant Funds disbursed to Grantee.
- c. Remedies Cumulative. The remedies provided to the County under this Agreement and those provided by law or in equity, are the exclusive remedies in the case of an Event of Default. No delay or omission by the County in exercising any right or power accruing upon any default shall impair any such right or power or be construed as a waiver, and each such right or power may be exercised, from time to time, as often as may be deemed by the County to be expedient or appropriate.

13. Forbearance Not a Waiver. No act of forbearance or failure to insist on the prompt performance by Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by the County of any of its rights hereunder.

14. Nondiscrimination. Grantee covenants that it shall not discriminate on the basis of race, color, sex, age, religion, national origin, ancestry, veteran status, disability, sexual orientation, gender identity or any other characteristic protected by law during the undertaking of the project or program for which the Grant Funds are being disbursed to Grantee.

15. Conflict of Interest. The Grantee covenants that no member, officer, employee, designee or agent of Grantee presently has a financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement and that no member, officer, employee, designee or agent have any interest in any contract that will be paid using Program Grant Funds, except where the same would be an eligible business expense as defined in the Program Guidelines (ie salary expenses paid or rent legitimately paid by the Grantee to an interested party). Furthermore, no member, officer, employee, designee or agent of the Grantee have a financial interest in the County, nor are they a relative of any officer or employee of the County with any direct or indirect involvement in the Program.

16. Indemnification. Grantee shall indemnify, protect, defend and hold harmless County and its employees, officers, members, designees and agents from and against any and all claims, actions, causes of actions, proceedings, damages, costs, liens, judgments, penalties, attorney's, expert and consultant's fees, expenses and/or liabilities arising out of, involving, or in dealing with, this Agreement and Grantee's use of the Program Grant Funds, the conduct of Grantee's business, any act, omission or neglect of Grantee, its employees, officers, members, designees and agents. The foregoing shall include, but not be limited to, the defense or pursuit of any claim, action, cause of action or proceeding involved therein, and whether or not (in the case of claims made against County) litigated and/or reduced to judgment, and whether well founded or not. In case any action or proceeding be brought against County by reason of any of the foregoing matters. County may elect to select its own defense and of any of the foregoing matters and to seek payment and/or reimbursement for the same by Grantee, or Grantee shall, upon notice from County, defend the same at Grantee's expense by counsel reasonably satisfactory to County and County shall cooperate with Grantee in such defense. County need not have first paid any such claim in order to be so indemnified.

17. Adherence to State, Federal, and Local Laws and Regulations. Grantee agrees to comply in all material respects with all applicable federal, state and local laws in the performance of this Agreement.

18. Outstanding Liabilities. Grantee affirmatively covenants that it is not delinquent to the County of Warren for taxes on any real property, or any political subdivision within Warren County for taxes on income or employment.

19. Falsification of Information. Grantee affirmatively covenants that to the actual knowledge of the individual executing this Agreement on behalf of Grantee, it has made no false statements to the County in the process of obtaining the Program Grant Funds, including but not limited to the Grant Application. If the individual executing this Agreement on behalf of Grantee has knowingly made a false statement to the County to obtain the Program Grant Funds, Grantee shall be required to return all

Program Grant Funds actually received immediately, and shall be ineligible for any future assistance through the Program.

20. **Storage and Use of Information.** The County will take reasonable steps to secure all information, including social security numbers, employee identification numbers W-9s and other tax information, provided by Grantee in the application process and to comply with provisions of this Grant Agreement. The collection of the information is for the County's internal use, and the County will not share such information with any entity other than the members of the Warren County Small Business Development Alliance or Small Business Development Center [Grant Administrators], the County of Warren, any other local political subdivision, the State of Ohio or the federal government, for the purposes set forth in the Program Guidelines, any required reporting requirements between Warren County and the Warren County Small Business Development Alliance, and for any other lawful purposes, including, but not limited to, any necessary audits of the Program. In no event shall the County be liable to Grantee for any breach of the security of the information provided by Grantee other than for reckless, willful and wanton disregard of the security of such information.

21. **Miscellaneous.**

a. **Governing Law.** This Agreement shall be governed by the laws of the State of Ohio as to all matters, including, but not limited to, matters of validity, construction, effect and performance.

b. **Forum and Venue.** All actions regarding this Agreement shall be formed and venued in a court of competent subject matter jurisdiction in Warren County, Ohio.

c. **Entire Agreement.** This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.

d. **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.

e. **Notices.** All notices, consents, demands, requests and other communications which may be, or are, required to be given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by United States mail to the addresses set forth on the first page of this Agreement.

f. **Amendments or Modifications.** Either party may, at any time during the Term, request amendments or modifications. Requests for amendment or modification of this Agreement shall be in writing and shall specify the requested changes and the justification of such changes. The parties shall review the request for modification in terms of the guidelines relating to the Grant Funds. Should the parties consent to the modification of the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as the original agreement.

g. **Pronouns.** The use of any gender pronoun shall be deemed to include all the other genders, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.

h. Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

i. Assignment. Neither this Agreement, nor any rights, duties, or obligations described herein, shall be assigned or subcontracted by Grantee without the prior express written consent of the SBDA.

j. Counterpart. This Agreement may be executed and delivered in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. A digital, electronic, pdf, facsimile or other copy of a signature of a party hereto, including execution and delivery of the Agreement by electronic exchange, shall be deemed an original for purposes of this Agreement.

GRANTEE:

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Exhibit B

Warren County CARES Act Grant Program

**PROGRAM ELIGIBILITY GUIDELINES, and APPLICATION
TERMS AND CONDITIONS for VOLUNTEER BASED NON-PROFITS**

Warren County CARES Act Grant Program Application for Volunteer Based Non-Profits - Instructions

Please fill out each field and return the application in Word format (or PDF if Word is not possible) to wccaresgrant@co.warren.oh.us. If you experience formatting challenges while filling out the application, you may provide a separate answer sheet with answers clearly labeled/numbered to their corresponding question. Any additional attachment and/or documentation submitted should also be clearly labeled.

The application window will open at 9:00am on October 1, 2020 and run until 11:59pm on October 31, 2020. **Applications received prior to 9:00am October 1, 2020 will need to be resubmitted during the application window to be eligible. Applications received after 11:59pm on October 31, 2020 will not be considered for the program.**

Along with the application, a completed vendor packet and W-9 must also be submitted. Those forms can be found, along with all program documents, at www.co.warren.oh.us.

For questions about the program, please send an email to wccaresgrant@co.warren.oh.us.

REQUIRED DOCUMENTATION CHECKLIST

- Prior 2 years completed tax returns
- Interim financial records
 - March 1 – July 31, 2019 and March 1 – July 31, 2020
- Tax form 990 or 1023
- Documentation of eligible expenses for which funding will be used
- Vendor Packet Info (attached to this application)
 - Completed W-9
 - New vendor form
 - Vendor information sheet
 - Independent contractor/worker acknowledgement (sole proprietor only)
- Completed terms and conditions (at the end of this application)
- Written summary description of COVID-19 negative impacts.

SUPPORTIVE DOCUMENTATION (IF AVAILABLE) CHECKLIST

- Documentation surrounding other assistance received (ex. SBA, PPP funding, or funding from other municipalities or private grant programs)
- Certificates of good standing from State of Ohio or local communities

Warren County CARES Act Grant Program Application for Volunteer Based Non-Profits

Applicants are eligible for funding even if previous assistance has been received (ex. SBA, PPP funding, or funding from other municipalities or private grant programs), but funds cannot be applied toward an expense already paid under a separate award.

This program is designed for non-profit organizations which are entirely volunteer based with no payroll, but have expenses such as mortgage/rent, utilities, etc. The grant amount will be awarded at the discretion of the Warren County Board of County Commissioners, subject to the limitations of available CARES Act relief funds dedicated to this specific purpose. The relief is designed to offset interruptions and/or for direct costs of responding to the COVID-19 pandemic public health emergency in the same manner as the County may provide assistance to a for-profit business.

Minimum Eligibility Requirements:

- 1.) Organization must be located in Warren County
- 2.) Organization must be open to and interact with the public
- 3.) Organizations must be able to demonstrate negative impact due to COVID-19
- 4.) Organization must be operational since at least January 1, 2019
- 5.) Organization must be current on all local and county taxes
- 6.) Organization must be in good standing with local, state, and federal agencies
- 7.) Organization must not currently be in receivership or bankruptcy
- 8.) Organization must plan to continue operating following COVID-19 pandemic
- 9.) Organization must agree to terms and conditions at the end of this application.

*Political parties are ineligible from applying through this program.

CONTACT/GENERAL INFORMATION

1. Applicant's name:
2. Contact information (not generic email such as info@business.com):
3. Legal organization name:
4. Legal organization mailing address:
5. Organization website (if applicable)
6. Federal tax ID (EIN):
7. State charter number:
8. NAICS Industry Code and/or SIC Code:
9. Type of organization (ex. 501 (c) (3), (4), (6), etc.):
10. Organization street address:
 - a. **Must be in located in Warren County to be eligible.**
11. Please describe the nature of your organization:
12. Names of officers (names of all primary officers of the organization (Name & Title):

UNDERSTANDING THE NEED

13. Amount of funding requested:
14. Provide a summary of how COVID-19 has had negative impacts on your business/organization:
 - a. **Must be able to demonstrate costs of business interruption caused by required COVID-19 closures to be eligible.**
 - b. **Please provide financial statements from March 1 – July 31, 2019 along with interim statements from March 1 – July 31, 2020 in the documentation section.**
 - c. **Please provide a written summary describing the negative impact COVID has had on your organization (for example describe the level of reduced foot traffic or decreased donations, memberships, or contributions) in the documentation section.**
15. List any other assistance your business/organization has received: (ex. SBA, PPP funding, or funding from other municipalities or private grant programs):
 - a. **Please provide backup evidence in the documentation section.**
 - b. **Organizations which have not received prior assistance will be given first priority.**

DETERMINING ELIGIBILITY

- 16. Number of years in operation (Years: ____ Months: ____):
 - a. **Must have been in business/operation since January 1, 2019 to be eligible.**
- 17. Is your organization current on all local and county taxes? Y/N
 - a. **Answer must be yes to be eligible.**
- 18. Is your organization in good standing with local, State, and federal agencies? Y/N
 - a. **Answer must be yes to be eligible.**
 - b. **If available, please provide certificates of good standing or similar documentation in the documentation section. This is not required.**
- 19. Is your business/organization currently in receivership or bankruptcy? Y/N
 - a. **Answer must be no to be eligible.**
- 20. List/describe the eligible costs for which this funding will be used.
 - a. **Appropriate documentation of these expenses must be submitted with application in the documentation section.**
- 21. For each category, please estimate the amount to be expended by applicant’s business due to the COVID-19 pandemic. Expenses should be incurred or projected during the period March 1 – December 30, 2020:

Rent/Mortgage Payments	
Machinery/Equipment Payments	
Utility Payments	
PPE/Restart Ohio Expenses	
Recovery Planning	
TOTAL	

- 22. Annual revenue in 2019: \$
- 23. Annual revenue 2020: \$
- 24. Estimated lost revenue due to COVID-19: \$
- 25. Is your organization closed? (State-mandated, required closures due to COVID-19 not included): Y/N
 - a. If yes, closure reason:
- 26. Do you plan to continue your organization following the COVID-19 pandemic: Y/N
 - a. **Answer must be yes to be eligible.**

DOCUMENTATION

REQUIRED DOCUMENTATION – *If any of the following information is not submitted, your application may be rejected.

1. Prior 2 years completed tax returns
2. Interim financial records
 - a. March 1 – July 31, 2019 and March 1 – July 31, 2020
3. Tax form 990 or 1023
4. Documentation of eligible expenses for which funding will be used
5. Vendor Packet Info (attached to this application)
 - a. Completed W-9
 - b. New vendor form
 - c. Vendor information sheet
 - d. Independent contractor/worker acknowledgement (sole proprietor only)
6. Completed terms and conditions (at the end of this application)
7. Written summary description of COVID-19 negative impacts.

SUPPORTIVE DOCUMENTATION (IF AVAILABLE)

1. Documentation surrounding other assistance received (ex. SBA, PPP funding, or funding from other municipalities or private grant programs)
2. Certificates of good standing from State of Ohio or local communities

TERMS & CONDITIONS –

The undersigned Applicant [also referred herein as “Grantee”], a duly authorized signatory or Officers of the Applicant, hereby certify that the statements made in the forgoing application and in all attachments submitted in connection with this application are true and correct to the best information and belief of the undersigned and are submitted as a basis for determining approval of Business Relief Program assistance.

Further, the undersigned Applicant agrees that a grant is only awarded based upon, and in reliance upon, the information provided by the Applicant. Further, a grant shall only be awarded Warren County Board of County Commissioners (hereinafter “County”) pursuant to and in consideration of the following promises and covenants, which shall be binding upon the County and Applicant/Grantee, the sufficiency of which is hereby acknowledged and agreed upon as follows:

1. **Funding Purpose.** This Agreement is meant to obligate and disburse funds in the amount set forth on the first page of this Agreement (“Program Grant Funds”) to be used by Grantee for eligible business expenses in accordance with the Program Guidelines, including costs related to business interruption as a result of required closures, this Agreement and Grantee’s Program Application (the “Program Application”) submitted by Grantee. In the event of a conflict between the body of this Agreement and any of the Program Guidelines, the body of this Agreement shall govern. The Grantee acknowledges that the County has relied upon the statements and representations made by the Grantee in the Program Application in awarding the Program Grant Funds, and as more fully set forth in Section 19, below, any knowingly false statements contained therein shall require Grantee to immediately return any Program grant Funds.
2. **Total Allocation.** Unless provided otherwise in writing, this Agreement, and the amount of the Program Grant Funds represents the total allocation to Grantee from the County. The County reserves the right to reduce, recapture, and/or reallocate any portion, or all, of the Program Grant Funds based on Grantee’s failure to abide by this Agreement.
3. **Use of the Program Grant Funds.** The Program Grant Funds must be used exclusively for such eligible business expenses as set forth in the Program Guidelines and below, including, but not limited to, the business expenses set forth in the Program Application and the first page of this Agreement. Eligible expenses are those that are related to business interruption as a result of required closures or that the business faces uncertainty as to its ability to pay due to the pandemic and that are deductible ordinary and necessary business expenses under the U.S. Internal Revenue Code, including, but not limited to:
 - a. **Mortgage payments** for Grantee’s principal place of business or such other business location in Warren County. Mortgage payments for the primary residence of any person owning an interest in Grantee are not eligible.
 - b. **Rent payments** for Grantee’s principal place of business or such other business location in Warren County. Rent payments for the primary residence of any person owning an interest in Grantee are not eligible.

- c. Utility payments – electric, gas, sewer, water, trash removal – for Grantee’s principal place of business or such other business location in Warren County. Utility payments for the primary residence of any person owning an interest in Grantee are not eligible.
- d. Health, property and casualty and liability insurance payments.
- e. Vehicle and equipment lease or rental payments for vehicles and equipment acquired on or prior to March 15, 2020. Lease payments for vehicles primarily used for the personal use of any person owning an interest in Grantee are not eligible.
- f. Salaries or wages of all employees employed by the business.
- g. Such other costs related to interruption of the business caused by required closures, including the closure of the business’s suppliers and/or customers.

Additionally, if the Grantee is a sole proprietor, it may use Program Grant Funds to replace a portion of its lost revenue, as follows:

If the Grantee filed IRS Form 1040 and Schedule C thereto for tax year 2019, or, in the event the Grantee has not filed IRS Form 1040 for tax year 2019, but has filed IRS Form 1040 and Schedule C thereto for tax year 2018, then the Grantee can use the grant funds to pay the Grantee the equivalent of up to 1/6 of the net profit reported by the Grantee on line 31 of the applicable Schedule C.

All expenses paid using Program Grant Funds must either be incurred by the Grantee or paid by the Grantee on or after March 15, 2020, and within ninety (90) calendar days of receipt of Program Grant Funds. No Program Grant Funds may be used to pay for vehicles or equipment leased or purchased after March 15, 2020 (this prohibition is not intended to apply to inventory of the Grantee).

All business expenses paid with Program Grant Funds shall be supported by documentation as set forth in Section 7, below.

4. Payment of Program Grant Funds. Upon receipt of an executed copy of this Agreement from Grantee, County shall produce and deliver to Grantee a check in the full amount of the Program Grant Funds, which will be mailed to Grantee by regular U.S. Mail. County shall use its best and reasonable efforts to deliver the Program Grant Funds as expeditiously as possible, but will not be liable to the Grantee for the length of time to deliver the Program Grant Funds to Grantee. In the event that Grantee has not received the Program Grant Funds within thirty (30) business days of receiving a fully-executed copy of this Agreement from the County, Grantee shall notify the County of the same and the County shall use its best and reasonable efforts to identify the status of, and deliver, the payment of the Program Grant Funds.

5. Conditions. Grantee shall undertake all activities in accordance with the Program Guidelines, Program Application and this Agreement. The parties agree that this Agreement along with the Program Application are deemed to be the sole basis of payment of Program Grant Funds to Grantee.

Furthermore, as an express condition of receiving the Program Grant Funds, Grantee represents and warrants that it has not permanently closed as a result of the COVID-19 pandemic, that it does not intend to close as a result of the COVID-19 pandemic, and that it intends to resume business operations when, and to the extent, it can practically and lawfully do so.

The Program Grant Funds being received by Grantee are being provided by County as part of the Warren County Board of County Commissioners' response to the COVID-19 pandemic, and County, and the Program Grant Funds have been funded by the County through funds it received under section 5001 of the federal Coronavirus Aid, Relief and Economic Security Act ("CARES Act"). As a condition to this Grant, the Grantee shall use the funds received only for the purposes set forth in the Program Guidelines, which are consistent with the purposes authorized under the CARES Act.

6. Term. This Agreement shall be binding upon both parties during the period commencing on the Effective Date until the later of the date that (a) all Program Grant Funds have been paid by the County to the Grantee, the Program Grant Funds have been expended by the Grantee, and the Grantee has met all of its obligations pursuant to Section 7, below, or (b) this Agreement is earlier terminated pursuant to the terms and conditions of this Agreement (the "Term").

7. Reporting. No later than one hundred twenty (120) calendar days from the Effective Date, Grantee must submit a Grant Expense Report to the County substantially in the form attached hereto as Exhibit A, which is incorporated herein by reference ("Grant Expense Report") itemizing all business expenses paid using the Program Grant Funds. Additionally, Grantee shall attach to the Grant Expense Report supporting documentation evidencing that all expenses listed are eligible expenses and that the same has been paid. Such documentation shall include cancelled checks, paid invoices, bank statements, or similar documents evidencing payment.

In the event Grantee does not provide a Grant Expense Report by the date set forth in this section, County shall notify Grantee of such failure. Further failure to submit a Grant Expense Report within ten (10) business days after receiving written notice of such failure after such Grant Expense Report is due shall be a breach of this Agreement.

In the event the Grant Expense Report provided by Grantee is incomplete, identifies ineligible expenses or fails to include documentation of all eligible expenses, the County shall notify the Grantee of the same in writing. Grantee shall have thirty (30) calendar days after receipt of such notification to remedy any noticed deficiency, and failure to do the same shall be a breach of this Agreement.

8. Additional Information. Grantee shall provide to County any additional reports or information relating to this Agreement and its use of Program Grant Funds as the County may, from time to time, reasonably request to evidence Grantee's compliance with the terms of this Agreement.

9. Records, Access, and Maintenance. Grantee shall establish and maintain, for at least five (5) years from the termination of this Agreement, such records as are reasonably required by the County to confirm compliance with this Agreement, including, but not limited to, financial reports, contracts, invoices, leases, mortgage statements and other documentation of expenses, and all other relevant information related to the expense of the Program Grant Funds. The parties further agree that records required by the County with respect to any questioned costs, audit disallowances, litigation or dispute between the County and Grantee shall be maintained for five (5) years beyond the resolution of said matter. In the event of early termination of this Agreement, or if for any other reason the County shall require a review of the records related to this Agreement, Grantee shall, at its own cost and expense, segregate all such records related to the Program Grant Funds, and this Agreement, from its other records of operation.

10. Audits and Inspections. At any time, during normal business hours, upon reasonable notice and as often as the County may reasonably deem necessary, and in such a manner as not to unreasonably interfere with the normal business operations of Grantee, Grantee shall make available to the County, for examination, all of its records with respect to matters expressly covered by this Agreement (provided that such records may be redacted by Grantee such that they only include information responsive to matters expressly covered by this Agreement, including, but not limited to, records of Grantee's personnel and conditions of employment and shall permit the County, or its agents, to audit, examine and make excerpts, transcripts, or copies of, or from, such records, at the sole expense of the County.

11. Default. Grantee shall be in default of this Agreement ("Event of Default") if, after the expiration of any notice requirement and right to cure set forth above:

- a. Grantee fails to expend the Program Grant Funds within ninety (90) calendar days of receipt of the same by the Grantee,
- b. Grantee fails to expend the Program Grant Funds in accordance with the terms and conditions of this Agreement,
- c. Grantee elects, in its sole discretion, to terminate this Agreement upon written notice to County,
- d. Grantee fails to comply with the reporting requirements contained in Section 7 of this Agreement, or
- e. Grantee fails to perform any other obligation under this Agreement, and

12. Remedies. Following an Event of Default by Grantee, the County may exercise one, or more, of the following remedies:

- a. Demand Repayment of Program Grant Funds. The County may demand repayment of the Program Grant Funds. Grantee shall not be required to repay an amount that exceeds the Program Grant Funds disbursed to Grantee.
- b. Other Legal Remedies. The County may pursue any other legal or equitable remedies the County may have under this Agreement or applicable law. Notwithstanding anything to the contrary in this Agreement, Grantee shall not be liable for: (a) any indirect, reliance, exemplary, incidental, speculative, punitive, special, consequential or similar damages that may arise in connection with this Agreement, or (b) any damages, liabilities, fees, costs, expenses, penalties, diminishments in value, losses or payments (including any lost or foregone tax revenues) that exceed, in the aggregate, the Program Grant Funds disbursed to Grantee.
- c. Remedies Cumulative. The remedies provided to the County under this Agreement and those provided by law or in equity, are the exclusive remedies in the case of an Event of Default. No delay or omission by the County in exercising any right or power accruing upon any default shall impair any such right or power or be construed as a waiver, and each such right or power may be exercised, from time to time, as often as may be deemed by the County to be expedient or appropriate.

13. Forbearance Not a Waiver. No act of forbearance or failure to insist on the prompt performance by Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by the County of any of its rights hereunder.

14. Nondiscrimination. Grantee covenants that it shall not discriminate on the basis of race, color, sex, age, religion, national origin, ancestry, veteran status, disability, sexual orientation, gender identity or any other characteristic protected by law during the undertaking of the project or program for which the Grant Funds are being disbursed to Grantee.

15. Conflict of Interest. The Grantee covenants that no member, officer, employee, designee or agent of Grantee presently has a financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement and that no member, officer, employee, designee or agent have any interest in any contract that will be paid using Program Grant Funds, except where the same would be an eligible business expense as defined in the Program Guidelines (ie salary expenses paid or rent legitimately paid by the Grantee to an interested party). Furthermore, no member, officer, employee, designee or agent of the Grantee have a financial interest in the County, nor are they a relative of any officer or employee of the County with any direct or indirect involvement in the Program.

16. Indemnification. Grantee shall indemnify, protect, defend and hold harmless County and its employees, officers, members, designees and agents from and against any and all claims, actions, causes of actions, proceedings, damages, costs, liens, judgments, penalties, attorney's, expert and consultant's fees, expenses and/or liabilities arising out of, involving, or in dealing with, this Agreement and Grantee's use of the Program Grant Funds, the conduct of Grantee's business, any act, omission or neglect of Grantee, its employees, officers, members, designees and agents. The foregoing shall include, but not be limited to, the defense or pursuit of any claim, action, cause of action or proceeding involved therein, and whether or not (in the case of claims made against County) litigated and/or reduced to judgment, and whether well founded or not. In case any action or proceeding be brought against County by reason of any of the foregoing matters. County may elect to select its own defense and of any of the foregoing matters and to seek payment and/or reimbursement for the same by Grantee, or Grantee shall, upon notice from County, defend the same at Grantee's expense by counsel reasonably satisfactory to County and County shall cooperate with Grantee in such defense. County need not have first paid any such claim in order to be so indemnified.

17. Adherence to State, Federal, and Local Laws and Regulations. Grantee agrees to comply in all material respects with all applicable federal, state and local laws in the performance of this Agreement.

18. Outstanding Liabilities. Grantee affirmatively covenants that it is not delinquent to the County of Warren for taxes on any real property, or any political subdivision within Warren County for taxes on income or employment.

19. Falsification of Information. Grantee affirmatively covenants that to the actual knowledge of the individual executing this Agreement on behalf of Grantee, it has made no false statements to the County in the process of obtaining the Program Grant Funds, including but not limited to the Grant Application. If the individual executing this Agreement on behalf of Grantee has knowingly made a false statement to the County to obtain the Program Grant Funds, Grantee shall be required to return all

Program Grant Funds actually received immediately, and shall be ineligible for any future assistance through the Program.

20. **Storage and Use of Information.** The County will take reasonable steps to secure all information, including social security numbers, employee identification numbers W-9s and other tax information, provided by Grantee in the application process and to comply with provisions of this Grant Agreement. The collection of the information is for the County's internal use, and the County will not share such information with any entity other than the members of the Warren County Small Business Development Alliance or Small Business Development Center [Grant Administrators], the County of Warren, any other local political subdivision, the State of Ohio or the federal government, for the purposes set forth in the Program Guidelines, any required reporting requirements between Warren County and the Warren County Small Business Development Alliance, and for any other lawful purposes, including, but not limited to, any necessary audits of the Program. In no event shall the County be liable to Grantee for any breach of the security of the information provided by Grantee other than for reckless, willful and wanton disregard of the security of such information.

21. **Miscellaneous.**

a. **Governing Law.** This Agreement shall be governed by the laws of the State of Ohio as to all matters, including, but not limited to, matters of validity, construction, effect and performance.

b. **Forum and Venue.** All actions regarding this Agreement shall be formed and venued in a court of competent subject matter jurisdiction in Warren County, Ohio.

c. **Entire Agreement.** This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.

d. **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.

e. **Notices.** All notices, consents, demands, requests and other communications which may be, or are, required to be given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by United States mail to the addresses set forth on the first page of this Agreement.

f. **Amendments or Modifications.** Either party may, at any time during the Term, request amendments or modifications. Requests for amendment or modification of this Agreement shall be in writing and shall specify the requested changes and the justification of such changes. The parties shall review the request for modification in terms of the guidelines relating to the Grant Funds. Should the parties consent to the modification of the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as the original agreement.

g. **Pronouns.** The use of any gender pronoun shall be deemed to include all the other genders, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.

h. Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

i. Assignment. Neither this Agreement, nor any rights, duties, or obligations described herein, shall be assigned or subcontracted by Grantee without the prior express written consent of the Chamber.

j. Counterpart. This Agreement may be executed and delivered in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. A digital, electronic, pdf, facsimile or other copy of a signature of a party hereto, including execution and delivery of the Agreement by electronic exchange, shall be deemed an original for purposes of this Agreement.

GRANTEE:

Signature: _____

Printed Name: _____

Title: _____

Date: _____

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The undersigned hereby certifies that all expenses set forth above were paid by the Grantee using the Warren County Small Business Emergency Relief Grant Program funds and that the foregoing are all eligible business expenses. The undersigned further understands that, in the event funds were not properly spent, that they may need to be repaid to the Warren County Board of County Commissioners.

Grantee Signature

Date