

# Resolution

Number 18-1260

Adopted Date August 14, 2018

APPROVE LATERAL TRANSFER OF BETHANY BIRD FROM THE POSITION OF ALTERNATIVE RESPONSE CASEWORKER II TO INVESTIGATIVE CASEWORKER II WITHIN THE WARREN COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, CHILDREN SERVICES DIVISION

WHEREAS, the Director of Children Services has requested the lateral transfer of Ms. Bird to said position; and

NOW THEREFORE BE IT RESOLVED, to approve the lateral transfer of Bethany Bird from the position of Alternative Response Caseworker II to Investigative Caseworker II within the Warren County Department of Job and Family Services, Children Services Division effective August 18, 2018, subject to remaining 365 day probationary period, ending October 16, 2018; and

BE FURTHER RESOLVED, Ms. Bird will not receive the typical three percent (3%) increase upon completion of probation as her compensation reflects prior experience.

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



\_\_\_\_\_  
Tina Osborne, Clerk

cc: Children Services (file)  
B. Bird's Personnel file  
OMB – Sue Spencer

# Resolution

Number 18-1261

Adopted Date August 14, 2018

DESIGNATE FAMILY AND MEDICAL LEAVE OF ABSENCE TO ABBIE DOWNIE, PROTECTIVE SERVICES CASEWORKER II. WITHIN WARREN COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, CHILDREN SERVICES DIVISION

WHEREAS, it is necessary to designate a Family and Medical Leave of Absence for Abbie Downie, Protective Services Caseworker II; and


NOW THEREFORE BE IT RESOLVED, to designate Family and Medical Leave of Absence for Abbie Downie not to exceed twelve (12) weeks; pending further documentation from Ms. Downie's physician.

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
\_\_\_\_\_  
Tina Osborne, Clerk

cc: Children Services (file)  
A. Downie's FMLA file  
OMB – Sue Spencer

# Resolution

Number 18-1262

Adopted Date August 14, 2018

DESIGNATE FAMILY AND MEDICAL LEAVE OF ABSENCE TO JENNIFER STACY,  
SCREENER II WITHIN WARREN COUNTY DEPARTMENT OF JOB AND FAMILY  
SERVICES, CHILDREN SERVICES DIVISION

WHEREAS, it is necessary to designate a Family and Medical Leave of Absence for Jennifer Stacy,  
Screeener II; and


NOW THEREFORE BE IT RESOLVED, to designate Family and Medical Leave of Absence for  
Jennifer Stacy not to exceed twelve (12) weeks; pending further documentation from Ms. Stacy's  
physician.

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
\_\_\_\_\_  
Tina Osborne, Clerk

cc: Children Services (file)  
J. Stacy's FMLA file  
OMB – Sue Spencer

# Resolution

Number 18-1263

Adopted Date August 14, 2018

HIRE JESSICA ANDERSON AS AN ELIGIBILITY REFERRAL SPECIALIST II, WITHIN THE WARREN COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, HUMAN SERVICES DIVISION

BE IT RESOLVED, to hire Jessica Anderson as an Eligibility Referral Specialist II, within the Warren County Department of Job and Family Services, Human Services Division, full-time, 40 hours per week, Pay Grade 6, \$15.07 per hour, under the Warren County Job and Family Service, Human Services compensation plan, effective September 4, 2018, subject to a negative background check, negative drug screen and a 365-day probationary period; and

BE IT FURTHER RESOLVED, Ms. Anderson will not be eligible for the typical three percent (3%) increase upon completion of probation as her compensation stated above reflects prior experience.

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: Human Services (file)  
J. Anderson's Personnel file  
OMB – Sue Spencer



# Resolution

Number 18-1264

Adopted Date August 14, 2018

APPROVE END OF 365-DAY PROBATIONARY PERIOD AND APPROVE A PAY INCREASE FOR NAKITA SANDERS WITHIN THE WARREN COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, HUMAN SERVICES DIVISION

WHEREAS, Nakita Sanders, Unit Support Worker II within the Warren County Department of Job and Family Services, Human Services Division has successfully completed 365-day probationary period, effective August 7, 2018; and

NOW THEREFORE BE IT RESOLVED, to approve Nakita Sanders' completion of 365-day probationary period and to approve a pay increase to end of probationary rate of \$13.06 per hour, effective pay period beginning August 18, 2018.

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: Human Services (file)  
N. Sanders' Personnel File  
OMB – Sue Spencer

# Resolution

Number 18-1265

Adopted Date August 14, 2018

APPROVE LEAVE DONATION FOR PHYLLIS DAVIDSON, CUSTODIAL SUPERVISOR  
WITHIN THE WARREN COUNTY FACILITIES MANAGEMENT DEPARTMENT

WHEREAS, the Director of the Facilities Management Department has requested, due to a serious health condition of an immediate family member, to approve leave donation for Phyllis Davidson; and

NOW THEREFORE BE IT RESOLVED, to approve leave donation for Phyllis Davidson within the Facilities Management Department, effective immediately.

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
Tina Osborne, Clerk

H/R

cc: Facilities Management (file)  
Phyllis Davidson's FMLA File  
OMB – Sue Spencer  
Tammy Whitaker

# Resolution

Number 18-1266

Adopted Date August 14, 2018

AUTHORIZE THE POSTING FOR "CUSTODIAL WORKER I" POSITION, WITHIN THE FACILITIES MANAGEMENT DEPARTMENT, IN ACCORDANCE WITH WARREN COUNTY PERSONNEL POLICY MANUAL, SECTION 2.02(A)

WHEREAS, there exists one opening for "Custodial Worker I" position within the Facilities Management Department; and


NOW THEREFORE BE IT RESOLVED, to authorize the posting of the position of "Custodial Worker I" 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 August 15, 2018.

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
\_\_\_\_\_  
Tina Osborne, Clerk

HR

cc: Facilities Management (file)  
OMB Sue Spencer

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

# Resolution

Number 18-1267

Adopted Date August 14, 2018

APPROVE AND AUTHORIZE THE BOARD TO ENTER INTO AN AGREEMENT WITH FIDLAR TECHNOLOGIES ON BEHALF OF THE WARREN COUNTY RECORDER

BE IT RESOLVED, to approve and authorize the Board to execute a software maintenance agreement with Fidlar Technologies on behalf of the Warren County Recorder. Copy of said agreement attached hereto and made a part hereof.

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
Tina Osborne, Clerk

cc: c/a—Fidlar Technologies  
Recorder (file)



**SCHEDULE F - ADDENDUM**  
**Information Replication - Off-site storage**

One Time Charge Software License Fee: Included  
Annual Information Replication Fee: \$11,000.00\*\*

**1. LICENSE AND MAINTENANCE FEES**

Client shall pay Fidlar the annual software maintenance fees set forth above.

STORAGE Costs (For Fidar-hosted storage)

\*\*The current County Image space requirement is approximately 457GB. Should the County exceed 500GB of storage requirements, the monthly payment will increase by \$1,000.00 per year.

\*\*For each additional 50GB threshold reached (550GB, 600GB, etc.), the cost would increase by \$1000,00 per year.

\*\*NOTE: Based on the current average document recordation average, it will take the County between 2-3 years to reach the next payment threshold. Back-indexing and scanning projects will shorten that timeframe.

**1. SOFTWARE SUPPORT AND MAINTENANCE**

Fidlar shall provide such software maintenance and support services as set forth on Schedule B to the Computer System and Software license Sales Agreement between Fidar and Client.

**2. STORAGE FACILITY**

The purpose of the Software is to create electronic copies of the Client's real estate records, which copies are stored at a location physically separate from the Client's location. The Client may contract for its own electronic document storage facility or the Client may contract with Fidar to provide the storage facility. If the Client provides its own storage facility then the Client shall assure that such facility can accept documents from the Software. The name, address and contact information for the Client-provided storage facility shall be set forth in Software License Agreement. If the Client elects to have Fidar provide the storage facility, then storage facility charges set forth on Schedule A shall apply and Schedule F, attached hereto, shall provide the terms and conditions that apply to such use of Fidar's storage facility.

BUYER REPRESENTS THAT THIS ADDENDUM HAS BEEN ACCEPTED:

WARREN COUNTY OHIO RECORDER

FIDLAR TECHNOLOGIES

Dated: August 8, 2018

Dated: 7/24/18

Name: Linda A. Ode

Name: Adam White

Title: Recorder

Title: Vice President

Tom Grossman, PRESIDENT

Computer System and Software License Agreement  
WARREN COUNTY OHIO RECORDER

APPROVED AS TO FORM  
  
Adam M. Nice  
Asst. Prosecuting Attorney

# Resolution

Number 18-1268

Adopted Date August 14, 2018

APPROVE AND AUTHORIZE THE BOARD TO ENTER INTO AN AGREEMENT WITH FIDLAR TECHNOLOGIES ON BEHALF OF THE WARREN COUNTY RECORDER

BE IT RESOLVED, to approve and authorize the Board to execute a software lease agreement with Fidlar Technologies on behalf of the Warren County Recorder. Copy of said agreement attached hereto and made a part hereof.

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: c/a—Fidlar Technologies  
Recorder (file)



## Warren County Ohio Recorders Office Five Year Land Records LifeCycle Extension

This document extends for five years, to December 1st, 2023, the Computer System and Software License Agreement initiated on September 23rd, 2013. Except as amended by this extension, the terms and conditions of that Agreement are incorporated herein and made a part hereof.

**Annual Cost:**

\$28,000.00

*Note: Annual Cost will increase by 3% each year.*

**Payment Milestones:**

Annual LifeCycle payment will be invoiced on or around December 1<sup>st</sup> of each year.

**FIDLAR TECHNOLOGIES LIFE CYCLE SERVICE INCLUDES:**

- ◆ The use of the AVID software products during the life of this contract.
- ◆ The use of any future software product Fidlar may develop to replace AVID for the purpose of recording land records documents.
- ◆ Project management, installation, conversion (excluding any needed or requested data clean-up), and training needed for the initial installation of any future Fidlar Software product developed to replace AVID for the purpose of recording land records documents.
- ◆ The use of new add-on modules Fidlar may develop and offer to the market for the purpose of recording land records documents.
- ◆ CountyCare<sup>®</sup> software maintenance

**FIDLAR SOFTWARE LIFE CYCLE SERVICE DOES NOT INCLUDE:**

- ◆ The 3<sup>rd</sup> party software and hardware to operate AVID, any related modules, or any future Fidlar developed product for the purpose of recording land records documents.
- ◆ The installation, maintenance, or support of 3<sup>rd</sup> party software and hardware now or in the future.
- ◆ Any current or future Fidlar developed software product or service not designed or offered to the market for the purpose of recording land records documents.
- ◆ Any product, service, or responsibility - now or in the future, for the backing up, recovery, or disaster recovery of information, except as outlined in your Information Replication Schedule.
- ◆ Any custom development for special requests from client
- ◆ Explicit omission of any add-on modules not included in this contract.



Taxes

Charges are exclusive of all federal, municipal, or other government excise, sales, use, occupational, or like taxes now in force or enacted in the future with the exception of taxes on net income and, therefore, are subject to an increase equal in amount to any tax Fidlar may be required to pay upon the license, sale or delivery of the product purchased.

BUYER REPRESENTS THAT THIS LIFECYCLE EXTENSION IS ACCEPTED:

WARREN COUNTY OHIO RECORDER

FIDLAR TECHNOLOGIES

Dated: August 8, 2018

Dated: 7/24/18

Name: [Signature]

Name: Adam Wata

Title: Recorder

Title: Vice President

**APPROVED AS TO FORM**

[Signature]

Adam M. Nice

Asst. Prosecuting Attorney

Warren County Commissioner

Dated: 8-14-18

Name: [Signature]

Title: President



# Resolution

Number 18-1269

Adopted Date August 14, 2018

ENTER INTO AN EXCLUSIVE AND PERMANENT DRAINAGE EASEMENT WITH KIMBERLY & KAREN MUNRO MORGAN FOR THE GHEILS-CARROLL ROAD REPAIR PROJECT.

WHEREAS, in order to improve the public safety of Gheils-Carroll Road a repair project is to be constructed, and it is necessary to enter onto the property, parcel # 17-10-202-015 located at 7502 Misty Woods Court, Morrow, OH 45152 which is owned by Kimberly & Karen Munro Morgan, grantors; and

WHEREAS, in order to accomplish the foregoing, it is necessary to obtain an exclusive and permanent drainage easement from the property owner; and

WHEREAS, the land for the exclusive and permanent easement is as follows:

Exclusive and Permanent Easement – Exhibits A & B – 0.138 acres

WHEREAS, the negotiated price for the exclusive and permanent easement is \$1.00; and

NOW THEREFORE BE IT RESOLVED, to enter into exclusive and permanent easement agreement, copies of which are attached hereto and a part hereof, with Kimberly & Karen Munro Morgan for the Gheils-Carroll Road Repair Project for the sum of \$1.00.

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: c/a—Munro Morgan, Kimberly & Karen  
Engineer (file)  
Easement file  
Recorder (certified)

**EASEMENT AGREEMENT IN THE NAME OF AND FOR THE USE OF  
THE WARREN COUNTY BOARD OF COUNTY COMMISSIONERS  
P.I.N. #17-10-202-015 (Pt.)**

**ARTICLES OF AGREEMENT**

This agreement is entered into the date stated below by Kimberly Munro Morgan and Karen Munro Morgan, who are married to each other, whose tax mailing address is 7502 Misty Woods court, Morrow, Ohio 45152 (hereinafter the "Grantors"), and the Warren County Board of County Commissioners, whose mailing address is 406 Justice Drive, Lebanon, Ohio 45036 (hereinafter the "Grantee").

The Purpose of this Easement Agreement is to obtain the necessary exclusive and permanent drainage easement for the Gheils-Carroll Road Repair Project, being a part of a public roadway open to the public without charge.

That the Grantors, for and in consideration of the sum of One Dollar (\$1.00) and other considerations to them paid by the Grantee, the receipt and sufficiency of which are hereby stipulated, do hereby grant, bargain and sell, convey and release to the Grantee, its successors and assigns, an exclusive and permanent highway easement for the purpose of constructing and maintaining the necessary project improvements, upon and over the lands hereafter described, Virginia Military Survey No. 3795, Salem Township, Warren County, State of Ohio and further described as follows:

**EXCLUSIVE & PERMANENT DRAINAGE EASEMENT LEGAL DESCRIPTION**

**See Exhibit "A" for details.  
See Exhibit "B" for drawing.**

The Exclusive and Permanent Drainage Easement granted herein shall bind and inure to the benefit of each party hereto and their respective heirs, successors and assigns and shall run with the land.

Grantors shall have the right to repurchase this property for its fair market value at the time of repurchase, in accordance with Ohio Rev. Code § 163.211 but only in the event Grantee decides not to use the property for the purpose stated herein, however, such right of repurchase shall be extinguished if any one of the following occur, to-wit: (i) the Grantors decline to repurchase the property; (ii) the Grantors fail to repurchase the property within sixty (60) days after the Grantee offers the property for repurchase; (iii) a plan, contract, or arrangement is authorized that commences an urban renewal project that includes the property; (iv) the Grantee grants or transfers the property to another; or, (v) upon the expiration of five years from the date of the execution of this Easement & Agreement. The Grantors' right of repurchase is not assignable, nor does it run with the land.

Grantors acknowledge receipt of an appraisal in compliance with Ohio Rev. Code § 163.04.

**GRANTORS**

**IN EXECUTION WHEREOF**, Kimberly Munro Morgan and Karen Munro Morgan, who are married to each other and are the Grantors herein, have hereunto set their hands on the date stated below.

**Grantors:**

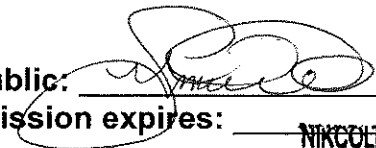
SIGNATURE: Kimberly Munro Morgan  
PRINTED NAME: Kimberly Munro Morgan  
DATE: 8-4-18

SIGNATURE: Karen Munro Morgan  
PRINTED NAME: Karen Munro Morgan  
DATE: 8-4-18

STATE OF Ohio, COUNTY OF Warren, ss.

**BE IT REMEMBERED**, on this 4<sup>th</sup> day of August, 2018, before me, the subscriber, a Notary Public in and for said state, personally came an individual or individuals known or proven to me to be Kimberly Munro Morgan and Karen Munro Morgan, being the **Grantors** in the foregoing Agreement, and acknowledged the signing thereof to be their voluntary act and deed.

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

Notary Public:   
My commission expires: NIKCOLE O. SMITH  
Notary Public, State of Ohio  
My Commission Expires 06-26-2022

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**GRANTEE**

IN EXECUTION WHEREOF, the Warren County Board of County Commissioners, the Grantee herein, has caused this instrument to be executed by Tom Grossmann, its President on the date stated below, pursuant to Resolution No. 18-1269, dated 8/14/18.

WARREN COUNTY  
BOARD OF COUNTY COMMISSIONERS

SIGNATURE: [Signature]

PRINTED NAME: Tom Grossmann

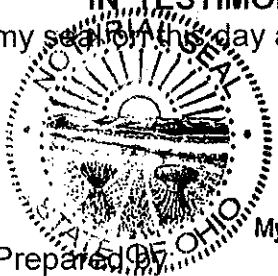
TITLE: President

DATE: 8/14/18

STATE OF OHIO, COUNTY OF WARREN, ss.

BE IT REMEMBERED, on this 14 day of August, 2018 before me, the subscriber, a Notary Public in and for said state, personally came an individual known or proven to me to be Tom Grossmann, President of the Warren County Board of County Commissioners, being the **Grantee** in the foregoing Easement, and acknowledged the signing thereof to be his voluntary act and deed, and pursuant to the Resolution authorization him to act.

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



LAURA K. LANDER  
NOTARY PUBLIC  
STATE OF OHIO  
Recorded in  
Warren County  
My Comm. Exp. 12/26/2022

Notary Public: [Signature]  
My commission expires: 12/26/2022

DAVID P. FORNSHELL,  
PROSECUTING ATTORNEY  
WARREN COUNTY, OHIO

By: [Signature]  
Adam Nice, Assistant Prosecutor  
500 Justice Drive  
Lebanon, OH 45036  
Ph. (513) 695-1399  
Fx. (513) 695-2962  
Email: Adam.Nice@co.warren.oh.us

**Karen Munro Morgan and Kimberly Munro Morgan**  
**Permanent Drainage Easement – 1D**  
**Gheils–Carroll Road (Township Road No. 168)**  
**PIN #17-10-202-015 (Pt.)**

Situated in Virginia Military Survey No. 3795, Salem Township, Warren County, State of Ohio, along the southeast side of Misty Woods Court (also known as Township Road 1447) and along the northwest side of Gheils-Carroll Road (also known as Township Road 168), being a part of the Morrow Meadow Farms II Record Plat as recorded in Plat Book 50, Page 81 in the Warren County Recorder's Office, also being part of Lot 11, a 1.8925 acre tract, conveyed to Karen Munro Morgan and Kimberly Munro Morgan, Grantors, by deed as recorded in Official Record 5519, Page 372 in the Warren County Recorder's Office being more particularly described as follows:

Commencing at the Grantors' northwest boundary corner, being the common boundary line between Lot 11 and Lot 12 of the Morrow Meadow Farms II Record Plat, also being the northeast boundary corner of Lot 12, a 1.5119 acre tract, conveyed to Victor M. and Dara A. Carrillo, Official Record 3205, Page 865, and also being a point in the existing southeasterly right-of-way line of Misty Woods Court (Township Road 1447);

Thence along the said boundary line South 34 degrees 59 minutes 49 seconds East 192.76 feet to a point;

Thence continuing along the said boundary line South 25 degrees 27 minutes 26 seconds East 173.03 feet to the northeast boundary corner of a 1.862 acre tract conveyed to Gregory and Cindy S. Abney, Official Record 2222, Page 36, also being the Carrillo southeast boundary corner, and also being a point in the new permanent drainage easement line, being the **TRUE POINT OF BEGINNING** of this description;

Thence along the said easement line South 70 degrees 48 minutes 16 seconds East 72.36 feet to a point in the Grantors' southerly boundary line, also being a point in the northwesterly right-of-way line of Gheils-Carroll Road;

Thence along the said boundary line and right-of-way line South 19 degrees 11 minutes 44 seconds West 166.71 feet to the Grantors' southwest boundary corner, also being a point in the Abney easterly boundary line;

Thence along the said boundary line North 04 degrees 16 minutes 01 seconds West 181.74 feet to the Abney northeast boundary corner, also being the Carrillo southeast boundary corner, being the **TRUE POINT OF BEGINNING** containing 0.138 acres (6,032 s.f.), more or less.

The bearings for this description are based on the Morrow Meadow Farms II Record Plat as recorded in Plat Book 50, Page 81 in the Warren County Recorder's Office.

This legal description is not the result of a boundary survey; it was prepared based on the Morrow Meadow Farms II Record Plat as recorded in Plat Book 50, Page 81 in the Warren County Recorder's Office and a survey that was completed by the Warren County Engineer's Office in February of 2018. This legal description and the said survey were completed under the direction and supervision of Roy G. Henson (Ohio Registered Surveyor No. 8554) of the Warren County Engineer's Office, 210 W. Main Street, Lebanon, Ohio.

MISTY WOODS COURT (TR 1447)

Ex. R/W  
60 ft.

Ex. R/W

Ex. R/W

BILLY R. & ANGEL M. WIGGINS  
PARCEL ID 17-10-205-014  
DOCUMENT NUMBER 2015-032021  
2.8727 ACRES  
LOT 10

KAREN MUNRO MORGAN & KIMBERLY MUNRO MORGAN  
PARCEL ID 17-10-202-015  
OFFICIAL RECORD 5519, PG 372  
1.8925 ACRES  
PART OF LOT 11  
PERMANENT DRAINAGE EASEMENT  
EASEMENT AREA: 0.138 ACRES (6,032 S.F.)

VICTOR M. & DARA A. CARRILLO  
PARCEL ID 17-10-202-014  
OFFICIAL RECORD 3205, PG 865  
1.5119 ACRES  
LOT 12

20' PUBLIC UTILITY EASEMENT

S 34°59'49" E 192.76'

PRIVATE STORMWATER  
DETENTION EASEMENT

EXHIBIT "B"

THE BEARINGS ARE BASED ON THE  
MORROW MEADOW FARMS II  
RECORD PLAT AS RECORDED IN  
PLAT BOOK 50, PAGE 81 IN THE  
WARREN COUNTY RECORDER'S OFFICE

20' SURFACE WATER DRAINAGE EASEMENT

GHEILS - CARROLL ROAD (TR 168)

PERMANENT DRAINAGE  
EASEMENT

GREGORY & CINDY S. ABNEY  
PARCEL ID 17-10-251-004  
OFFICIAL RECORD 2222, PG 36  
1.862 ACRES

N 04°16'07" W 181.74'

S 19°11'44" W 186.71'

S 20°48'16" E 72.36'

S 25°27'26" E 173.03'

SCALE 1" = 60'	DATE 04/18/18
DRAWN BY SJS	CHECKED BY RCH
PROJECT NO. TR168 CULVERT PIPE	FILE TR168
DRAWING NO.	

PROPOSED EASEMENT - EXHIBIT "B"

MORROW MEADOW FARMS II  
VIRGINIA MILITARY SURVEY No. 3795  
SALEM TOWNSHIP, WARREN COUNTY, OHIO

**Warren  
County  
Engineer's  
Office**  
Neil J. Furman, P.E., P.S.  
Warren County Engineer



210 W. Main Street  
Lebanon, Ohio 45036  
513 695 3301 Phone  
513 695 7714 Fax

# Resolution

Number 18-1270

Adopted Date August 14, 2018

APPROVE AND ENTER INTO AGREEMENT WITH ON SITE DENTAL, INC TO  
PROVIDE DENTAL SERVICES TO THE INMATES AT THE WARREN COUNTY JAIL

BE IT RESOLVED, to approve and enter into an agreement with On Site Dental, Inc. to provide dental services to the inmates at the Warren County Jail, on behalf of the Warren County Sheriff's Office. Copy is attached hereto and made a part hereof.

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: c/a—On Site Dental, Inc  
Sheriff (file)

## **DENTAL SERVICES AGREEMENT**

This Agreement is made by and between the Board of Warren County Commissioners, 406 Justice Drive, Lebanon, Ohio 45036 ("County"), through and on behalf of the Warren County Sheriff and On Site Dental, Inc., an Ohio Corporation for Profit, located at 31650 Birch Circle, Solon Ohio 44139 ("Contractor").

WHEREAS, County, through the Sheriff of Warren County, operates the Warren County Jail at 822 Memorial Drive, Lebanon, Ohio 45036 ("Facility"); and,

WHEREAS, County, pursuant to R.C. 341.20, may contract for dental services for the proper care and welfare of the prisoners placed in the Sheriff's charge at the Facility; and,

WHEREAS, Contractor has been selected to provide the dental services required by the County for the proper care and welfare of the prisoners placed in the Sheriff's charge at the Facility, and Contractor represents that he is well qualified to do so.

NOW THEREFORE, in consideration of the mutual promises contained herein, County and Contractor agree as follows:

### ***Contractor Responsibilities***

Contractor shall provide all necessary dental services for which Contractor is trained, qualified, and licensed to provide.

Contractor shall schedule at least one (1) visit to the Facility per month, and Contractor shall provide County at least two (2) weeks' notice of the scheduled date.

Contractor shall be responsible for providing all necessary equipment and supplies.

Contractor shall provide a monthly invoice to County following each visit to the Facility.

Contractor shall remain licensed and in good standing with the Ohio State Dental Board at all times during this Agreement. Contractor's failure to do so shall automatically terminate this Agreement.

Contractor shall abide by all security measures and regulations in place at the Facility.

Contractor shall not subcontract any portion of this Agreement without the express written consent of County.



### ***County Responsibilities***

County shall attempt to remain flexible in scheduling Contractor's monthly visits.

County shall provide the necessary room and space for Contractor to administer dental services at the Facility.

County shall reimburse Contractor on a monthly basis after Contractor has provided an invoice following each visit to the Facility.

County is not required to provide a minimum number of "prisoner patients" either on a monthly visit or annual basis.

County is authorized to contract with other providers for dental services, provided under this Agreement, on an emergency basis or when Contractor is otherwise unavailable.

### ***Fees***

Contractor's fee schedule is attached hereto as Exhibit "A."

Contractor's fee schedule may only be revised upon thirty (30) days' written notice to County.

### ***Independent Contractor***

Nothing in this Agreement establishes a partnership, association, or joint venture with the Contractor in the conduct of the provisions of this Agreement. Nothing in this Agreement shall be construed as authorizing the Contractor to act as an agent, employee, licensee, or designee of the County or its Board of Commissioners. The Contractor shall at all times have the status of an independent contractor with control over his employees, agents, and operations.

### ***Insurance***

Contractor shall maintain, for all personnel providing services hereunder at all times during this Agreement, coverage limits acceptable to the County. Contractor's failure to do so shall automatically terminate this Agreement.

Contractor shall provide Warren County with proof of Professional Errors and Omissions Insurance coverage, with "Warren County, Ohio" named as a "certificate holder," prior to County entering into this Agreement, and such proof shall stay on file at the Facility for the duration of this Agreement.

Contractor's insurance coverage shall at all times be primary coverage for any and all claims related in any way to the operation of this Agreement and/or the services rendered or that should have been rendered hereunder. Coverage shall include extended coverage until the end of any applicable personal injury, death or property damage statutes of limitations period(s) that exceed the term of this Agreement.

All changes, revisions, cancellations or renewals of Contractor's Medical Malpractice Insurance shall be provided to the County at least thirty (30) days prior to applicable effective dates.

### ***Indemnification and Hold Harmless***

In addition to any insurance coverage in effect during the period of this contract, Contractor shall hold harmless and indemnify Warren County and all of its officers, officials, employees and agents from any and all liability, claims, suits, damages and losses arising in any way and to any extent from the operation of this Agreement.

### ***Law and Venue***

All questions regarding the validity, intention, or meaning of this Agreement or any modifications of it relating to the rights and obligations of the parties will be construed and resolved under the laws of the State of Ohio. Any suit, which may be brought to enforce any provision of this Agreement or any remedy with respect hereto, shall be brought in the Warren County Common Pleas Court, Warren County, Ohio, and each party hereby expressly consents to the jurisdiction of such court.

If any term or provision of the Agreement or the application of such term or provision to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to any persons or circumstances other than those as to which it is held to be invalid or unenforceable, shall remain unaffected and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

### ***Term***

This Agreement shall be effective for a period of two (2) years from the date of execution by both parties and shall automatically renew for one additional period of one year unless either party gives the other party written notice of its election not to renew the Agreement at least thirty (30) days prior to the end of the original one year term.

### ***Termination***

Either party may terminate this Agreement for any reason, without penalty, by giving the other party thirty (30) days written notice of its intention to terminate.

### ***Entire Agreement***

This Agreement contains the entire understanding of the parties. This Agreement supersedes any and all other agreements or understandings between the parties. Amendments to this Agreement shall not be effective unless in writing and signed by both parties.

**Execution Date**

This Agreement is effective as of this 14 day of August 2018.

**Warren County Sheriff:**

**Larry L. Sims**

  
Signature

8-8-18  
Date

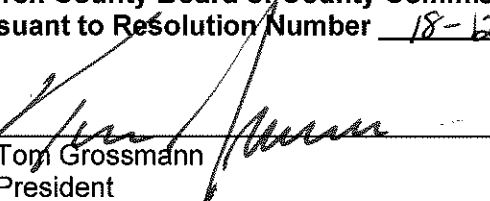
**Contractor:**

On Site Dental, Inc  
by DAVID ROSENBERG  
Its duly authorized:  
PRESIDENT (Title)

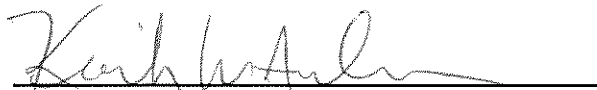
  
Signature

8/8/18  
Date

**Warren County Board of County Commissioners,  
Pursuant to Resolution Number 18-1270**

By:   
Tom Grossmann  
President

Approved as to form:

  
Keith Anderson, Assistant Prosecutor

**EXHIBIT A**

Diagnostic

0110	Initial, periodic, problem focused exam	50.00
0220	Periapical – First film	20.00
0230	Additional film	20.00

Restorative

2330	Anterior Composite resin one surface	60.00
2331	Anterior Composite resin two surface	80.00
2332	Anterior Composite resin three surface	95.00
2385	Posterior Composite resin one surface	60.00
2386	Posterior Composite resin two surface	80.00
2387	Posterior Composite resin three surface	95.00
2920	Re-cement Crown	50.00
2940	Sedative filling	55.00

Oral Surgery

7110	Single Extraction	80.00
7110	Single Extraction (third molar)	85.00
7210	Surgical Extraction	95.00
7250	Removal of residual Root tip	85.00
7310	Alveoloplasty with extractions	85.00

PURCHASE ORDER FILE INQUIRY

FA0125-FAS20

PURCHASE ORDER#. 24137  
 EXPENDED AMT. 11,165.00  
 FUND..... 101  
 SUB-FUND.....  
 FUNCTION..... 2210  
 OBJECT..... 400  
 SUB-ACCOUNT..  
 VENDOR NUMBER 85432  
 APPROVAL DATE 1/26/18  
 BLANKET PO... NO  
 CANCELLATION. 0/00/00  
 P.O. AMOUNT.. 27,000.00

TRAN CODE. 0001 GENERAL PO TRANSACTION  
 ORIGINAL MEMO.. INMATE DENTAL SERVICES  
 GENERAL FUND  
 \*NONE  
 DETENTION-SHERIFF  
 PURCHASED SERVICES  
 \*NONE

**15,835.00 REMAINING AMOUNT**

Name... ON SITE DENTAL INC  
 Address 31650 BIRCH CIRCLE  
 SOLON, OH 44139

LAST MEMO.. INMATE DENTAL SERVICES

<u>QUANTITY</u>	<u>ITEM DESCRIPTION</u>	<u>PRICE</u>
1	INMATE DENTAL SERVICES	27000.00

F3-RETURN

ROLLUP/ROLLODOWN-CHANGE PAGE

# Resolution

Number 18-1271

Adopted Date August 14, 2018

APPROVE CHANGE OF TOWNSHIP BOUNDARIES OF MASON TOWNSHIP TO MAKE THEM, IN PART, IDENTICAL TO THOSE OF THE CITY OF MASON

WHEREAS, this Board of County Commissioners is in receipt of a petition by the City of Mason, Ohio to change the boundaries of Mason Township to make them identical, in part, with the boundaries of the City of Mason; and

WHEREAS, pursuant to Ohio Revised Code Section 503.07, the Board of County Commissioners, upon presentation of such petition, with the proceedings of the legislative authority authenticated, shall upon petition of a City change the boundaries of the township when the limits of such corporation include territory lying in more than one township; and


NOW THEREFORE BE IT RESOLVED, that the prayer of the City of Mason be granted for such changes in and extensions of the boundary lines of Mason Township as may be necessary so that it may include therein, those portions of Deerfield Township, Warren County, Ohio, which has, by successive orders of the Warren County Board of Commissioners, been annexed to the City of Mason, said territory having been accepted by the City pursuant to ordinance number 2018-84 to make the boundary lines of Mason Township co-extensive with the corporate limits of the City of Mason; copy of petition attached hereto and made a part hereof.

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

/tao

cc: City of Mason (file)  
Auditor \_\_\_\_\_  
RPC (file)  
Dispatch

Deerfield Township  
Map Room  
GIS  
Board of Elections

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

RECEIVED

2018 AUG -8 PH 2:04

WARREN COUNTY  
COMMISSIONERS

**IN RE: PETITION FOR CHANGE IN TOWNSHIP LINES OF 4.7665 ACRES LOCATED IN DEERFIELD TOWNSHIP AND THE CITY OF MASON IN ORDER TO REMOVE THE 4.7665 ACRES FROM DEERFIELD TOWNSHIP, PLACE IT IN MASON TOWNSHIP AND MAKE THE TOWNSHIP LINES IDENTICAL, IN PART, WITH THE LIMITS OF THE CITY OF MASON, OHIO.**

Now comes the City of Mason, Ohio, by and through Eric Hansen, its City Manager and the duly authorized representative of the city, and hereby petitions the Board of County Commissioners of Warren County, Ohio, pursuant to Ohio Revised Code Sections 503.07 and 709.192 for an order changing and reducing in size the boundaries of Deerfield Township, Warren County by 4.7665 acres, more or less, and annexing that portion of Deerfield Township to Mason Township, the township in which the greater part of the City of Mason is located, and increasing Mason Township's size by said 4.7665 acres. The territory was annexed to the City following the Ohio Revised Code Section 709.022 Expedited Type 1 annexation process and the City of Mason and Deerfield Township have entered into an Annexation Agreement providing that this 4.7665 acre territory be removed from Deerfield Township, no longer be subject to Deerfield Township taxes and that compensation payments, if any, shall be made pursuant to the terms of the Annexation Agreement to compensate it for lost tax revenue.

The City of Mason also requests any such other action as may be proper. Portions of the City of Mason not now included within the limits of Mason Township include those portions of Deerfield Township annexed by the City of Mason by Ordinance 2018 - 83. Mason Township is co-terminus with the City of Mason in Warren County, Ohio.

The seven member Council of the City of Mason is the legislative authority of the city. Mason City Council, by a vote of the majority of its members, authorized the undersigned to petition this Board of County Commissioners for a change of the Deerfield Township lines in Warren County in order to make them identical, in part, with the limits of the City of Mason, situated in Warren County, Ohio. A certified copy of the City of Mason Ordinance 2018 - 84 authorizing the filing of this petition is attached hereto and incorporated by reference herein.

A certified copy of the Record of the Proceedings of Mason City Council at which the Ordinance was adopted, indicating the vote thereon, is attached hereto and incorporated by reference herein.

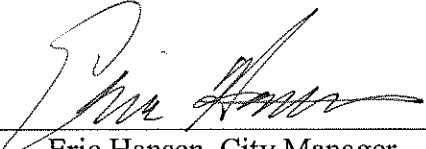
A complete and accurate description of the 4.7665 acres of Deerfield Township, Warren County located within the City of Mason for which a boundary change is sought is set forth in attached Mason Ordinance No. 2018 - 83 Exhibit A and the area is shown on the map

or plat as Exhibit B. All attached exhibits are incorporated by reference as though fully rewritten herein.

The City of Mason requests that the board accept this Petition and change the boundaries of Deerfield Township and Mason Township in Warren County, Ohio to remove 4.7665 acres from Deerfield Township, Warren County located within the City of Mason, Ohio as described in Exhibits A and B attached to the Mason Ordinance attached hereto, and place it in Mason Township, Warren County, as provided by law.

This Board's action upon the city's Petition is ministerial in nature for which there is no notice or hearing.

Date: 7/10/2018

  
Eric Hansen, City Manager  
City of Mason  
6000 Mason Montgomery Road  
Mason, Ohio 45040  
e-mail: ehansen@masonoh.org  
Telephone: (513) 229-8510



ORDINANCE 2018 – 84

AN ORDINANCE AUTHORIZING THE FILING OF A PETITION WITH THE BOARD OF COUNTY COMMISSIONERS OF WARREN COUNTY, OHIO TO CHANGE THE DEERFIELD TOWNSHIP LINES OF 4.7665 ACRES LOCATED IN DEERFIELD TOWNSHIP AND THE CITY OF MASON IN ORDER TO REMOVE THE TERRITORY FROM DEERFIELD TOWNSHIP, PLACE IT IN MASON TOWNSHIP AND MAKE THE TOWNSHIP LINES IDENTICAL WITH THE LIMITS OF THE CITY OF MASON, OHIO, AND DECLARING AN EMERGENCY.

WHEREAS, on March 20, 2017 by Ordinance No. 2017-35 and on December 5, 2017 by Resolution No. 2017-74, the City of Mason and Deerfield Township, Warren County, Ohio, respectively, authorized and entered an Annexation Agreement relating to the annexation of a territory from Deerfield Township to the City of Mason; and

WHEREAS, that Agreement provides for the annexation of the 4.7665 acre territory to the city of Mason and when the annexation becomes effective, the exclusion of the annexation territory from Deerfield Township pursuant to R.C. Chapter 503 including R.C. Section 503.07; and

WHEREAS, on April 23, 2018, a petition for the annexation of a 4.7665 acre territory in Deerfield Township with the consent of all parties, was duly filed by Joseph L. Trauth, Jr., agent for the petitioners, utilizing the special annexation procedure of Ohio Revised Code Section 709.022, *et seq.* commonly referred to as an “Expedited Type 1” annexation, which petition was approved by the Warren County Commissioners on April 24, 2018 by Resolution No. 18-0701 and accepted by the City of Mason on July 9, 2018 by Ordinance No. 2018 – 83; and

WHEREAS, the Annexation Agreement also provides that, upon exclusion of the 4.7665 acre territory from Deerfield Township, the City of Mason compensation payments, if any, shall be made pursuant to the terms of the Annexation Agreement and the 4.7665 acres annexed shall no longer be subject to Deerfield Township’s real property taxes, which Agreement is binding upon the county auditor by law, including R.C. 709.19(B); and

WHEREAS, Ohio Revised Code Section 503.07 authorizes the legislative authority of the city, by a vote of a majority of its members, to petition a board of county commissioners to change the township boundaries within the limits of the municipal corporation in order to make them identical; and

WHEREAS, the City of Mason is primarily located within and is co-extensive with Mason Township in Warren County and the City of Mason desires to change the township boundaries of 4.7665 acres in Deerfield Township in Warren County within the City of Mason to make them a part of Mason Township and exclude them from Deerfield Township.

NOW, THEREFORE BE IT ORDAINED by the Council of the City of Mason, Ohio, six members elected thereto concurring:

Section 1. That the City Manager or his authorized representative is hereby authorized and directed, on behalf of this Council, to prepare and present to the Board of County Commissioners of Warren County, Ohio a petition praying for a change in the boundary lines of Deerfield Township and Mason Township as are necessary to accomplish the removal of the recently annexed 4.7665 acres of

territory within the municipal limits of the City of Mason currently in Deerfield Township, Warren County, Ohio from Deerfield Township and place it in Mason Township in the City of Mason, Warren County, as provided by law.

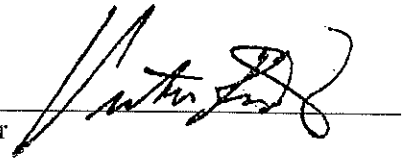
Section 2. That the 4.7665 acre territory within the municipal limits of the City of Mason and Deerfield Township that is to be removed from Deerfield Township and placed in Mason Township was annexed to the City of Mason by Ordinance No. 2018 – 83 is described in Exhibit A hereto and shown on the map or plat as Exhibit B hereto.

Section 3. That the Clerk of Council is hereby authorized and directed to prepare two certified copies of this Ordinance, together with two certified copies of the minutes of the meeting at which this Ordinance was adopted, showing its adoption by a vote of the majority of the members of the Mason City Council, being the legislative authority of the City of Mason and forward those documents to the City Manager or his authorized representative for filing.

Section 4. That this Ordinance is hereby declared an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare and shall take effect and be in force from and after its passage. The reason for said declaration of emergency is to facilitate the city providing the annexation area with city services at the earliest possible time period, to relieve Deerfield Township of any obligation to serve the territory, to allow for the immediate change of township boundaries as provided by the Annexation Agreement of the parties, and to permit the inhabitants of the territory to receive services and vote in the appropriate jurisdiction.

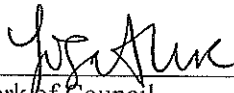
Passed this 9<sup>th</sup> day of July, 2018.

Mayor



Attest:

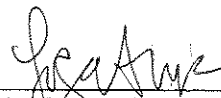
Clerk of Council



CERTIFICATE

The undersigned, Clerk of Council of the City of Mason, hereby certifies this to be a true and exact copy of Ordinance No. 2018- 84, adopted by the Council of the City of Mason on July 9, 2018.

Clerk of Council



**EXHIBIT  
A**

Date: April 29, 2016, Rev September 8, 2017  
Description: Crooked Tree, LTD  
Annexation ~ 4.7665 Acres  
Location: Deerfield Township, Warren County, Ohio



Situated in Sections 31 & 32, Town 4, Range 3, Deerfield Township, Warren County, Ohio and being part of 90.1609 acres conveyed to Crooked Tree, LTD in Instrument #2017-025593 of the Warren County Recorder's Office and containing 4.7665 acres to be annexed into the City of Mason and being further described as follows:

Begin at a point found by measuring from the intersection of the centerline of Hickory Woods Drive and the centerline of Bethany Road; thence, departing said centerline of Hickory Woods Drive and with the centerline of said Bethany Road, South 86° 51' 01" West, 340.73 feet; thence, departing said centerline of Bethany Road, North 02° 56' 30" East, 30.16 feet to the north right of way of said Bethany Road and a corporation line of Deerfield Township and being the True Point of Beginning;

thence, from the True Point of Beginning, thus found departing said corporation line, with the new corporation line and with said right of way, South 87° 03' 06" West, 89.62 feet to the corporation line of Deerfield Township;

thence, departing said right of way and with the corporation line of Deerfield Township the remaining eight courses: North 06° 35' 08" East, 440.21 feet;

thence, North 21° 18' 22" East, 270.00 feet;

thence, North 06° 11' 28" West, 229.97 feet;

thence, North 78° 31' 46" East, 250.00 feet;

thence, South 33° 28' 20" East, 100.19 feet;

thence, South 04° 01' 40" West, 561.41 feet to the south line of said Section 32;

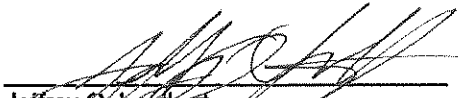
thence, with said Section line, North 84° 18' 30" West, 278.67 feet;

thence, departing said Section line, South 02° 56' 30" West, 347.08 feet to the true Point of Beginning containing 0.6294 acres in Section 31 and 4.1371 acres in Section 32 for a total of 4.7665 acres subject to all easements and rights of way of record.

Basis of Bearings: Instrument #2015-025167

The above description is a complete, proper, and legal description of the property and was prepared from existing deeds and plats of record.



  
Jeffrey O. Lambert  
Registered Surveyor #7568 in the State of Ohio



# Resolution

Number 18-1272

Adopted Date August 14, 2018

DECLARE AN EMERGENCY AND WAIVE COMPETITIVE BIDDING FOR THE IMMEDIATE REPLACEMENT OF AN EXTERIOR SECURED DOOR AT HEALTH & HUMAN SERVICES BUILDING

WHEREAS, it has been discovered that an exterior door at 416 S. East Street (Health & Human Services) is faulty and, at times, does not secure as it should; and

WHEREAS, the exterior door being unsecure would present a safety and security breach; and

NOW THEREFORE BE IT RESOLVED, to authorize the immediate replacement of said door at 416 S. East Street and approve purchase order #25404 in the amount of \$3,521.95 to Fortress Safe and Lock for said replacement.

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: Auditor dt  
Facilities Management (file)

# Resolution

Number 18-1273

Adopted Date August 14, 2018

APPROVE NOTICE OF INTENT TO AWARD BID TO RA MILLER INC FOR THE FY18 CITY OF FRANKLIN – FRANKLIN WOODS CURB AND GUTTER CDBG PROJECT

WHEREAS, bids were closed at 9:15 a.m., July 31, 2018, and the bids were received, opened and read aloud for the FY18 City of Franklin – Franklin Woods Curb and Gutter CDBG Project for the Grants Administration Office, and the results are on file in the Board of Commissioners' Office; and

WHEREAS, the Warren County Grants Coordinator, has determined that RA Miller Inc. is the lowest and best bidder; and

NOW THEREFORE BE IT RESOLVED, upon recommendation of the Warren County Grants Coordinator, that it is the intent of this Board to award the bid to RA Miller Inc., 4148 Augspurgen Road, Hamilton, Ohio for a total bid price of \$179,999.00; and

BE IT FURTHER RESOLVED, that the President of the Board is hereby authorized to execute a "Notice of Intent to Award."

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


Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

KHV

cc: OGA (file)  
OMB Bid file

# Resolution

Number 18-1274

Adopted Date August 14, 2018

**ADVERTISE FOR BIDS FOR THE FY18 DEERFIELD TOWNSHIP-RICH/DAVIS/PRIMROSE  
INTERSECTION RECONFIGURATION CDBG PROJECT**

BE IT RESOLVED, to advertise for bids for the FY 18 Deerfield Township- Rich/Davis/Primrose Intersection Reconfiguration CDBG Project to be funded under the County's Community Development Block Grant Program for the Warren County Office of Grants Administration; 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 Internet Website, beginning the week of August 27, 2018; bid opening to be September 11, 2018 @ 9:15 a.m.

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
Tina Osborne, Clerk

KHV

cc: OGA (file)  
OMB Bid file

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

# Resolution

Number 18-1275

Adopted Date August 14, 2018

ADVERTISE FOR BIDS FOR THE LOWER SPRINGBORO ROAD WATER IMPROVEMENT PROJECT, PHASE 1

BE IT RESOLVED, to advertise for bids for the Lower Springboro Road Water Improvement Project, Phase 1 for the Warren County Water and Sewer Department; 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 Internet Website, beginning the week of August 27, 2018; bid opening to be September 13, 2018 @ 11:30 a.m.

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
Tina Osborne, Clerk

KH\

cc: Water/Sewer (file)  
OMB Bid file



# Resolution

Number 18-1276

Adopted Date August 14, 2018

ADVERTISE FOR BIDS FOR THE NEW BURLINGTON ROAD BRIDGE #36-1.94  
REPLACEMENT PROJECT DESIGN BUILD

BE IT RESOLVED, to advertise for bids for the New Burlington Road Bridge #36-1.94  
Replacement Project Design Build for the County Engineer; and

BE IT FURTHER RESOLVED, to advertise said bid for one (1) week in a newspaper of general  
circulation beginning the week of August 26, 2018; bid opening to be October 2, 2018 @ 9:15 a.m.;  
and

AND BE IT FURTHER RESOLVED, this notice is posted on the Warren County Government  
internet site. The Warren County Government Website can be accessed by logging onto the internet  
and typing in the following address:

<http://www.co.warren.oh.us/commissioners/Resources/Bids/Default.aspx>.

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

KH\

cc: Engineer (file)  
OMB Bid file

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

# Resolution

Number 18-1277

Adopted Date August 14, 2018

**ADVERTISE FOR PUBLIC HEARING #1 FOR FISCAL YEAR 2019 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

BE IT RESOLVED, to advertise for Public Hearing #1, the first of two public hearings to review the Fiscal Year 2019 Community Development Block Grant (CDBG) Program, to be held Thursday, September 20, 2018, at 6:00 p.m., in the County Commissioners' Meeting Room; and

BE IT FURTHER RESOLVED, to direct the Clerk to publish notice of said hearing in Today's Pulse newspaper, in accordance with CDBG guidelines.

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

/sm

cc: OGA (file)

# Resolution

Number 18-1278

Adopted Date August 14, 2018

AMEND THE CONTRACT BETWEEN THE WARREN COUNTY COMMISSIONERS AND WINTON TRANSPORTATION INCORPORATED, D.B.A. UNIVERSAL TRANSPORTATION SERVICES (U.T.S.), ON BEHALF OF THE WARREN COUNTY DEPARTMENT OF HUMAN SERVICES

WHEREAS, pursuant to resolution #18-0919, adopted June 12, 2018, this Board approved the Community Non-Emergency Transportation contract with Winton Transportation Incorporated d.b.a. Universal Transportation Services; and

WHEREAS, upon review by the Warren County Department of Human Services and Winton Transportation Incorporated d.b.a. Universal Transportation Services, it is mutually agreed to include the Therapeutic Interagency Preschool Program Transportation into the said Contract in the amount of \$126,500.00 beginning 08/20/18 thru 07/08/19; this amount is already included in the original contract total and is not changing the original contract total amount; and

NOW THEREFORE BE IT RESOLVED, to amend the Community Non-Emergency Transportation Contract with Winton Transportation Incorporated d.b.a. Universal Transportation Services on behalf of Warren County Human Services; agreements attached hereto and made a part hereof.

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
Tina Osborne, Clerk

cc: c/a—Winton Transportation Incorporated  
dba Universal Transportation Services  
Human Services (file)

**WARREN COUNTY DEPARTMENT OF JOB & FAMILY SERVICES  
COMMUNITY NON-EMERGENCY TRANSPORTATION CONTRACT FOR THE  
THERAPEUTIC INTERAGENCY PRESCHOOL (TIP) PROGRAM**

This Vendor Contract is inclusive with the current vendor contract Adopted on June 12, 2018 (Exhibit A) via resolution # 18-0919. This contract adds services provided for the Therapeutic Interagency Preschool (TIP) Program. This Vendor Contract is made and entered into on August 14, 2018, by and between the Warren County Board of County Commissioners, on behalf of the Warren County Job and Family Services, Division of Human Services (hereinafter referred to as WCDJFS) with offices located at 416 South East Street, Lebanon, Ohio 45036 and Universal Transportation Systems (UTS), 990 Princeton Glendale Road, Suite 201, West Chester, OH 45246 (hereinafter referred to as Provider), a provider of transportation services.

“Non-Emergency Transportation (NET) is a program administered by the Warren County Job and Family Services, Division of Human Services to provide transportation to and from medical providers who meet provider participation requirements in accordance with Chapter 5160-24 of the Administrative Code and who provide Medicaid covered services defined as reimbursable services in accordance with Chapters 5160-1. WCDJFS is required to adequately ensure transportation for Medicaid eligible consumers whose transportation cannot be provided or arranged through other modes of transportation that addresses the consumer’s medical conditions and timeliness concerns and only to Medicaid covered services that are within the consumer’s community as defined in Rule 5160-24 of the Administrative Code, unless the specific service is not available within the community.

The purpose of this Vendor Contract is to establish the terms, conditions and requirements governing the administration and use of the funding received by or used by the Provider pursuant to this agreement. Therefore, the terms of this Vendor Contract are as follows:

**SERVICE DELIVERY**

1. Provider shall provide door to door services to WCDJFS program participants receiving services under the Therapeutic Interagency Preschool (TIP) Program.
2. Provider shall transport program participants to and from destinations within Warren County based on an establish route for transport of the TIP participants for both the morning session and afternoon session.
3. Provider its agents and employees shall comply with all Federal and State laws applicable to WCDJFS.
4. Provider shall guarantee transportation services be delivered in a timely, courteous and professional manner, adhering to or exceeding standards and acceptable practices to the transportation industry and in accordance to the provisions contained herein.
5. Provider shall not transport any minor child without an accompanying adult.
6. In the event of inclement weather Provider may cancel or delay transportation services. Provider shall coordinate any cancellations of transportation services for TIP with the Head Start TIP Coordinator. Provider will not be reimbursed for any canceled transportation trips.
7. In the event of an accident, injury and/or incident, the Provider shall verbally notify the WCCS Early Learning Centers Director and the Director of WCDJFS immediately following any post-accident procedures and shall follow up with the submission of a completed, written report to both the WCDJFS Director and WCCS Early Learning Centers Director within one (1) business day.
8. Therapeutic Interagency Preschool (TIP) Program and/or participant requirements
  - a. WCDJFS works in conjunction with Warren County Community Services Early Learning Centers, Solutions Community Counseling, and Warren County Children Services to provide

TIP services to approved children. A child's enrollment in the TIP program is verification of authorization for transportation services.

- b. Provider shall provide group transportation via a bus provided by Warren County Community Services Early Learning Centers but utilized by UTS staff for the TIP program.
  - i. Drivers would be required to have a CDL with a School Bus endorsement,
  - ii. The buses hold 35 passengers each,
  - iii. One bus will be utilized to transport the TIP enrolled children to and from school that are registered in the morning session and the second bus will transport the TIP enrolled children to and from school that are registered for the afternoon session.
9. Provider shall provide door-to-door transportation to TIP participants.
10. TIP program participants are required to have an additional adult person (TIP attendant) on board at-all-times. It is the responsibility of WCCS Early Learning Centers to supply TIP Attendant(s) for TIP transportation. The TIP Attendant shall be on the bus prior to any TIP program participants. The TIP attendant shall be billed as a regular scheduled TIP transportation participant and should not be billed separately from this contract.
11. TIP program participants may be combined with other TIP program participants but shall not be combined with program participants from any other program.
12. WCDJFS will be responsible for providing UTS with the TIP Transportation routing information. WCDJFS will work with the Provider to implement the most efficient way to schedule the TIP Transportation Route. Provider shall obtain direct authorization from WCDJFS for any TIP transportation scheduled for a pick-up/drop-off outside of Warren County.
13. Service delivery requirements established herein are designed to cover transportation services delivered under this Contract for the TIP program. Should a service delivery issue arise that is not addressed within this Contract or the Provider Contract for services with WCDJFS for NET Transportation Services effective July 1, 2018-June 30, 2019 Resolution # 18-0919 (Exhibit A) WCDJFS shall negotiate with Provider and upon mutual agreement of both parties, WCDJFS shall forward written procedures and/or authorization to Provider to execute the necessary transportation service or change in service delivery, without the requirement of a formal contract amendment.
14. Provider shall bill WCDJFS for TIP Transportation Services in a separate invoice from other NET Transportation Services, but should submit the invoices to WCDJFS on the same schedule (monthly billing).
15. Warren County Community Services Early Learning Centers will provide a copy of all annual inspections for the 2 buses being used for the program to both WCDJFS and the Provider.

## **PURCHASED SERVICES**

Subject to terms and conditions set forth in this Contract and contract adopted under Resolution #18-0919, and any attached exhibits, WCDJFS agrees to purchase from and the Provider agrees to provide to eligible individuals for the Therapeutic Interagency Preschool Program those specific services detailed in this Contract.

**Contract Period:** This contract will be effective from **August 20, 2018 thru and including July 8, 2019**, inclusive, unless otherwise terminated, but may be **extended** through July 8, 2020, if all parties agree and with Resolution passed by the Warren County Commissioners.

**Availability of Funds:** This Contract is conditioned upon the availability of Federal, State and local funds which are appropriated or allocated for WCDJFS use. This Contract may be terminated immediately in the event there is a loss of funding. WCDJFS shall notify Provider at the earliest possible time of any of any service that may be affected by a shortage of funds. If funds are reallocated in lesser quantities than the initial allocation, WCDJFS may reduce the scope of services purchases and/or total Contract dollars. No penalty shall

apply to WCDJFS in the event this provision is exercised. WCDJFS shall not be obligated nor liable for any future payments incurred by the Provider after the date of termination. The Provider shall be given a thirty (30) day notice prior to termination or reduction.

### **FEE SCHEDULE- Exhibit B**

1. Total Units of Service to be Provided= 460
2. Total program cost/total Units of Service= \$275.00-unit cost per route per day

The unit costs is based on UTS historical direct and indirect costs based upon the number of trips and historical costs. The number of trips represent estimated daily round trips multiplied by number of buses operated. Budget is based on 2 school buses operating 46 weeks at 5 round trips per week for a total of 460 trips for the contract period. Exhibit B provides a breakdown of the unit cost per route per day budget.

### **Vehicle Expenses and Liability Coverage**

Included in the Total Program Cost/Total Units of Services is travel costs which include; fuel costs, vehicle repair and maintenance costs and auto liability cost for the services attributed to this contract. UTS will use vehicles provided by the Warren County Community Services Early Learning Centers (Exhibit B).

Liability insurance which is required under this contract represents expenses not directly related to vehicle liability. Exhibit B outlines these expenses. Exhibit C includes the Certificate of Liability Insurance submitted by the Provider.

**Total contract may not exceed \$126,500.00. This amount is included in the original NET Transportation Contract effective 7/1/2018 of \$450,000.00.**

All other terms, conditions and provisions of the Community Non-Emergency Transportation Contract shall remain in full force and effect for the term of the Contract as entered into on June 12, 2018 by Resolution #18-0919 (Exhibit A) by the Warren County Board of Commissioners.

### **NOTICE**

All notices required to be given herein shall be in writing and shall be sent to the following respective addresses:

Warren County Job and Family Services, Division of Human Services  
416 South East Street  
Lebanon, Ohio 45036

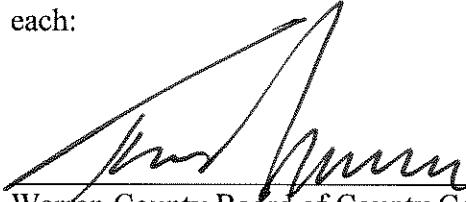
Universal Transportation Systems LLC dba UTS  
990 Princeton Glendale Road, Suite 201  
West Chester, OH 45246

Warren County Community Services Early Learning Centers  
570 N State Route 741  
Lebanon, OH 45036

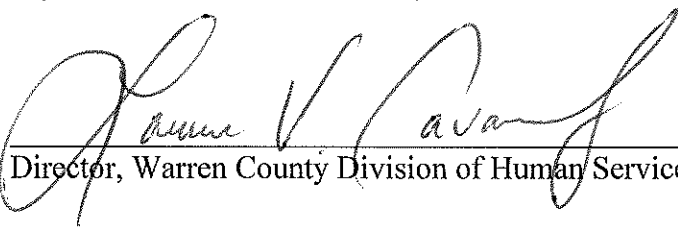
Solutions Community Counseling  
975 Kingsview Drive  
Lebanon, OH 45036

Warren County Job & Family Services, Division of Children Services  
416 S. East Street  
Lebanon, OH 45036


The terms of this Contract are hereby agreed to by all parties, as shown by the signatures of representatives of each:

  
\_\_\_\_\_  
Warren County Board of County Commissioners

8/14/18  
Date

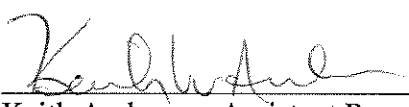
  
\_\_\_\_\_  
Director, Warren County Division of Human Services

7/24/2018  
Date

  
\_\_\_\_\_  
Provider and Title

7/31/2018  
Date

APPROVED TO FORM:

  
\_\_\_\_\_  
Keith Anderson, Assistant Prosecutor

7-12-18  
Date

# Resolution

Number 18-0919

Adopted Date June 12, 2018

AMEND THE CONTRACT BETWEEN THE WARREN COUNTY COMMISSIONERS AND WINTON TRANSPORTATION INCORPORATED, DBA UNIVERSAL TRANSPORTATION SERVICES (U.T.S.), ON BEHALF OF THE WARREN COUNTY DEPARTMENT OF HUMAN SERVICES

WHEREAS, pursuant to resolution #16-0929, adopted June 21, 2016, this Board approved the Community Non-Emergency Transportation contract with Winton Transportation Incorporated d.b.a. Universal Transportation Services; and

WHEREAS, upon review by the Warren County Department of Human Services and Winton Transportation Incorporated d.b.a. Universal Transportation Services, it is mutually agreed to renew the contract for one year effective 07/01/18 thru 06/30/19 in the amount of \$450,000.00; and

NOW THEREFORE BE IT RESOLVED, to amend the Community Non-Emergency Transportation Contract with Winton Transportation Incorporated d.b.a. Universal Transportation Services on behalf of Warren County Human Services; agreements attached hereto and made a part hereof.

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 12<sup>th</sup> day of June 2018.

BOARD OF COUNTY COMMISSIONERS

  
Tina Osborne, Clerk

cc: c/a—Universal Transportation Services (UTS)  
Human Services (file)



**AMENDMENT TO THE COMMUNITY NON-EMERGENCY  
TRANSPORTATION CONTRACT  
BETWEEN  
THE WARREN COUNTY BOARD OF COMMISSIONERS  
ON BEHALF OF  
THE WARREN COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES  
DIVISION OF HUMAN SERVICES  
AND  
UNIVERSAL TRANSPORTATION SERVICES, LLC dba UTS**

**WHEREAS**, a Community Non-Emergency Transportation Contract was entered into on June 21, 2016 between the Warren County Board of Commissioners and was amended on April 25, 2017 and October 31, 2017, on behalf of the Warren County Department of Job and Family Services, Division of Human Services and Universal Transportation Services, LLC dba UTS, hereinafter jointly referred to as “the Parties” and

**WHEREAS**, it is now the intent of the Parties to amend the Contract as follows:

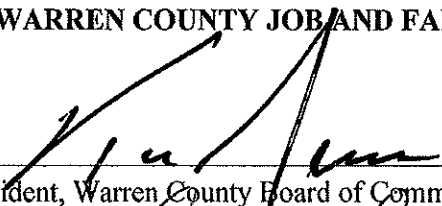
- 1) On June 21, 2016 Resolution #16-0929 was adopted by the Warren County Board of County Commissioners for a contract period beginning July 1, 2016 and ending June 30, 2018 for the amount of \$225,000.00 per SFY for a total contracted amount of \$450,000.00.
- 2) Amend the contracted amount for SFY 2017 only to \$350,000.00 Resolution # 17-0635. The total contracted amount shall remain limited to \$450,000.00 for the entire contract period of July 1, 2016 through June 30, 2018.
- 1) Resolution 17-1708 amended the contract period for SFY 2018 SFY 2018 increasing the contracted amount in the amount of \$190,000.00. The total contract amount for SFY 2018 (July 1, 2017- June 30, 2018) shall increase to \$415,000.00 for the remaining contract period ending June 30, 2018.

**NOW, THEREFORE**, the Parties agree to amend the Contract as follows:

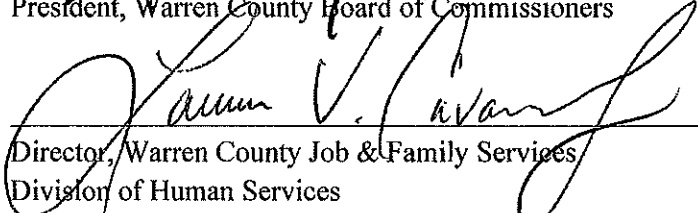
- 1) **Renew the contract for one-year effective July 1, 2018 through and including June 30, 2019 in the amount of \$450,000.00.**
- 2) Warren County Job & Family Services request an updated Certificate of Liability Insurance from Universal Transportation Services.
- 3) Exhibits Included with this Amendment
  - a. Exhibit A- Contract adopted on 6/21/2016 through Resolution # 16-0929
  - b. Exhibit B- Resolution #17-0635 adopted on 4/25/2017
  - c. Exhibit C- Resolution # 17-1708 adopted on 10/31/2017
  - d. Exhibit D- Warren County Job & Family Services Non-Emergency Transportation (NET) Plan
  - e. Exhibit E- White Paper which outlines the Ohio Department of Medicaid’s intent to move the Non-Emergency Transportation System to a State Run Brokerage System, potentially slated to occur effective 7/1/2019.
  - f. Exhibit F- Subrecipient/Vendor Checklist

All other terms, conditions and provisions of the Community Non-Emergency Transportation Contract shall remain in full force and effect for the term of the Contract as entered into on June 21, 2016 by Resolution #16-0929 and April 25, 2017 Resolution # 17-0635 and October 31, 2017 Resolution #17-1708 of the Warren County Board of Commissioners.

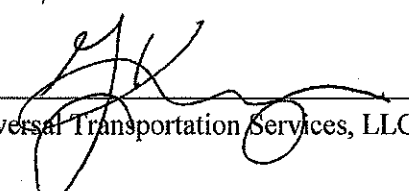
**WARREN COUNTY JOB AND FAMILY SERVICES, DIVISION OF HUMAN SERVICES**

  
\_\_\_\_\_  
President, Warren County Board of Commissioners

6/12/18  
Date


  
\_\_\_\_\_  
Director, Warren County Job & Family Services  
Division of Human Services

5/10/2018  
Date

  
\_\_\_\_\_  
Universal Transportation Services, LLC dba UTS

5/13/2018  
Date

**WARREN COUNTY PROSECUTOR**  
Approved as to Form Only

  
\_\_\_\_\_  
Keith Anderson, Assistant Prosecutor

5-3-18  
Date

# NATIONAL INTERSTATE INSURANCE COMPANY

OHIO

## PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, That we,

**Holland Park Investments, LLC DBA Universal Transportation Systems** as Principal, and the NATIONAL INTERSTATE INSURANCE COMPANY, a corporation organized under the laws of the State of Ohio and duly organized to transact business in the State of Ohio as Surety, are held and firmly bound unto the **Warren County Board of Commissioners** as obligee in the sum of **Fifty-Five Thousand Dollars, (\$55,000)**, for the payment whereof well and truly to be made the Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

SIGNED, sealed and dated this **29<sup>th</sup> day of April 2018**.

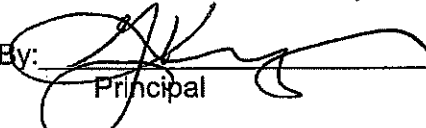
WHEREAS the Principal and the Obligee have entered into a written contract, hereinafter called the Contract, a copy of which is or may be attached hereto, for Contract with Warren County Board of Commissioners for community non-emergency transportation persons for the period of April 29, 2018 through April 28, 2019.

NOW, THEREFORE, the condition of the foregoing obligation is such that if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of the Principal's failure to complete the work in accordance with the terms of the contract, then this obligation shall be void; otherwise it shall remain in force.

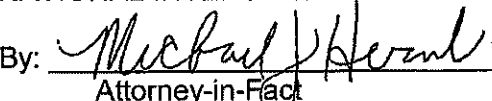
PROVIDED, HOWEVER, it shall be a condition precedent to any right of recovery hereunder that, in event of any default on the part of the Principal, a written statement of the particular facts showing the date and nature of such default shall be immediately given by the Obligee to the Surety and shall be forwarded by registered mail to the Surety at its Administrative Office at 3250 Interstate Drive, Richfield, OH 44286.

AND PROVIDED FURTHER, that no action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless the same be brought or instituted and process served upon the Surety within twelve months after completion of the work mentioned in said contract, whether such work be completed by the Principal, Surety or Obligee; but if there is any maintenance or guarantee period provided in the contract for which said Surety is liable, an action for maintenance may be brought within six months from the expiration of the maintenance period, but not afterwards.

**Holland Park Investments, LLC.**

By:  \_\_\_\_\_  
Principal

NATIONAL INTERSTATE INSURANCE COMPANY

By:  \_\_\_\_\_  
Attorney-in-Fact

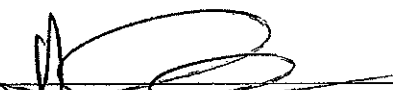
**NATIONAL INTERSTATE INSURANCE COMPANY**  
3250 INTERSTATE DRIVE, RICHFIELD, OHIO 44286-9000

**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS:** That the NATIONAL INTERSTATE INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio (the "Company"), does hereby nominate, constitute and appoint Anthony J. Mercurio, Gary N. Monda, and Michael J. Heramb its lawful attorneys-in-fact for it and in its name, place and stead to execute in behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, without limits. This Power of Attorney revokes all previous powers issued in behalf of the attorney(s)-in-fact named above.

**IN WITNESS WHEREOF,** the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 18<sup>th</sup> day January, 2017.

NATIONAL INTERSTATE INSURANCE COMPANY

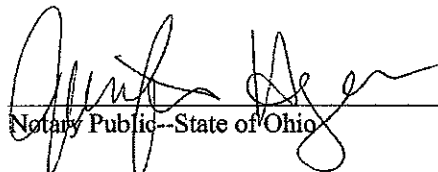
  
Attest: Arthur J. Gonzales, SVP, General Counsel and Secretary

  
James A. Parks, Vice President and Chief Underwriting Officer

STATE OF OHIO                    )  
  ) ss.  
COUNTY OF SUMMIT            )

On this 18<sup>th</sup> day January, 2017, before me personally appeared James A. Parks, to me known, being duly sworn, deposes and says that he is the Vice President and Chief Underwriting Officer of National Interstate Insurance Company, the Company described in and which executed the above instrument; that he knows the seal that was so affixed by authority of his office; and that he signed his name thereto by like authority.

**JENNIFER HAZOU**  
Notary Public  
State of Ohio  
My Commission Expires Feb. 15, 2022

  
Notary Public--State of Ohio

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of National Interstate Insurance Company by unanimous written consent dated as of November 29, 1990.

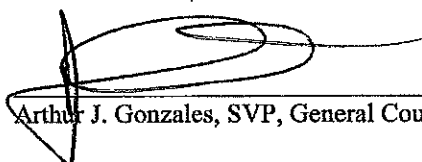
RESOLVED, that the President and the several Vice Presidents and Assistant Vice Presidents, or any one of them, be and hereby is authorized from time to time, to appoint one or more Attorneys-in-Fact to execute in behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER, that the Company seal and the signature of any of the aforesaid officers may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract or suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

**CERTIFICATION**

I, Arthur J. Gonzales, SVP, General Counsel and Secretary of National Interstate Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of November 29, 1990 have not been revoked and are now in full force and effect.

Signed and sealed this 18<sup>th</sup> day January 2017.

  
Arthur J. Gonzales, SVP, General Counsel and Secretary

# Resolution

Number 16-0929

Adopted Date June 21, 2016

APPROVE AND ENTER INTO A CONTRACT BETWEEN THE WARREN COUNTY COMMISSIONERS AND WINTON TRANSPORTATION DBA UNIVERSAL TRANSPORTATION ON BEHALF OF THE WARREN COUNTY DEPARTMENT OF HUMAN SERVICES

BE IT RESOLVED, to approve and enter into a Contract with Universal Transportation on behalf of the Warren County Department of Human Services for Non-Emergency Transportation in the total amount of \$225,000.00, effective July 1, 2016 and ending June 30, 2018; copy of agreement attached hereto and made a part hereof:

Mrs. South 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. South – yea

Resolution adopted this 21<sup>st</sup> day of June 2016.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: c/a – Winton Transportation  
dba Universal Transportation  
Human Services (file)

## COMMUNITY NON-EMERGENCY TRANSPORTATION CONTRACT

This Vendor Contract, made and entered into on June 21, 2016, by and between the Warren County Board of County Commissioners, on behalf of the Warren County Job and Family Services, Division of Human Services (hereinafter referred to as WCDJFS) with offices located at 416 South East Street, Lebanon, Ohio 45036 and Universal Transportation Systems LLC dba UTS, 5284 Winton Road, Fairfield, Ohio 45014 (hereinafter referred to as Provider), a provider of transportation services.

“Non-Emergency Transportation (NET) is a program administered by the Warren County Job and Family Services, Division of Human Services to provide transportation to and from medical providers who meet provider participation requirements in accordance with Chapter 5160-24 of the Administrative Code and who provide Medicaid covered services defined as reimbursable services in accordance with Chapters 5160-1. WCDJFS is required to adequately ensure transportation for Medicaid eligible consumers whose transportation cannot be provided or arranged through other modes of transportation that addresses the consumer’s medical conditions and timeliness concerns and only to Medicaid covered services that are within the consumer’s community as defined in Rule 5160-24 of the Administrative Code, unless the specific service is not available within the community.

The purpose of this Vendor Contract is to establish the terms, conditions and requirements governing the administration and use of the funding received by or used by the Provider pursuant to this agreement. Therefore, the terms of this Vendor Contract are as follows:

1. **Purchase of Services:** Subject to terms and conditions set forth in this Contract, and any attached exhibits, WCDJFS agrees to purchase from and the Provider agrees to provide to eligible individuals for the Non-Emergency Transportation Program those specific services detailed in this Contract.
2. **Contract Period:** This contract will be effective from July 1, 2016 thru and including June 30, 2018, inclusive, unless otherwise terminated, but may be **extended** through June 30, 2019, if all parties agree and with Resolution passed by the Warren County Commissioners. This Contract must coincide with the State Fiscal Year.
3. **Availability of Funds:** This Contract is conditioned upon the availability of Federal, State and local funds which are appropriated or allocated for WCDJFS use. This Contract may be terminated immediately in the event there is a loss of funding. WCDJFS shall notify Provider at the earliest possible time of any of any service that may be affected by a shortage of funds. If funds are reallocated in lesser quantities than the initial allocation, WCDJFS may reduce the scope of services purchases and/or total Contract dollars. No penalty shall apply to WCDJFS in the event this provision is exercised. WCDJFS shall not be obligated nor liable for any future payments incurred by the Provider after the date of termination. The Provider shall be given a thirty (30) day notice prior to termination or reduction.
4. **Cost and Delivery of Services to be Performed by the Provider:** Subject to terms and conditions set forth in this Contract, the Provider agrees to comply with terms of the Contract and provide the following services:
  - a. Provider agrees to furnish transportation twenty-four (24) hours per day, seven (7) days per week, three-hundred sixty-five (365) days per year from any point within Warren County to any other destination within Warren County or to any point within Montgomery, Butler, Clermont, Hamilton, Greene or Clinton Counties.
  - b. Nature of services provided shall include, but is not limited to, trips for ambulatory individuals to dialysis, radiation and chemotherapy. The Non-Emergency Transportation Program assures non-emergency transportation for Medicaid consumers to and from Medicaid Title XIX providers who provide Medicaid reimbursable services if consumers are not eligible for other transportation services.
  - c. Provider agrees to furnish equipment such as wheel chair access, infant seats, vans, cars or buses as required by Federal and State regulations.
  - d. Provider agrees that each Warren County Non-Emergency Transportation client will be provided an individual ride, and will not be required to share a ride with another client/customer, unless the WCDJFS or client make a direct request to the provider.

## **FEE SCHEDULE**

The fee accrual will be at a per mile basis at the rate resulting in lowest cost to WCDJFS. The following guidelines must be followed:

- A. \$1.89 per live mile of transportation (definition of live mile being miles actually traveled by client, i.e., point of pick-up to point of destination or
- B. A minimum one-way transportation charge of \$20.50 (Exhibit B)
- C. The total cost of the program cannot exceed \$225,000.00 per SFY year.
- D. Multiple year contracts would accrue at a static price for a second year period (i.e., \$1.89 per "live mile" and a minimum one way transportation charge of \$20.50 with noted exceptions.) (Exhibit B)
- E. All transportation orders are encouraged to be at least twelve (12) hours or more before appointment time; however NO EXTRA CHARGES will be incurred for any late orders.
- F. WCDJFS will not be billed for consumer 'no shows'.

## **ADDITIONAL PROVIDER REQUIREMENTS**

- A. Provider shall provide drivers, vehicles, maintenance, etc., to provide proper and adequate transportation in accordance with State, Federal and local laws and regulations for clients to and from designated locations. Such transportation shall be available by Provider during the term of this Contract twenty-four (24) hours per day, three hundred sixty-five (365) days per year.
- B. Provider will provide quality service with a guarantee of a high degree of regularity and on time performance in route schedules, positive, courteous and professional drivers, ability to facilitate changes in routes, scheduling and dismissal times, etc.
- C. Provider will provide control of all route-making functions including but not limited to estimated client pick up times, the order in which clients are picked up and dropped off, etc., under the guidelines of the needs of the individual's transportation request.
- D. All vehicles and equipment utilized by Provider shall conform to the applicable safety standards prescribed by the State of Ohio. Vehicles will be safe, equipped with the appropriate safety restraining devices and equipment and must have regular preventative maintenance.
- E. Provider will have available back-up vehicles for immediate dispatch in event of a breakdown or accident.
- F. Provider's vehicles shall display the company logo and all drivers shall carry identification which identifies them as authorized operators.

## **PAYMENT FOR PURCHASED SERVICES**

Reimbursement under this Contract will be on a cost reimbursement method. The Provider will submit by the tenth (10<sup>th</sup>) working day of the month following the month the services were provided, an itemized statement which includes but is not limited to the participant's name, date(s) of service, description of services including trip destination, fee for services along with the sign off sheets signed by the participant to verify that the service for which WCDJFS is being billed has been provided. If WCDJFS determines additional information is needed to verify actual billing, same may be requested

for any invoice received from Provider. Reimbursement to Provider will be within 30 days from receipt of a correct invoice.

The invoices submitted are subject to adjustment by the WCDJFS before such payment is made in order to adjust for mathematical errors, incorrect rates or non-covered services. The invoices are subject to audit by appropriate State, Federal and/or local officials or an independent audit. The total cost of services billed for contracted period shall not exceed \$225,000.00, unless otherwise authorized through formal amendments.

Provider warrants that the following unallowable costs were not included in determining the rate of payment and that these costs will not be included in any invoice submitted for payment: bad debts, bonding costs, contingencies, contributions or donations, entertainment costs, costs of alcoholic beverages, goods or services for personal use, fines, penalties, and miss-charging costs, gains and losses on disposition or impairment of depreciable or capital assets, interest and other financial costs, losses on other contracts, organizational cost, costs related to legal and/or other proceedings, goodwill, asset valuation resulting from business combinations, legislative lobbying costs and durable equipment.

In the event the Provider receives an overpayment, or must comply with an audit exception, Provider agrees to repay the WCDJFS the full amount to which Provider was not entitled.

**Duplicate Billing:** Provider certifies that the services being purchased by WCDJFS are not available on a non-reimbursable basis. The Provider warrants that claims made to WCDJFS for payment for services provided shall be for actual services rendered and do not duplicate claims made by Provider to other funding sources for the same services and that Provider warrants that claim made to WCDJFS for payment for services provided are for eligible individuals who are not eligible for payment from another source.

## **ELIGIBILITY FOR SERVICES**

The WCDJFS shall determine all eligibility for services. Eligibility shall be determined according to the Community Non-Emergency Transportation (NET) Plan (Exhibit C) for WCDJFS dated May 20, 2016. All individuals served must be Medicaid eligible consumers at the time the transportation is provided. Transportation covered under the NET Program must be provided only to and from Medicaid Title XIX providers providing Medicaid reimbursable services within the consumer's community unless the Medicaid reimbursable services is not available in his/her community with community being defined as Warren County for the NET program purposes.

1. **Referral Procedures:** Request for service will be initiated by WCDJFS. WCDJFS will follow the guidelines in the NET Plan in scheduling. The WCDJFS shall notify Provider (e.g., fax, phone or email) when, where and for whom services have been requested and approved.
2. **Availability and Retention of Records:** Provider shall maintain accurate records, reports, payrolls, etc., which sufficiently and properly reflect all costs of any nature incurred by the Provider in the performance of this Contract. All records relating to the services provided and supporting documentation for invoices submitted to WCDJFS by Provider shall be retained and made available by the Provider for audit by WCDJFS, the State of Ohio (including, but not limited to the Ohio Department of Job and Family Services, the Auditor of the State of Ohio, Inspector General or duly appointed law enforcement officials) and agencies of the United States Government for a minimum of three (3) years after payment under this Contract. Provider will assure the maintenance of such records and other documentation in the possession of any third party performing work related to this Contract for alike period of time for a like period of time, unless otherwise directed by WCDJFS (Exhibit D). If any litigation, claim, negotiation, audit or other action involving the records is commenced before expiration of the County Record Retention Rules time period, Provider shall retain the records until completion of the action and all appeals which may arise from it.
3. **Equipment:** No equipment, software, promotional materials, etc., shall be purchased/invoiced by the Provider to WCDJFS.



4. **Assignment and Subcontracting:** When deemed necessary to deliver services of the quantity and quality specified in this Contract, the Provider may subcontract with the written approval of the WCDJFS. All such subcontracts shall be in the same form as this Contract and subject to the same terms, conditions and covenants contained herein. No such subcontracts shall in any case release the Provider of his liability under this Contract. Provider is responsible for making direct payment for such subcontracts. This section does not apply to contracts with interpreters and persons needed to accommodate customers with disabilities.
5. **Responsibility for Audit:** Provider agrees to have conducted an independent audit of expenditures at the cost of the Provider if there is evidence of misuse or improper accounting of claims or substantial errors. Copies of the audit and associated management papers shall be made available to the WCDJFS.
6. **Responsibility for Audit Exceptions:** Provider agrees to accept responsibility for receiving, replying to and/or complying/reimbursing any audit exception identified by appropriate State and/or Federal audit, directly related to the provisions of the Contract. Provider agrees to maintain compliance with Federal, State and local regulations which govern the provision of this service.
7. **Relationship:** Nothing in this Contract is intended to, nor shall be deemed to constitute a partnership, association or joint venture with the Provider in the conduct of the provisions of this WCDJFS. The Provider, agents, and employees of the Provider will act in performance of this Contract in an independent capacity and not as officers or employees or agents of the State of Ohio or the WCDJFS.
8. **Equal Opportunity/Non-discrimination:** Provider and WCDJFS agree that as a condition of this Contract there shall be no discrimination against any client or any employee because of race, color, sex, religion, national origin, disability, or any other factor as specified in Title VI of the Civil Rights Act of 1964 and Executive Order 11246 entitled equal Employment Opportunity as amended by Executive Order 11375 and as supplemented in the Department of Labor Regulation 41 CFR Part 60. It is further agreed that the Provider will comply with all appropriate Federal and State laws regarding such discrimination and the right to and method of appeal will be made available to all persons served under this Contract. Any agency found to be out of compliance with this paragraph may be subject to investigation by the Office of Civil Rights of the Department of Health and Human Services and to termination of this Contract.
9. **Termination:** In the event that either the WCDJFS or Provider does not perform their responsibilities and/or obligations under this Contract, either party may initiate their intent to terminate the Contract by providing a thirty (30) day prior written communication to the other party. A final decision to terminate Contract shall be made jointly by WCDJFS and Provider. This Contract may be terminated immediately in the event there is a loss of funding, disapproval by Federal Administrative Agency or upon discovery of noncompliance with any Federal or State Laws, Rules or Regulations.
10. **Modification or Amendment:** No modification or amendment of any provisions of this Contract shall be effective unless made by a written instrument, duly executed by the party to be bound thereby, which refers specifically to this Contract and states that an amendment or modification is being made in the respects as forth in such amendment. Any amendment or modification must be in writing, signed by both parties and is not in effect until a Resolution is passed by the Warren County Board of Commissioners approving the amendment or modification.
11. **Accessibility of Program to Handicapped Consumers:** The Provider agrees as a condition of this Contract to comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), all requirements imposed by the Applicable Health and Human Services regulations (45 CAR 84) and all guidelines and Interpretations issued pursuant thereto. Any party failing to comply with this Paragraph may be subject to investigation by the Office of Civil Rights of the Department of Health and Human Services and termination of this Contract.

12. **Governing Law:** This Contract shall be constructed in accordance with, and the legal relations between the parties shall be governed by the laws of the State of Ohio as applicable to contracts executed and fully performed in the State of Ohio.
13. **Compliance:** Provider certifies that Provider and all subcontractors who provide direct or indirect services under this Contract will comply with all requirements of Federal laws and regulations, applicable Office of Management and Budget circulars, State statutes and the Ohio Administrative Code rules in the conduct of work hereunder.
14. **Confidentiality of Information:** The parties agree that they shall not use any information, systems or records made available to either party for any purpose other than to fulfill the obligations specified herein. The parties agree to be bound by the same standard of confidentiality that apply to the employees of either party and/or the State of Ohio. The terms of this section shall be included in any subcontract executed by either party for work under this Contract.
15. **Resolution of Disputes:** The agencies agree that the Directors of WCDJFS and Provider shall resolve any disputes between the agencies concerning responsibilities under or performance of any of the terms of this Contract. In the event the Directors can not agree to an appropriate resolution to the disputes, they shall referred to ODE and ODHS for a final binding determination resolving the dispute.

### **ENTIRE CONTRACT**

This Contract contains the entire Contract between the Provider, WCDJFS and the Warren County Board of Commissioners with respect to the subject matter thereof, and supersedes all prior written or oral agreements between the parties. No representations, promises, understand or agreements not contained herein shall be of any force or effect.

Should any portion of this Contract be deemed unenforceable by an administrative or a judicial officer or tribunal of competent jurisdiction, the balance of this Contract shall remain in full force and effect unless revised or terminated pursuant to any other section of this Contract.

Neither party shall assign any of its rights or delegate any of its duties under this Contract without written consent of the other.

1. **Indemnification:** Provider will defend, indemnify, protect and save WCDJFS 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 Provider, its agents, employees, licensees, contractors or subcontractors; (b) the failure of Provider, its agents, employees, licensees, contractors or subcontractors, to observe the applicable standard of care in providing services pursuant to this Contract; and (c) the intentional misconduct of Provider, its agents, employees, licensees, contracts or subcontracts that result in injury to persons or damage to property.
2. **Insurance:** Provider shall maintain liability insurance in an amount not less than \$1,000,000 for this program. WCDJFS and the Warren County Board of Commissioners shall be named as addition insured and proof of coverage shall be provided to WCDJFS and the Warren County Board of Commissioners prior to the effective date of such change. Such insurance shall be primary to any insurance coverage of WCDJFS or the Warren County Board of Commissioners. (Exhibit B)

**NOTICE**

All notices required to be given herein shall be in writing and shall be sent to the following respective addresses:

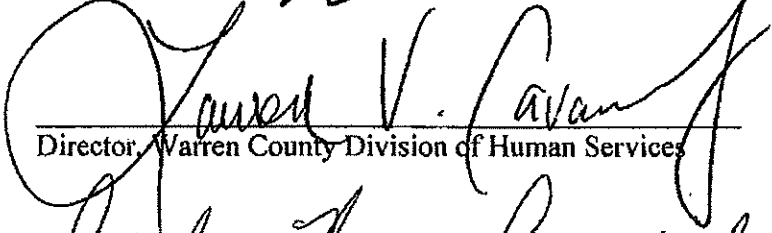
Warren County Job and Family Services, Division of Human Services  
416 South East Street  
Lebanon, Ohio 45036

Universal Transportation Systems LLC dba UTS  
5284 Winton Road  
Fairfield, Ohio 45014

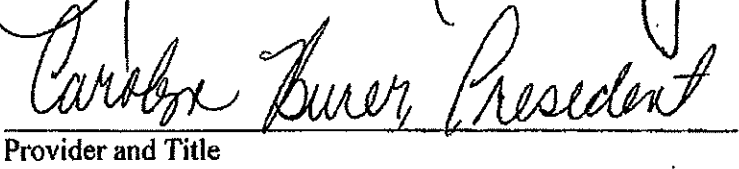
The terms of this Contract are hereby agreed to by all parties, as shown by the signatures of representatives of each:

  
\_\_\_\_\_  
Warren County Board of County Commissioners

6-21-16  
Date

  
\_\_\_\_\_  
Dawn V. Cavanagh  
Director, Warren County Division of Human Services

5/20/2016  
Date

  
\_\_\_\_\_  
Carolyn Turner, President  
Provider and Title

6-6-2016  
Date

APPROVED TO FORM:

  
\_\_\_\_\_  
Keith Anderson, Assistant Prosecutor

5/24/16  
Date

County Name (Pass-Through Agency): Warren County JFS, Division of Human Services

Name of Provider (Potential Vendor/Subrecipient): Universal Transportation Systems LLC dba UTS

Name of Program: Non-Emergency Transportation- Medicaid Recipients

	<b>Indications of a Subrecipient See A-133 §210(b)</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
1.	Provider determines who is eligible to receive federal financial assistance.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
2.	Provider has its performance measured against whether the objectives of the federal program are met.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
3.	Provider has responsibility for programmatic decision making.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
4.	Provider has responsibility for adherence to applicable federal program compliance requirements.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
5.	Provider uses the federal funds to carry out its own program as compared to providing goods or services for a program of the pass-through entity.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

	<b>Indications of a Vendor See A-133 §210(c)</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
6.	Organization provides the goods and services within normal business operations.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
7.	Organization provides similar goods or services to many different purchasers.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8.	Organization operates in a competitive environment.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9.	Organization provides goods or services that are ancillary to the operation of the federal program.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10.	Organization is not subject to compliance requirements of the federal program.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

<b>Overall Conclusion</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
Provider is a subrecipient.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Conduct Subrecipient Monitoring See OAC 5101:9-1-88
Provider is a vendor.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Conduct Contract Monitoring See OAC 5101:9-4-07 (J)(8) or other rule

TERM AUGUST 2018 to JULY 2019

Exhibit B

NAME OF CONTRACT PROGRAM: WARREN COUNTY TIPP PROGRAM

AGENCY: Universal Transportation Services dba UTS

08/20/2018                      TO                      07/08/2019

INDICATE NAME OF SERVICE IN APPROPRIATE COLUMN BELOW

EXPENSES BY PROGRAM SERVICES	WARREN COUNTY TIPP PROGRAM	MGMT INDIRECT	OTHER DIRECT SER	TOTAL EXPENSE
A. STAFF SALARIES	64,767.54	0.00	0.00	64,767.54
B. EMPLOYEE PAYROLL TAXES & BENEFITS	12,461.27	0.00	0.00	12,461.27
C. PROFESSIONAL & CONTRACTED SERVICES	839.47	0.00	0.00	839.47
D. CONSUMABLE SUPPLIES	186.82	0.00	0.00	186.82
E. OCCUPANCY	177.61	0.00	0.00	177.61
F. TRAVEL	39,262.39	0.00	0.00	39,262.39
G. INSURANCE	1,108.80	0.00	0.00	1,108.80
H. EQUIPMENT	45.42	0.00	0.00	45.42
I. MISCELLANEOUS	1,684.24	0.00	0.00	1,684.24
J. PROFIT MARGIN	5,966.45	0.00	0.00	5,966.45
K. SUB-TOTAL OF EXPENSES BEFORE MGMT INDIRECT ALLOCATION	126,500.00	0.00	0.00	126,500.00
ALLOCATION OF MGT/INDIRECT COSTS				0.00
<b>TOTAL PROGRAM EXPENSES</b>	<b>126,500.00</b>	<b>0.00</b>	<b>0.00</b>	<b>126,500.00</b>

ESTIMATED TOTAL UNITS OF SERVICE TO BE PROVIDED:

460                      UNIT = Daily Round Trip

TOTAL PROGRAM COST/TOTAL UNITS OF SERVICE = UNIT COST:

\$275.00

<b>TOTAL REVENUE</b>	<b>126,500.00</b>	<b>0.00</b>	<b>0.00</b>	<b>126,500.00</b>
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The unit cost is based upon UTS' historical direct and indirect operating costs based upon the number of trips and historical costs. The number of trips represent estimated daily round trips multiplied by number of busses operated. For purposes of developing the budget and unit rate, we assumed 2 school busses operating for 46 weeks at 5 round trips per week for a total of 460 trips for the contract period. The operating costs are variable and will scale up and down based on costs in the operating budget with a volume variation of +/- 20% at the same effective rate of \$275.00.

TERM AUGUST 2018 to JULY 2019

NAME OF CONTRACT PROGRAM: WARREN COUNTY TIPP PROGRAM

A. STAFF SALARIES - Attach Extra Pages for Staff, if needed.

POSITION TITLE	# STAFF	HRS WK	ANNUAL COST	WARREN COUNTY TIPP PROGRAM	MGMT INDIRECT	OTHER DIRECT SERVICE	TOTAL EXPENSE
Program Manager	1.00	3.00	4499.04	3,979.92			3,979.92
Safety and Fleet Director	1.00	1.00	999.96	884.58			884.58
Driver	2.00	50.00	64610.00	57,155.00			57,155.00
Monitor	2.00	0.00	0.00	0.00			0.00
Dispatcher	1.00	2.00	1349.92	1,194.16			1,194.16
Administrative Support	1.00	2.00	1756.56	1,553.88			1,553.88
							0.00
							0.00
							0.00
							0.00
							0.00
							0.00
							0.00
							0.00
							0.00
							0.00
<b>TOTAL SALARIES</b>			73,215.48	64,767.54	0.00	0.00	64,767.54

- Program Manager** Works with all of the operations and support staff to ensure the most appropriate and cost effective resources are used for the program and to ensure smooth functioning of the day to day operations. This individual will spend approximately 3 hours per week assigned to the program.
- Safety and Fleet Director** Develops and implements the safety plans, directs accident reviews, monitors fleet maintenance operations and ensures compliance with all regulations. This individual will spend approximately 1 hour per week assigned to the program.
- Driver** We are using a rate of \$24.85 per hour for drivers because we will be using the most experienced, top performing drivers to perform this contract who are certified to operate a school bus. Time is based on two part-time employees, one on each route, consisting of a morning and afternoon trip for approximately 25 hours per week, per employee.
- Monitor** We are not including any cost for monitors in the budget. Any monitors will be provided by Head Start and will be employees of the TIPP program.
- Dispatcher** In order to adjust routing for schedule changes due to the addition and deletion of students, we have assigned a dispatcher to the program and anticipate this individual will spend approximately 2 hours per week on this program.
- Administrative Support** This individual provides support to the operations staff coordinating payroll, safety and maintenance responsibilities and will spend approximately 2 hours per week assigned to this program.

TERM AUGUST 2018 to JULY 2019

NAME OF CONTRACT PROGRAM: WARREN COUNTY TIPP PROGRAM

EXPENSES BY PROGRAM SERVICES	WARREN COUNTY TIPP PROGRAM	MGMT INDIRECT	OTHER DIRECT SER	TOTAL EXPENSE
<b>B. PAYROLL TAXES</b>				
FICA 7.65%	4,954.72			4,954.72
WORKER'S COMP. 5.09%	3,296.67			3,296.67
UNEMPLOYMENT 3.26 %	2,111.42			2,111.42
<b>BENEFITS</b>				
RETIREMENT				0.00
HOSPITAL CARE 2.42%	1,567.37			1,567.37
INCENTIVE SAFETY BONUS 0.82%	531.09			531.09
<b>TOTAL EMPLOYEE PAYROLL TAXES &amp; BENEFITS</b>	12,461.27	0.00	0.00	12,461.27

**Employee Payroll Taxes & Benefits Narrative.**

Payroll taxes are calculated based on the federal and Ohio statutory tax rates and UTS' historical experience as a percentage of wages.

Employee benefits expense is calculated based on UTS' historical expense as a percentage of wages for employees participating in the various benefits programs.

Incentive safety bonus is based on UTS' historical expense as a percentage of wages rewarding both attendance and safety records for employees.

C. PROFESSIONAL FEES & CONTRACTED SERVICES (Indicate type, function performed, and estimate of use (hours, days, etc.))	WARREN COUNTY TIPP PROGRAM	MGMT INDIRECT	OTHER DIRECT SER	TOTAL EXPENSE
CONTRACTED-ACCOUNTING	121.62			121.62
CONTRACTED-OFFICE SUPPORT	104.92			104.92
CONTRACTED-PAYROLL	314.58			314.58
CONTRACTED-COMPUTER SUPPORT	298.34			298.34
<b>TOTAL PROFESSIONAL FEES &amp; CONTRACTED SERVICES</b>	839.47	0.00	0.00	839.47

**Professional Fees & Contracted Services Narrative**

UTS contracts out for various professional services including accounting, office support and billing services, payroll preparation and information services and computer support. These contracted professional services were apportioned to the program based on UTS' historical cost per trip for these services multiplied by the number of projected trips under the program contract.

TERM AUGUST 2018 to JULY 2019

NAME OF CONTRACT PROGRAM: WARREN COUNTY TIPP PROGRAM

EXPENSES BY PROGRAM SERVICES	WARREN COUNTY TIPP PROGRAM	MGMT INDIRECT	OTHER DIRECT SER	TOTAL EXPENSE
<b>D.CONSUMABLE SUPPLIES</b>				
OFFICE	158.54			158.54
CLEANING	1.91			1.91
PROGRAM	0.00			0.00
TRAINING	26.37			26.37
				0.00
				0.00
<b>TOTAL CONSUMABLE SUPPLIES</b>	<b>186.82</b>	<b>0.00</b>	<b>0.00</b>	<b>186.82</b>

**Consumable Supplies Narrative**

Office expense relate to standard office supplies such as paper and printing supplies and postage. Cleaning supplies consist of routine consumable supplied and training materials consist of information provided in orientation and driver training. These expenses were apportioned to the program based on UTS' historical cost per trip for these services multiplied by the number of projected trips under the program contract.

EXPENSES BY PROGRAM SERVICES	WARREN COUNTY TIPP PROGRAM	MGMT INDIRECT	OTHER DIRECT SER	TOTAL EXPENSE
<b>E. OCCUPANCY COSTS</b>				
RENTAL @ PER SQ. FT.	106.06			106.06
USAGE ALLOWANCE OF BLDG. OWNED @2% OF ORIG. ACQUISITION COST				0.00
MAINTENANCE & REPAIRS	7.04			7.04
UTILITIES (MAY BE INCLUDED IN RENT) HEAT & ELECTRICITY WATER				0.00
TELEPHONE	35.11			35.11
JANITORIAL	29.40			29.40
				0.00
				0.00
<b>TOTAL OCCUPANCY COSTS</b>	<b>177.61</b>	<b>0.00</b>	<b>0.00</b>	<b>177.61</b>

**Occupancy Costs Narrative**

UTS rents space for its operations which includes basic utilities. The maintenance and repairs, telephone and janitorial expense relates to expenses for these individual services at the UTS offices. These expenses were apportioned to the program based on UTS' historical cost per trip for these services multiplied by the number of projected trips under the program contract.



TERM AUGUST 2018 to JULY 2019

NAME OF CONTRACT PROGRAM: WARREN COUNTY TIPP PROGRAM

EXPENSES BY PROGRAM SERVICES	WARREN COUNTY TIPP PROGRAM	MGMT INDIRECT	OTHER DIRECT SER	TOTAL EXPENSE
F. TRAVEL COSTS				
GASOLINE & OIL	21,357.14			21,357.14
VEHICLE REPAIR	11,738.85			11,738.85
VEHICLE LICENSE				0.00
VEHICLE INSURANCE	6,166.40			6,166.40
OTHER (PARKING)				0.00
MILEAGE REIMBURSE.@ _____ PER MILE				0.00
CONFERENCES & MEETINGS, ETC.				0.00
PURCHASED TRANSPORTATION				0.00
<b>TOTAL TRAVEL COSTS</b>	<b>39,262.39</b>	<b>0.00</b>	<b>0.00</b>	<b>39,262.39</b>

**Travel Costs Narrative**

The travel costs consist of the fuel cost, vehicle repair and maintenance cost and auto liability cost for the services attributed to this contract. These amounts are based on UTS' historical adjusted cost per trip for bus services multiplied by the number of expected trips attributable to the program. UTS will use vehicles provided by the TIPP program and UTS employees to perform the trips and with no purchased transportation services.

EXPENSES BY PROGRAM SERVICES	WARREN COUNTY TIPP PROGRAM	MGMT INDIRECT	OTHER DIRECT SER	TOTAL EXPENSE
G. INSURANCE COSTS				
LIABILITY	1,108.80			1,108.80
PROPERTY				0.00
ACCIDENT				0.00
OTHER				0.00
<b>TOTAL INSURANCE COSTS</b>	<b>1,108.80</b>	<b>0.00</b>	<b>0.00</b>	<b>1,108.80</b>

**Insurance Costs Narrative**

Liability insurance represents expense not directly related to the vehicle liability, including general liability and sexual molestation policies attributed to the program, based on UTS' historical cost per trip for these services multiplied by the number of expected trips attributable to the program.

TERM AUGUST 2018 to JULY 2019

NAME OF CONTRACT PROGRAM: WARREN COUNTY TIPP PROGRAM

EXPENSES BY PROGRAM SERVICES	WARREN COUNTY TIPP PROGRAM	MGMT INDIRECT	OTHER DIRECT SERV	TOTAL EXPENSE
<b>H.EQUIPMENT COSTS</b>				
SMALL EQUIPMENT (items costing under \$5,000.00, which are to be purchased during budget period should be listed)				0.00
				0.00
				0.00
<b>TOTAL SMALL EQUIPMENT COSTS</b>	0.00	0.00	0.00	0.00
EQUIPMENT MAINTENANCE & REPAIR (DETAIL)				0.00
				0.00
				0.00
<b>TOTAL EQUIPMENT &amp; REPAIR</b>	0.00	0.00	0.00	0.00
OFFICE COPIERS AND COMPUTER EQUIP	35.02			0.00
				0.00
				0.00
<b>TOTAL LEASE COSTS</b>	35.02	0.00	0.00	0.00
TOTAL COST DEPRECIATION OF LARGE EQUIPMENT ITEMS (detail on page 7)	10.40	0.00	0.00	10.40
<b>TOTAL EQUIPMENT COSTS</b>	45.42	0.00	0.00	10.40

**Total Equipment Costs Narrative (Small Equipment, Equipment Maintenance & Repair, Equipment Lease, Equipment Depreciation)**  
 There are no capital costs related to vehicles for this program because the vehicles will be provided by the TIPP program. The lease and capital costs for office equipment have been allocated to the program based on a historical cost per trip. Depreciation expense has been allocated to the program and included only for the period covered by the contract.

TERM AUGUST 2018 to JULY 2019

NAME OF CONTRACT PROGRAM: WARREN COUNTY TIPP PROGRAM

LARGE EQUIPMENT DEPRECIATION COSTS

ITEM(S) TO BE DEPRECIATED	NEW OR USED	DATE OF PURCHASE	TOTAL ACTUAL COST	SALVAGE VALUE	TOTAL TO DEPRECIATE	USEFUL LIFE	CHARGEABLE ANNUAL DEPRECIATION	*PERCENT USED BY CONTRACT PROGRAM	AMOUNT CHARGED TO CONTRACT PROGRAM	WHICH CONTRACTED PROGRAM
Computer Equipment		07/21/2017	10,000.00	0.00	10,000.00	5	2,000.00	0.52%	10.40	
Total			10,000.00		10,000.00		2,000.00		10.40	

\* Enter as a decimal.

TERM AUGUST 2018 to JULY 2019

NAME OF CONTRACT PROGRAM: WARREN COUNTY TIPP PROGRAM

EXPENSES BY PROGRAM SERVICES	WARREN COUNTY TIPP PROGRAM	MGMT INDIRECT	OTHER DIRECT SER	TOTAL EXPENSE
<b>I. MISCELLANEOUS COSTS</b>				
COMMUNICATION	350.09			350.09
INTEREST EXPENSE ON EQUIP & WORKING CAP	367.25			367.25
LICENSES & PERMITS	75.73			75.73
PRE-EMPLOYMENT SCREENING	123.62			123.62
RECRUITING	87.01			87.01
SOFTWARE MAINTENANCE	628.69			628.69
TRAINING OF UNHIRED DRIVERS	18.63			18.63
UNIFORMS	33.22			33.22
				0.00
				0.00
				0.00
<b>TOTAL MISCELLANEOUS COSTS</b>	1,684.24	0.00	0.00	1,684.24
<b>J. PROFIT MARGIN (For profit entities only)</b>	5,966.45			5,966.45
<b>K. SUB-TOTAL OF EXPENSES BEFORE MGMT INDIRECT ALLOCATION</b>	126,500.00	0.00	0.00	126,464.99

**Miscellaneous Costs Narrative.**

The various miscellaneous cost categories included have been allocated based on UTS' historical cost per trip multiplied by the number of projected trips attributable to the program.

**Mgmt./Indirect Cost Narrative.**

UTS has not allocated any additional management or overhead expenses to the contract. The contract will be performed by the direct employees and resources included in the direct cost summary.

**Profit Margin Narrative.**

UTS has included a profit margin of 5% for this contract. This profit margin takes into consideration the rate of return on equity capital as well as the operational risk under the contract. Based on the volume of trips under the contract and our existing presence in Warren county, UTS is pleased to be able to perform this contract with our existing resources without any significant start up expenses and, as a result, are able to offer these services at a lower rate.

TERM AUGUST 2018 to JULY 2019

NAME OF CONTRACT PROGRAM: WARREN COUNTY TIPP PROGRAM

REVENUES BY PROGRAM SERVICES	WARREN COUNTY TIPP PROGRAM	MGMT INDIRECT	OTHER DIRECT SER	TOTAL REVENUES
<b>A. GOVERNMENTAL AGENCY FUNDING (specify agency &amp; type)</b>				
HAMILTON COUNTY JOBS & FAMILY SERVICES	126,500.00			126,500.00
Warren RVC - 7/11/18				0.00
				0.00
<b>B. OTHER FUNDING</b>				
FEES FROM CLIENTS				0.00
CONTRIBUTIONS				0.00
				0.00
				0.00
				0.00
AWARDS & GRANTS				0.00
				0.00
OTHER (specify)				0.00
				0.00
<b>TOTAL REVENUE</b>	126,500.00	0.00	0.00	126,500.00

**Revenue Narrative**

The revenue reported under this contract is entirely fee for service revenue from the Warren County TIPP program and is based on the per-trip rate multiplied by the number of trips completed during the contract period. The number of trips represent the estimated daily round trips multiplied by number of busses operated. For purposes of developing the budget and unit rate, we assumed 2 school busses operating for 46 weeks at 5 round trips per week for a total of 460 trips for the contract period. The operating costs are variable and will scale up and down based on costs in the operating budget with a volume variation of +/- 20% at the same effective rate of \$275.00.



Exhibit C

WINTTRA-02

NCVDMS

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
1/26/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> American Highways Ins. Agency 3250 Interstate Drive Richfield, OH 44286	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): (800) 935-2442		FAX (A/C, No): (330) 659-8912	
	E-MAIL ADDRESS: service@highwaysinsurance.com			
<b>INSURED</b>  Holland Park Investments, LLC dba UTS 5284 Winton Rd. Fairfield, OH 45014	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>	
	INSURER A : National Interstate Insurance Company		32620	
	INSURER B :			
	INSURER C :			
	INSURER D :			
	INSURER E :			

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			XPP2419380-13	02/01/2018	02/01/2019	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 5,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			XPP2419380-13	02/01/2018	02/01/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Physical Damage Deductibles:  
 Charter Vehicles: \$10,000 Specified Perils/Collision  
 All Other Vehicles: \$2,500 Specified Perils/\$5,000 Collision  
 Private Passenger/Service: \$1,000 Comprehensive/Collision

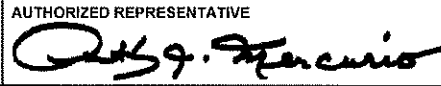
<b>CERTIFICATE HOLDER</b>  Central Ohio Transit Authority 33 North High Street Columbus, OH 43215	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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Exhibit D



# THERAPEUTIC INTERAGENCY PRESCHOOL (TIP)

**Warren County TIP Program will begin in September 2018**

TIP is a collaboratively funded program between **Warren County Community Services – Early Learning Centers, Warren County Children Services & Solutions Community Counseling and Recovery Centers**. TIP is designed to serve Head Start eligible preschool age children who have experienced trauma. Children and their families will receive supportive & integrated educational and mental health interventions. The goals are to increase child resiliency and promote healthy social interactions which are central to facilitating school readiness for preschoolers effected by trauma.

**Location:** South Lebanon Early Learning Center, 99 N. Section St.

**Hours:** AM class 8:00 – 11:30 or PM class 12:30-4:00 Monday-Thursday



**SOLUTIONS**  
Community Counseling and Recovery Centers

**Year-round preschool services in a trauma informed classroom**

**Child and Family focused trauma informed counseling**

**Case Management Services**

**County wide transportation**

**5 Star Step Up to Quality Rated Center**

**FOR MORE INFORMATION:**

Lisa Cayard,  
WCCS Early Learning  
Centers Director

513-695-2213

[lisac@wccsinc.org](mailto:lisac@wccsinc.org)





# THEN & NOW REQUEST

To: Matt Nolan, Warren County Auditor

Date: 8/2/18

From: WC Veterans

Please complete a Then & Now Certification for the attached purchase.

A purchase order was not completed for this procurement because: discounted pavilion was  
under \$1000 - Didn't realize at the time we'd have to rent tables and chairs

FUND	SUB FUND	FUNCTION	OBJECT	AMOUNT
101		5210	910	\$ 1300.00

VENDOR NAME Lake View Acres

DESCRIPTION OF SERVICES Pavilion Rental - Table & Chair Rental

DATE OF OBLIGATION 7/28/18

# THEN & NOW CERTIFICATION

## CERTIFICATE OF FISCAL OFFICER IN LIEU OF PURCHASE ORDER

Pursuant to Sec. 5705.41 (D)(1) O.R.C.

*The Warren County Auditor hereby certifies that even though there was not a Purchase Order executed prior to this obligation being incurred, there was at the time of the obligation, and there is now, sufficient appropriation for the purpose of such obligation and sufficient funds in the treasury to the credit of such fund free from any previous encumbrances to honor this payment.*

UNENCUMBERED ACCOUNT BALANCE - THEN \$ 25,079.65 DATE 7/28/18

UNENCUMBERED ACCOUNT BALANCE - NOW \$ 24,232.01 DATE 8/8/18

FUND BALANCE NOW \$ 37,053,749.37

CERTIFIED BY: Matt Nolan n

MATT NOLAN, WARREN COUNTY AUDITOR

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

# Resolution

Number 18-1280

Adopted Date August 14, 2018

## APPROVE VARIOUS REFUNDS

BE IT RESOLVED, to approve various refunds, as attached hereto and made a part hereof.

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


Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: Auditor JK  
Refunds file

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

# Resolution

Number 18-1281

Adopted Date August 21, 2018

## ACKNOWLEDGE PAYMENT OF BILLS

BE IT RESOLVED, to acknowledge payment of bills as submitted on batches #08/09/2018 001, #08/09/2018 002, #08/09/2018 003, #08/09/2018 004, #08/09/2018 005, and #08/09/2018 006; said batches are attached hereto and made a part hereof.

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
Tina Osborne, Clerk

kh

cc: Auditor J

# Resolution

Number 18-1282

Adopted Date August 14, 2018

ENTER INTO SECURITY AGREEMENT FOR STREETS & APPURTENANCES AND SIDEWALKS WITH THE WARREN COUNTY PORT AUTHORITY FOR CONSTRUCTION AND MAINTENANCE OF PUBLIC IMPROVEMENTS IN THE WARREN COUNTY SPORTS COMPLEX, AND WAIVING THE POSTING OF SECURITY

WHEREAS, a security agreement is required in order to secure the performance of the construction of uncompleted or unapproved, and maintenance of, certain streets & appurtenances and sidewalk improvements in accordance with the Warren County Subdivision Regulations; and

WHEREAS, it is policy to require all developers to post security along with the security agreement to secure the performance of the construction of uncompleted or unapproved, and maintenance of said improvements until reduced by separate resolution of this Board, and maintenance after the completion of the Improvements from the time of tentative acceptance until final acceptance this Board; and

WHEREAS, the Warren County Sports Complex is a public project that requires the contractor to post a performance bond for construction of all improvements; and

WHEREAS, the Warren County Sports Complex is being funded by the collection of a lodgings tax by this Board, and this Board is in the control of such funds until periodically disbursed to the Warren County Convention and Visitors Bureau for this Project, thus, it is the desire of this Board to waive the requirement to post security as long as the Port Authority enters into a security agreement.

NOW THEREFORE BE IT RESOLVED, to waive the requirement to post security and enter into the security agreement, attached hereto, referenced as:

STREETS & APPURTENANCES AND SIDEWALKS SECURITY AGREEMENT


Bond Number	:	N/A
Development	:	Warren County Sports Complex
Developer	:	Warren County Port Authority
Township	:	Turtlecreek
Amount	:	N/A
Surety Company	:	N/A

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
Tina Osborne, Clerk

cc: Developer  
Engineer (file)  
Prosecutor  
Bond Agreement file

**SUBDIVISION PUBLIC IMPROVEMENT PERFORMANCE AND MAINTENANCE  
SECURITY AGREEMENT**

**STREETS & APPURTENANCES  
AND  
SIDEWALKS**

This Agreement made and concluded at Lebanon, Ohio, by and between the Warren County Port Authority (hereinafter the "Developer") and the Warren County Board of County Commissioners, (hereinafter the "County Commissioners").

**WITNESSETH:**

**WHEREAS**, the Developer is required to install certain improvements consisting of Streets & Appurtenances and Sidewalks in the Warren County Sports Park, identified as Parcel No. 08-19-300-011 (hereinafter the "Project") situated in Turtlecreek (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 \$553,091.42, and that the Improvements that have yet to be completed and approved may be constructed in the sum of \$553,091.42; 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 **shall be responsible for paying** to the County Commissioners the sum of \$719,018.85 **in the event of default** of the performance of the construction of the uncompleted or unapproved Improvements in accordance with Warren County Subdivision Regulations (hereinafter the Performance Obligation).
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 **two (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, and the Developer shall, upon written notification of default by the County Commissioners to the Developer 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. 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. The determination of the amount of funds to be disbursed by Developer to the County Commissioners as set forth in the aforesaid notification is final and binding upon the parties hereto.
5. The County Commissioners and the Developer 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 (1) year maintenance**, the Performance Obligation shall be reduced by separate Resolution of the County Commissioners to the amount of the obligation for maintenance provided for herein.
6. The Developer **shall be responsible for paying** to the County Commissioners the sum of \$ 110,618.28 (being 20% of the total costs of the Improvements) in the event of the default of the Developer performing all maintenance upon the Improvements as determined to be necessary by the County Engineer (hereinafter the Maintenance Obligation).
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, and the Developer shall, upon

written notification of default by the County Commissioners to the Developer 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. 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. The determination of the amount of funds to be disbursed by the Developer to the County Commissioners as set forth in the aforesaid notification is final and binding upon the parties hereto.

10. That upon expiration of the **one (1) 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 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 (1) 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 drawings 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. Developer agrees no contracts it has with such third parties, including engineers and consultants, for plans, specifications and drawings effects the validity of this paragraph.
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  
Fx. (513) 695-2054

B. To the County Engineer:

Warren County Engineer  
Attn. Neil F. Tunison  
105 Markey Road  
Lebanon, OH 45036  
Ph. (513) 695-1364  
Fx. (513) 695-3323

C. To the Developer:

Warren County Port Authority  
Attn: Executive Director  
406 Justice Drive  
Lebanon, OH 45036  
Ph. (513) 695-2090

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. No separate security or collateral, other than this Security Agreement fully and accurately executed by Developer, is required to be provided by Developer unless a default occur in accordance with the terms and obligations set forth herein.
15. **In the event that the Developer 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, otherwise, the amounts due shall bear interest at eight per cent (8%) per annum.**
16. This Agreement shall not be assignable or transferrable by the Developer to any third party or parties without the express written consent of the County Commissioners. Developer waives any successor developer or successor surety claim or defense unless the County Commissioners have executed a written consent of assignment.
17. This Agreement shall be construed under the laws of the State of Ohio. The parties 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,



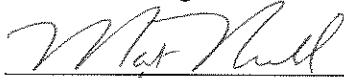
Ohio Court of Common Pleas (unless both parties mutually agree in writing to attempt to resolve by alternate dispute resolution prior to litigation), and do further waive any right to bring or remove such claims, disputes, interpretation and litigation of any kind arising out of this Agreement, in or to any other state or a federal court.

18. Execution.

**IN EXECUTION WHEREOF**, the Developer has caused this Agreement to be executed on the date stated below.


**DEVELOPER:**

Pursuant to a resolution authorizing the undersigned to execute this agreement.

SIGNATURE:   
PRINTED NAME: Martin Russell  
TITLE: Executive Director  
DATE: 8/10/18

**IN EXECUTION WHEREOF**, the Warren County Board of County Commissioners have caused this Security Agreement to be executed by its President or Vice-President, on the date stated below, pursuant to Board Resolution Number 18-1282, dated 8/14/18.

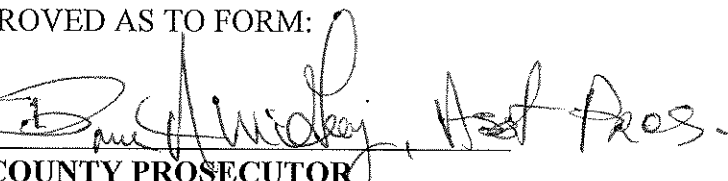
**WARREN COUNTY  
BOARD OF COUNTY COMMISSIONERS**

SIGNATURE:   
PRINTED NAME: Tom Grossmann  
TITLE: President  
DATE: 8/14/18

RECOMMENDED BY:

By:   
**COUNTY ENGINEER**

APPROVED AS TO FORM:

By:   
**COUNTY PROSECUTOR**

# Resolution

Number 18-1283

Adopted Date August 14, 2018

ENTER INTO EROSION CONTROL BOND AGREEMENT FOR VWC HOLDINGS, LTD FOR COMPLETION OF IMPROVEMENTS IN THE VILLAGES OF WINDING CREEK, THE BOULEVARDS, SECTION 7 SITUATED IN CLEARCREEK TOWNSHIP

BE IT RESOLVED to enter into the following performance bond agreement upon recommendation of the Warren County Soil and Water Conservation District:

## EROSION CONTROL PERFORMANCE BOND AGREEMENT

Bond Number	:	N/A
Development	:	The Villages of Winding Creek, The Boulevards, Section 7
Developer	:	VWC Holdings, LTD
Township	:	Clearcreek
Amount	:	\$105,446.90
Surety Company	:	Old Fort Banking Company, LOC #10137278

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: Developer  
Surety Co.  
Soil & Water (file)  
Bond Agreement file

**SUBDIVISION PUBLIC IMPROVEMENT PERFORMANCE AND MAINTENANCE  
SECURITY AGREEMENT**

**EROSION & SEDIMENT CONTROL**

Security Agreement No.

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 The Villages of Winding Creek  
The Boulevards **Subdivision, Section/Phase** 7 (3) (hereinafter the "Subdivision") situated in  
Clearcreek (4) Township, Warren County, Ohio, in accordance with the Warren County  
Erosion and Sediment Control Regulations adopted November 16, 2006 (hereinafter called the  
"Improvements"); and,

**WHEREAS**, it is estimated that the total cost of the Improvements is \$81,113.00,  
and that the Improvements that have yet to be completed and approved may be constructed in the sum of  
81,113.00; 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 Erosion and Sediment Control 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 \$105,446.90 to secure the performance of the construction of the  
uncompleted or unapproved Improvements in accordance with Warren County Erosion and  
Sediment Control 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 Director of the Warren County Soil & Water Conservation District 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 performed in accordance with the Warren County Erosion and Sediment Control 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 Erosion and Sediment Control 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 Erosion and Sediment Control 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           \$16,222.60           to secure the performance of all maintenance upon the Improvements as determined to be necessary by the Director of the Warren

County Soil & Water Conservation District (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 Director of the Warren County Soil & Water Conservation District of the maintenance required upon the Improvements to bring the same into compliance with Warren County Erosion and Sediment Control Regulations shall immediately undertake to perform and complete such required maintenance within the time set forth in the notice from the Director of the Warren County Soil & Water Conservation District.
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 Erosion and Sediment Control 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 Director of the Warren County Soil & Water Conservation District, 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 Soil & Water Conservation District:

Warren County Soil & Water Conservation  
District Attn: Director  
320 East Silver Street  
Lebanon, OH 45036  
Ph. (513) 695-1337

C. To the Developer:

VWC Holdings, LTD

---

3601 Rigby Road Suite 300

Miamisburg, OH 45342 Dayton, OH 45458

Ph. ( 937 ) 435 - 8584

D. To the Surety:

Old Fort Banking Company

8034 Main St

Old Fort, OH 44861

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 # \_\_\_\_\_**)

  x   **Original Letter of Credit** (attached) (**LETTER OF CREDIT # 10137278**)

\_\_\_\_\_ **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: 

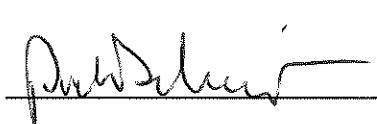
PRINTED NAME: David C. Oakes

TITLE: Manager

DATE: ~~May 3, 2017~~ June 24, 2018

**SURETY:**

Pursuant to an instrument authorizing the undersigned to execute this agreement.

SIGNATURE: 

PRINTED NAME: Richard J. Demko

TITLE: Vice President


DATE: ~~May 3, 2017~~ June 24, 2018

**[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 18-1283, dated 8/14/18.

**WARREN COUNTY  
BOARD OF COUNTY COMMISSIONERS**

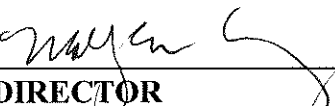
SIGNATURE: 

PRINTED NAME: Tom Grossmann

TITLE: President

DATE: 8/14/18

RECOMMENDED BY:

By:   
**DIRECTOR  
WARREN COUNTY SOIL & WATER  
CONSERVATION DISTRICT**

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. 10137278

Beneficiary: Warren County Board of Commissioners  
406 Justice Drive  
Lebanon, OH 45036

Applicant: VWC Holdings, Ltd.  
8534 Yankee Street  
Dayton, OH 45458

Issue Date: July 23, 2018  
Expiration Date: July 23, 2020  
Amount: USD \$105,446.90  
Reference No.: 10137278

Your Reference: The Villages of Winding Creek  
The Boulevards Section 7  
Erosion and Sediment Control

We hereby establish our Irrevocable Standby Letter of Credit No. 10137278 in your favor for the account of VWC Holdings, Ltd. 8534 Yankee Street, Dayton, Ohio 45458 up to an aggregate amount of USD \$105,446.90 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 Erosion and Sediment control, **The Boulevards Section 7, 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

Letter of credit 10137278

July 23, 2018

Page 2 of 2

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. 10137278 dated July 23, 2018."

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 July 23, 2020 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 18-1284

Adopted Date August 14, 2018

## APPROVE VARIOUS RECORD PLATS

BE IT RESOLVED, upon recommendation of the Warren County Regional Planning Commission, to approve the following Record Plats:

- Country Creek Estates Section One- B – Clearcreek Township

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: Plat File  
RPC

# Resolution

Number 18-1285

Adopted Date August 14, 2018

## APPROVE APPROPRIATION DECREASES WITHIN VARIOUS FUNDS

WHEREAS, various Departments have cancelled purchase orders that were encumbered and carried over from previous years; and

WHEREAS, the Auditor's Office has advised this Board that any time prior year purchase orders are cancelled an appropriation decrease is necessary; and

NOW THEREFORE BE IT RESOLVED, to approve the following appropriation decreases within various Department Funds:

\$ 30,540.24 from #238-5802-400 (Workforce Inv Board – Purchased Services)

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


Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: Auditor V  
Appropriation Decrease file  
Workforce Inv Board (file)

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

# Resolution

Number 18-1286

Adopted Date August 14, 2018

APPROVE AN OPERATIONAL TRANSFER FROM COMMISSIONERS FUND #101-1112 INTO HUMAN SERVICES FUND #203

WHEREAS, the Department of Human Services has requested that the second month of their mandated share for SFY 2019 be transferred into the Human Services Public Assistance Fund #203; and

NOW THEREFORE BE IT RESOLVED, to approve the following operational transfer from Commissioners Fund #101 into Human Services Fund #203:

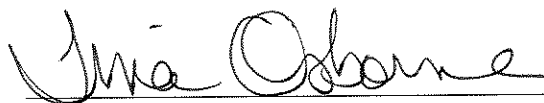
\$16,596.38 from #101-1112-742-9000 (Commissioners Grants - Public Assistance)  
into #203-2040-999-9000 (Human Services - Public Assistance)

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: Auditor H  
Operational Transfer file  
Human Services (file)

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

# Resolution

Number 18-1287

Adopted Date August 14, 2018

APPROVE SUPPLEMENTAL APPROPRIATION INTO FAIRGROUNDS CONSTRUCTION  
PROJECT FUND #498

BE IT RESOLVED, to approve the following supplemental appropriation:

\$19,280.00 into #498-3000-3740-400 (Purchased Services)

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

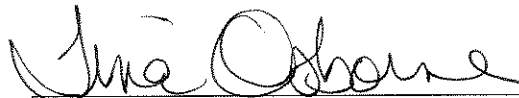
Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: Auditor   n    
Supplemental Appropriation file  
Fairgrounds (file)  
T Zindel

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

# Resolution

Number 18-1288

Adopted Date August 14, 2018

APPROVE SUPPLEMENTAL APPROPRIATION INTO THE WARREN COUNTY  
PROBATE JUVENILE COURT BUILDING EXPANSION PROJECT FUND #499

BE IT RESOLVED, to approve the following supplemental appropriation into the Warren  
County Probate Juvenile Court Building Expansion Project fund #499:

\$560,570 into #499-3725-320 (Capital Purchases)

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
Tina Osborne, Clerk

Tz/

cc: Auditor 11  
Facilities Management (file)  
Project file



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

# Resolution

Number 18-1289

Adopted Date August 14, 2018

APPROVE APPROPRIATION ADJUSTMENTS FROM COMMISSIONERS GENERAL FUND #101-1110 INTO OMB FUND #101-1115

BE IT RESOLVED, to approve the following appropriation adjustments from Commissioners Fund #101-1110 into OMB Fund #101-1115 in order to process a vacation leave payout for Erynn Hartmann former employee of OMB:

\$ 2,264.00    from    #101-1110-882        (Commissioners – Vacation Leave Payout)  
                  into    #101-1115-882        (OMB – Vac. Leave Payout)

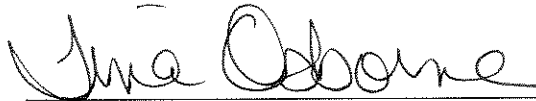
\$2,994.00    from    #101-1110-881        (Commissioners – Sick Leave Payout)  
                  into    #101-1115-881        (OMB – Sick Leave Payout)

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

cc: Auditor H  
Appropriation Adjustment file  
OMB (file)

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

# Resolution

Number 18-1290

Adopted Date August 14, 2018

APPROVE APPROPRIATION ADJUSTMENT WITHIN THE WATER REVENUE FUND  
NO. 510

WHEREAS, the Water and Sewer department incurs costs for purchased services; and

WHEREAS, an appropriation adjustment is necessary to accommodate said costs; and

NOW THEREFORE BE IT RESOLVED, to approve the following appropriation adjustment:

\$200,000.00 from #510-3209-3209-400 (Purchased Services  
into #510-3200-3200-400 (Purchased Services)

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

las

cc: Auditor M  
Appropriation Adj. file  
Water/Sewer (file)

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

# Resolution

Number 18-1291

Adopted Date August 14, 2018

APPROVE APPROPRIATION ADJUSTMENTS FROM COMMISSIONERS FUND #101-1110 INTO #101-1111

BE IT RESOLVED, to approve the following appropriation adjustments:

\$ 300.00	from	#101-1110-910	(Commissioner – Other Expense)
	into	#101-1111-722	(Commissioner – Agricultural Society)

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
Tina Osborne, Clerk

cc: Auditor N  
Appropriation Adjustment file  
Commissioner file  
OMB

# Resolution

Number 18-1292

Adopted Date August 14, 2018

**AUTHORIZE WARREN COUNTY ADMINISTRATOR TO SIGN LETTER OF AUTHORITY WITH WINDSTREAM COMMUNICATIONS ON BEHALF OF WARREN COUNTY TELECOMMUNICATIONS**

WHEREAS, pursuant to Resolution #17-1360, adopted September 5, 2017, this Board approved an agreement and addendum with Windstream Communications on behalf of the Warren County Telecommunications Department relative to telecommunications carrier; and

WHEREAS, some delays have occurred in switching over to Windstream Communications; and

WHEREAS, due to the delays Windstream Communications requires a renewal of the Letter of Authority;

NOW THEREFORE BE IT RESOLVED, to authorize the County Administrator to sign a Letter of Authority with Windstream Communications on behalf of the Warren County Telecommunications Department, as attached hereto and made a part hereof.

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

Mr. Grossmann – yea

Mr. Young – yea

Mrs. Jones – yea

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

Tz/

cc: c/a—Windstream Communications  
Telecommunications (file)



**Letter of Agency**

Contact Name:	Company Name: <b>WARREN COUNTY</b>
Billing Address: <b>500 JUSTICE DRIVE</b>	
City, State, Zip: <b>LEBANON, OH 45036</b>	
Current Carrier: <b>Level 3</b>	Order Date: <b>8/21/17</b>

**Authorization to Change Service Provider(s)**

On behalf of the Company, I hereby authorized Windstream Communications ("Windstream") and its operating affiliates\* listed on Exhibit A to change my Company's provider(s) for the following services from my current telecommunications carrier(s) to Windstream for each of the telephone numbers listed below. Check all applicable services:

<input checked="" type="checkbox"/>	Local
<input checked="" type="checkbox"/>	Intrastate, IntraLATA Long Distance Service (also known as local toll)
<input checked="" type="checkbox"/>	Interstate, InterLATA and International Long Distance

I represent that I am at least eighteen years of age and that I have the authority to change telecommunications carriers for each of the telephone numbers identified below. I understand that I have the right to obtain telecommunications services individually. I also understand that I may designate only one local exchange carrier, one intraLATA carrier, and one interLATA carrier per telephone number.

I choose Windstream to act as my agent to carry out the change(s) and authorize Windstream to handle on my behalf all arrangements, including ordering, changing, and/or maintaining my service, with my local telephone company(s), interexchange carriers, equipment vendor(s), and consultant (s). By designating Windstream to act as my agent, I do not permit Windstream to change my service to a carrier other than Windstream. I understand, that there may be a fee to change from the Company's current telecommunications carrier(s) to Windstream.

**INSTRUCTIONS: LIST ALL APPLICABLE BILLING TELEPHONE NUMBERS OR LIST THE MAIN BILLING TELEPHONE NUMBER BELOW AND ATTACH A DOCUMENT IDENTIFYING ALL ASSOCIATED TELEPHONE NUMBERS SUBJECT TO THIS LOA**

Telephone Numbers:

<b>AS PROVIDED</b>		

I authorize Windstream to issue all necessary instructions on my behalf and confirm that my preferred provider for the telecommunications service(s) checked above will be changed for the telephone number(s) specified above. This agreement will remain in effect until revoked in writing by the Company

Company Signature:

*Jeffrey Zedel*  
 County Administrator  
 Date: **8-14-18**

\*Business Telecom of Virginia, Business Telecom, Cavalier Telephone Mid-Atlantic, Cavalier Telephone, Choice One Communications (of Connecticut, Maine, Massachusetts, New Hampshire, New York, Ohio, Pennsylvania, or Rhode Island), Connecticut Broadband, Connecticut Telephone & Communication Systems, Conversent Communications (of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, or Vermont), CTC Communications, CTC Communications of Virginia, DeltaCom Business Solutions, DeltaCom, EarthLink Business, EarthLink Carrier, Georgia Windstream, Intellifiber Networks, LDMI Telecommunications, Lightship Telecom, McLeodUSA Telecommunications Services, Nebraska Windstream, Network Telephone, NuVox (Arkansas or Indiana), Oklahoma Windstream, PAETEC Communications of Virginia, PAETEC Communications, Talk America of Virginia, Talk America, Texas Windstream, The Other Phone Company, US LEC Communications, US LEC (of Alabama, Florida, Georgia, Maryland, North Carolina, Pennsylvania, South Carolina, Tennessee, or Virginia), US Xchange (of Illinois, Indiana, Michigan, or Wisconsin), Windstream (Communications Southwest, Accucomm Telecommunications, Alabama, Arkansas, Buffalo Valley, Communications Kerrville, Communications Telecom, Communications, Concord Telephone, Conestoga, D&E Systems, D&E, Direct, EN-TEL, Florida, Georgia Communications, Georgia Telephone, Georgia, Iowa Communications, Iowa-Comm, IT-Comm, KDL, KDL-VA, Kentucky (East or West), Kerrville Long Distance, Lakedale Link, Lakedale, Lexcom Communications, Lexcom Long Distance, Mississippi, Missouri, Montezuma, Norlight, North Carolina, NorthStar, NTI, Windstream of the Midwest, Ohio, Oklahoma, Pennsylvania, South Carolina, Southwest Long Distance, Standard, Sugar Land, Systems of the Midwest, or Western Reserve), or Windstream NuVox (of Indiana, Kansas, Missouri, Ohio, and Oklahoma)

# Resolution

Number 18-1293

Adopted Date August 14, 2018

**DETERMINING REAL PROPERTY TITLED IN THE NAME OF BOARD OF COUNTY COMMISSIONERS BEING HELD FOR THE BENEFIT OF THE BOARD OF DEVELOPMENTAL DISABILITIES IS NOT NEEDED FOR PUBLIC USE BY WARREN COUNTY, AND FURTHER APPROVING THE TRANSFER AND AUTHORIZING THE PRESIDENT OR VICE-PRESIDENT OF THE BOARD TO EXECUTE A DEED OF CONVEYANCE TO THE CITY OF MASON CONSISTENT WITH THE LEGISLATIVE HISTORY AND INTENT OF SUBSTITUTE HOUSE BILL 269 OF THE 125<sup>TH</sup> GENERAL ASSEMBLY DATED 2/4/2004, AND FURTHER AUTHORIZING THE COUNTY ADMINISTRATOR TO NOTIFY THE COUNTY AUDITOR AND C.O.R.S.A.**

**WHEREAS**, pursuant to 307.10 (B) of the Revised Code, a board of county commissioners, by resolution, may transfer real property in fee simple belonging to the county and not needed for public use to other political subdivisions of the state for public purposes upon the terms and in the manner that the board may determine to be in the best interests of the county, without advertising for bids, and the board shall execute a deed or other proper instrument when such a transfer is approved; and,

**WHEREAS**, by virtue of a limited warranty deed delivered and accepted from the City of Mason as authorized by Substitute House Bill 269, passed by the 125<sup>th</sup> General Assembly on 2/4/2004, that was recorded in the deed records of Warren County as O.R. Vol. 3750, Page 1 on 12/28/2004, this Board holds title to real property consisting of 11.000 acres having an address of -0- Route 42, Mason, Ohio 45040, identified as Parcel # 15-05-200-024 and Auditor's Acct. # 1139592; and,

**WHEREAS**, this Board finds that the said real property titled in its name is not needed for public use by the County, and both this Board and the Board of Developmental Disabilities desire to transfer title to the City of Mason, an Ohio municipal corporation, for public use as the Common Ground Park; and,

**WHEREAS**, both this Board and the Board of Developmental Disabilities find that the public use by the City of Mason as the Common Ground Park is consistent with and in compliance with the legislative history and intent in Substitute House Bill 269, passed by the 125<sup>th</sup> General Assembly on 2/4/2004;

**NOW THEREFORE BE IT RESOLVED**, by at least a majority of the Board of Commissioners of Warren County, Ohio, concurring:

Section 1. That the Board does hereby determine that the said real property is not needed for public use by Warren County.

Section 2. That the Board does hereby find, and the Board of Developmental Disabilities supports, that the City of Mason use the said real estate for a public purpose, namely

the Common Ground Park which is consistent with and in compliance with the legislative history and intent in Substitute House Bill 269, passed by the 125<sup>th</sup> General Assembly on 2/4/2004.

Section 3. Approve the transfer of title to the said real property to the City of Mason for public use as the Common Ground Park.

Section 4. Authorize the President or Vice-President to execute the attached Limited Warranty deed.

Section 5. Authorize the County Administrator to deliver the attached deed to the City of Mason.

Section 6. Authorize the County Administrator to notify the County Auditor to remove the parcels from the County's C.A.F.R. as titled to this Board, and to notify C.O.R.S.A. to remove such parcels from the County Risk Sharing Authority's Memorandum of Coverage.

Section 7. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

Section 8. That it is found and determined that all formal actions of the Board concerning and relating to the adoption of this Resolution were in an open meeting of this Board in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 9. This Resolution shall become effective on the earliest date permitted by law.

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS

  
Tina Osborne, Clerk

cc: Developmental Disabilities - Megan Manuel & Pete Mason (file)  
Commissioners file  
Tiffany Zindel & Martin Russell  
Pros. Office -Bruce McGary

**Limited warranty deed**  
(R.C. § 5302.07)

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*Know All Men by These Presents,*

That the Board of County Commissioners of Warren County, with the support and consent of the Warren County Board of Mental Retardation and Developmental Disabilities (aka Warren County Board of Developmental Disabilities), for valuable consideration paid, the receipt and sufficiency of which are hereby stipulated, grants, with limited warranty covenants, to the City of Mason, an Ohio municipal corporation, its successors and assigns forever, whose tax mailing address is 6000 Mason Montgomery Road, Mason, OH 45040, the Real Estate particularly described in Exhibit A attached hereto and made a part hereof.

Subject to the following restrictions:

- i) that the real estate shall not be used for any residential or commercial facilities, nor conveyed to any non-state entity prior to 12/22/2019;
- ii) that the real estate be used for public use as the Common Ground Park.



IN EXECUTION WHEREOF, the Board of County Commissioners of Warren County, the Grantor herein, has caused this instrument to be executed by its President or Vice-President, on the date stated below, pursuant to Resolution Number 18-1243, dated 8/14/18.

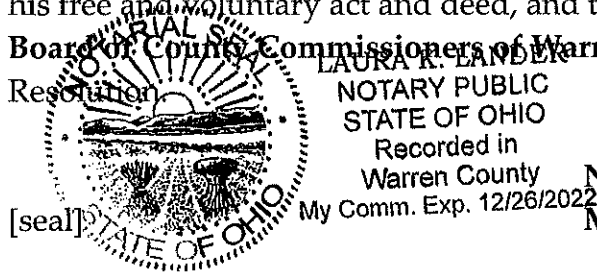
GRANTOR:

BOARD OF COUNTY COMMISSIONERS  
OF WARREN COUNTY

SIGNATURE: [Signature]  
NAME: Tom Grossmann  
TITLE: President  
DATE: 8/14/18

STATE OF OHIO, WARREN COUNTY, ss.

BE IT REMEMBERED, that on the 14 day of August, 2018, before me, the subscriber, a Notary Public, in and for said County and State, personally appeared the person known or proven to me to be Tom Grossmann, President or Vice-President of the **Board of County Commissioners of Warren County**, whose name is subscribed hereto, and acknowledged the signing and execution of said instrument is his free and voluntary act and deed, and the free and voluntary act and deed of the **Board of County Commissioners of Warren County** pursuant to aforementioned Resolution.



NOTARY PUBLIC: [Signature]  
MY COMMISSION EXPIRES: 12/26/2022

This instrument was prepared by: Bruce A. McGary, Asst. Prosecutor, Warren County Prosecutor's Office, 520 Justice Drive, 2nd Fl., Lebanon, OH 45036, Ph. 513.695.1325, Fx. 513.695.2962, Email: [mcgaba@co.warren.oh.us](mailto:mcgaba@co.warren.oh.us)

Exhibit "A"

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Parcel # 15-05-200-024  
Auditor's Acct. #1139592

Situated in Section 5, Town 3, Range 2, City of Mason, Warren County, Ohio and being an 11.000 acre parcel further described as follows:

Begin at found 1" iron pin on the southeast corner of lot 9 of Glenmeadow Subdivision, as recorded in Plat Book 26, page 42-43 of the Warren County Recorder's Office, said pin also on a northerly line of Charlie and Bonnie Lawson, as recorded in Official Record 436, page 355, and the true point of beginning;

thence from the true point of beginning, departing said Lawson, and continuing with said Glenmeadow North 04° 27' 50" East, passing a found ½" iron pin at 1205.44 feet, a total distance of 1366.92 feet, to a found 1" iron pin on the southerly line of Everybody's Farm, as recorded in Official Record 1607, page 525;

thence departing said Glenmeadow Subdivision, and with said Everybody's Farm, the following 2 courses:

thence North 78° 16' 54" East, 621.07 feet, to a set 5/8" iron pin;

thence South 85°32'10" East, 220.00 feet, to a point being referenced by a found 5/8" iron pin, North 04°56'30" West, 0.20 feet;

thence departing said Everybody's Farm, and with the new division line, the following five courses: South 20°17'34" West, 725.46 feet, to a set 5/8" iron pin;

thence North 85°32'28" West, 598.58 feet, to a set 5/8" iron pin;

thence South 04°27'50" West, 820.00 feet, to a set 5/8" iron pin;

thence North 89°00'18" East, 265.86 feet, to a set 5/8" iron pin;

thence South 04°24'30" West, 402.77 feet, to the centerline of Reading Road;

thence departing said division line, and with said centerline, South 49°39'00" West, 28.17 feet, to a point on a westerly line of said Lawson;

thence departing said centerline, and with said Lawson, the following two courses: North  $04^{\circ}24'30''$  East, passing a set  $5/8''$  iron pin at 70.40 feet, a total distance of 400.62 feet, to a found stone;

thence South  $89^{\circ}00'18''$  West, 265.88 feet, to the true point of beginning, containing 11.000 acres of land subject to all easements and rights of way of record.

Prior Instrument Reference : O.R. Vol. 3750, Page 1, recorded on 12/28/2004 in the office of the Warren County, Ohio Recorder.

# Resolution

Number 18-1294

Adopted Date August 14, 2018

**ENTER INTO CONTRACT WITH HGC CONSTRUCTION RELATIVE TO DESIGN BUILD SERVICES OF THE WARREN COUNTY PROBATE/JUVENILE COURT EXPANSION PROJECT**

WHEREAS, pursuant to Resolution 18-0944, adopted June 12, 2018, this Board authorized the County Administrator to initiate negotiations for design build services with HGC Construction relative to the Warren County Probate/Juvenile Court Expansion Project; and

WHEREAS, said negotiations are complete and it is the recommendation of the County Administrator to enter into contract with HGC Construction relative to the entire project with the preconstruction and design builders fee defined and the remaining fees and Guaranteed Maximum Price to be set as the plans are further refined; and

NOW THEREFORE BE IT RESOLVED, to enter into contract with HGC Construction, 2814 Stanton Avenue Cincinnati, Ohio 45206 for the design build services of the Warren County Probate/Juvenile Court Expansion Project; as attached hereto and made hereof.

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

Tz/

cc: c/a—HGC Construction  
Juvenile Ct (file)  
Project file  
OMB Bid file  
T Zindel



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**STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND DESIGN-  
BUILDER - COST PLUS FEE  
WITH AN OPTION FOR A  
GUARANTEED MAXIMUM PRICE**

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**Document No. 530**  
Second Edition 2010  
© Design-Build Institute of America  
Washington, DC



## Design-Build Institute of America - Contract Documents LICENSE AGREEMENT

By using the DBIA Contract Documents, you agree to and are bound by the terms of this License Agreement.

- 1. License.** The Design-Build Institute of America ("DBIA") provides DBIA Contract Documents and licenses their use worldwide. You acknowledge that DBIA Contract Documents are protected by the copyright laws of the United States. You have a limited nonexclusive license to: (a) Use DBIA Contract Documents on any number of machines owned, leased or rented by your company or organization; (b) Use DBIA Contract Documents in printed form for bona fide contract purposes; and (c) Copy DBIA Contract Documents into any machine-readable or printed form for backup or modification purposes in support of your permitted use.
- 2. User Responsibility.** You assume sole responsibility for the selection of specific documents or portions thereof to achieve your intended results, and for the installation, use, and results obtained from the DBIA Contract Documents. You acknowledge that you understand that the text of the DBIA Contract Documents has important legal consequences and that consultation with an attorney is recommended with respect to use or modification of the text. You will not represent that any of the contract documents you generate from DBIA Contract Documents are DBIA documents unless (a) the document text is used without alteration or (b) all additions and changes to, and deletions from, the text are clearly shown.
- 3. Copies.** You may not use, copy, modify, or transfer DBIA Contract Documents, or any copy, modification or merged portion, in whole or in part, except as expressly provided for in this license. Reproduction of DBIA Contract Documents in printed or machine-readable format for resale or educational purposes is expressly prohibited. You will reproduce and include DBIA's copyright notice on any printed or machine-readable copy, modification, or portion merged into another document or program.
- 4. Transfers.** You may not transfer possession of any copy, modification or merged portion of DBIA Contract Documents to another party, except that a party with whom you are contracting may receive and use such transferred material solely for purposes of its contract with you. You may not sublicense, assign, or transfer this license except as expressly provided in this Agreement, and any attempt to do so is void.
- 5. Term.** The license is effective for one year from the date of purchase. DBIA may elect to terminate it earlier, by written notice to you, if you fail to comply with any term or condition of this Agreement.
- 6. Limited Warranty.** DBIA warrants the electronic files or other media by which DBIA Contract Documents are furnished to be free from defects in materials and workmanship under normal use during the Term. There is no other warranty of any kind, expressed or implied, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose. Some states do not allow the exclusion of implied warranties, so the above exclusion may not apply to you. This warranty gives you specific legal rights and you may also have other rights which vary from state to state. DBIA does not warrant that the DBIA Contract Documents will meet your requirements or that the operation of DBIA Contract Documents will be uninterrupted or error free.
- 7. Limitations of Remedies.** DBIA's entire liability and your exclusive remedy shall be: the replacement of any document not meeting DBIA's "Limited Warranty" which is returned to DBIA with a copy of your receipt, or at DBIA's election, your money will be refunded. In no event will DBIA be liable to you for any damages, including any lost profits, lost savings or other incidental or consequential damages arising out of the use or inability to use DBIA Contract Documents even if DBIA has been advised of the possibility of such damages, or for any claim by any other party. Some states do not allow the limitation or exclusion of liability for incidental or consequential damages, so the above limitation or exclusion may not apply to you.
- 8. Acknowledgement.** You acknowledge that you have read this agreement, understand it and agree to be bound by its terms and conditions and that it will be governed by the laws of the District of Columbia. You further agree that it is the complete and exclusive statement of your agreement with DBIA which supersedes any proposal or prior agreement, oral or written, and any other communications between the parties relating to the subject matter of this agreement.

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# Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee with an Option for a Guaranteed Maximum Price

*This document has important legal consequences. Consultation with  
an attorney is recommended with respect to its completion or modification.*

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This **AGREEMENT** is made as of the 6th day of August  
in the year of 20 18, by and between the following parties, for services in connection with the Project  
identified below:

**OWNER:**

*(Name and address)*

**Warren County Board of Commissioners**  
406 Justice Drive  
Lebanon, OH 45036

**DESIGN-BUILDER:**

*(Name and address)*

**HGC Construction, Co.**  
2814 Stanton Avenue  
Cincinnati, OH 45206

**PROJECT:**

*(Include Project name and location as it will appear in the Contract Documents)*

**Warren County Probate Juvenile Court Expansion**  
900 Memorial Drive  
Lebanon, OH 45036

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder  
agree as set forth herein.



## **Article 1**

### **Scope of Work**

1.1 Design-Builder shall perform all design and construction services, and provide all material, equipment, tools and labor, necessary to complete the Work described in and reasonably inferable from the Contract Documents.

## **Article 2**

### **Contract Documents**

2.1 The Contract Documents are comprised of the following:

2.1.1 All written modifications, amendments, minor changes, and Change Orders to this Agreement issued in accordance with DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition) ("General Conditions of Contract");

2.1.2 The GMP Exhibit referenced in Section 6.6.1.1 herein or, if applicable, the GMP Proposal accepted by Owner in accordance with Section 6.6.2 herein;

2.1.3 This Agreement, including all exhibits (List for example, performance standard requirements, performance incentive arrangements, markup exhibits, allowances, unit prices, or exhibit detailing offsite reimbursable personnel) but excluding, if applicable, the GMP Exhibit;

2.1.4 The General Conditions of Contract; and

2.1.5 Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions of Contract.

## **Article 3**

### **Interpretation and Intent**

3.1 Design-Builder and Owner, prior to execution of the Agreement (and again, if applicable, at the time of acceptance of the GMP Proposal by Owner in accordance with Section 6.6.2 hereof), shall carefully review all the Contract Documents, including the various documents comprising the Basis of Design Documents, for any conflicts or ambiguities. Design-Builder and Owner will discuss and resolve any identified conflicts or ambiguities prior to execution of the Agreement or, if applicable, prior to Owner's acceptance of the GMP Proposal.

3.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are discovered after execution of the Agreement, or if applicable, after Owner's acceptance of the GMP Proposal, Design-Builder and Owner shall attempt to resolve any ambiguity, conflict or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Section 2.1 hereof. *(Note, the parties are strongly encouraged to establish in the GMP Exhibit or GMP Proposal (as applicable) the priority of the various documents comprising such exhibit or proposal.)*

**3.3** Terms, words and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.

**3.4** If Owner's Project Criteria contain design specifications: (a) Design-Builder shall be entitled to reasonably rely on the accuracy of the information represented in such design specifications and their compatibility with other information set forth in Owner's Project Criteria, including any performance specifications; and (b) Design-Builder shall be entitled to an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by such inaccurate design specification.

**3.5** The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

## **Article 4**

### **Ownership of Work Product**

**4.1 Work Product.** All drawings, specifications and other documents and electronic data, including such documents identified in the General Conditions of Contract, furnished by Design-Builder to Owner under this Agreement ("Work Product") are deemed to be instruments of service and Design-Builder shall retain the ownership and property interests therein, including but not limited to any intellectual property rights, copyrights and/or patents, subject to the provisions set forth in Sections 4.2 through 4.5 below.

**4.2 Owner's Limited License upon Project Completion and Payment in Full to Design-Builder.** Upon Owner's payment in full for all Work performed under the Contract Documents, Design-Builder shall grant Owner a limited license to use the Work Product in connection with Owner's occupancy of the Project, conditioned on Owner's express understanding that its alteration of the Work Product without the involvement of Design-Builder is at Owner's sole risk and without liability or legal exposure to Design-Builder or anyone working by or through Design-Builder, including Design Consultants of any tier (collectively the "Indemnified Parties"), and on the Owner's obligation to provide the indemnity set forth in Section 4.5 below.

**4.3 Owner's Limited License upon Owner's Termination for Convenience or Design-Builder's Election to Terminate.** If Owner terminates this Agreement for its convenience as set forth in Article 8 hereof, or if Design-Builder elects to terminate this Agreement in accordance with Section 11.4 of the General Conditions of Contract, Design-Builder shall, upon Owner's payment in full of the amounts due Design-Builder under the Contract Documents, grant Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights as set forth in Section 4.2 above, conditioned on the following:

**4.3.1** Use of the Work Product is at Owner's sole risk without liability or legal exposure to any Indemnified Party, and on the Owner's obligation to provide the indemnity set forth in Section 4.5 below, and

**4.3.2** Owner agrees to pay Design-Builder the additional sum of Fifty thousand Dollars (\$ 50,000.00 ) as compensation for the right to use the Work Product to complete the Project and subsequently use the Work Product in accordance with Section 4.2 if Owner resumes the Project through its employees, agents, or third parties.

**4.4 Owner's Limited License upon Design-Builder's Default.** If this Agreement is terminated due to Design-Builder's default pursuant to Section 11.2 of the General Conditions of Contract, then Design-Builder grants Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights and obligations as set forth in Section 4.2 above. Notwithstanding the preceding sentence, if it is ultimately determined that Design-Builder was not in default, Owner shall be deemed to have terminated the Agreement for convenience, and Design-Builder shall be entitled to the rights and remedies set forth in Section 4.3 above.

## Article 5

### Contract Time

**5.1 Date of Commencement.** The Work shall commence within five (5) days of Design-Builder's receipt of Owner's Notice to Proceed ("Date of Commencement") unless the parties mutually agree otherwise in writing.

**5.2 Substantial Completion and Final Completion.**

**5.2.1** Substantial Completion of the entire Work shall be achieved no later than TBD ( \_\_\_\_\_ ) calendar days after the Date of Commencement ("Scheduled Substantial Completion Date").

*"Substantial Completion is the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project or a portion thereof for its intended purposes, provided, however, that Substantial Completion shall be deemed to have been achieved no later than the date of issuance of a Temporary Certificate of Occupancy issued by the local building official."*

**5.2.2** Interim milestones and/or Substantial Completion of identified portions of the Work ("Scheduled Interim Milestone Dates") shall be achieved as follows: *(Insert any interim milestones for portions of the Work with different scheduled dates for Substantial Completion)*

**TBD**

**5.2.3** Final Completion of the Work or identified portions of the Work shall be achieved as expeditiously as reasonably practicable. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.7 of the General Conditions of Contract.

**5.2.4** All of the dates set forth in this Article 5 (collectively the "Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions of Contract.

**5.3 Liquidated Damages.** Design-Builder understands that if Substantial Completion is not attained by the Scheduled Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Substantial Completion is not attained by Forty-Five days ( 45 ) days after the Scheduled Substantial Completion Date (the "LD Date"), Design-Builder shall pay Owner Five hundred Dollars (\$ 500.00 ) as liquidated damages for each day that Substantial Completion extends beyond the LD Date. *(If a GMP is not established upon execution of this Agreement, the parties should consider setting liquidated damages after GMP negotiations.)*

Design-Builder understands that if Final Completion is not achieved within Sixty ( 60 ) days of the Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately

specify. Design-Builder agrees that if Final Completion is not achieved within Ninety ( 90 ) days of Substantial Completion, Design-Builder shall pay to Owner One thousand Dollars (\$ 1,000.00 ), as liquidated damages for each calendar day that Final Completion is delayed beyond the above-referenced number of days.

In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 of the General Conditions of Contract, Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price for those events set forth in Section 8.2.1 of the General Conditions of Contract, provided, however, for Force Majeure Events, Design-Builder shall only be entitled to an increase in the Contract Price if said events exceed Thirty ( 30 ) cumulative days. Said additional compensation shall be limited to the direct costs and expenses Design-Builder can demonstrate it has reasonably and actually incurred as a result of such event.

## Article 6

### Contract Price

#### 6.1 Contract Price.

**6.1.1** Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract a contract price ("Contract Price") equal to Design-Builder's Fee (as defined in Section 6.2 hereof) plus the Cost of the Work (as defined in Section 6.3 hereof), subject to any GMP established in Section 6.6 hereof and any adjustments made in accordance with the General Conditions of Contract.

**6.1.2** For the specific Work set forth below, Owner agrees to pay Design-Builder, as part of the Contract Price, on the following basis: *(This is an optional section intended to provide the parties with flexibility to identify and price limited preliminary services, such as a lump sum or cost-plus arrangement for preliminary design, programming, or services necessary to enable Design-Builder to furnish Owner with a GMP before execution of this Agreement.)*

Lump Sum Preconstruction Fee: Three Hundred Fifty Thousand dollars ( \$ 350,000.00 )

#### 6.2 Design-Builder's Fee.

**6.2.1** Design-Builder's Fee shall be: Two hundred ten thousand, five hundred seventy dollars (\$ 210,570.00), as adjusted in accordance with Section 6.2.2 below.

**6.2.2** Design-Builder's Fee will be adjusted as follows for any changes in the Work:

**6.2.2.1** For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that Design-Builder shall receive a Fee of Twelve percent ( 12 %) of the additional Costs of the Work incurred for that Change Order, plus any other markups set forth in Exhibit B hereto.

**6.2.2.2** For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, the deductive amounts shall include:

An amount equal to the sum of: (a) Zero percent ( 0 %) applied to the direct costs of the net reduction (which amount will account for a reduction associated with Design-Builder's Fee); plus (b) any other markups set forth in Exhibit B hereto applied to the direct costs of the net reduction.

**6.3 Cost of the Work.** The term Cost of the Work shall mean costs reasonably and actually incurred by Design-Builder in the proper performance of the Work. The Cost of the Work shall include only the following:

**6.3.1** Wages of direct employees of Design-Builder performing the Work at the Site or, with Owner's agreement, at locations off the Site; provided, however, that the costs for those employees of Design-Builder performing design services shall be calculated on the basis of prevailing market rates for design professionals performing such services or, if applicable, those rates set forth in an exhibit to this Agreement.

**6.3.2** Wages or salaries of Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work.

**6.3.3** Wages or salaries of Design-Builder's personnel stationed at Design-Builder's principal or branch offices, but only to the extent said personnel are identified in Exhibit B and performing the function set forth in said Exhibit. The reimbursable costs of personnel stationed at Design-Builder's principal or branch offices shall include a Twelve percent ( 12 %) markup to compensate Design-Builder for the Project-related overhead associated with such personnel.

**6.3.4** Costs incurred by Design-Builder for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by Design-Builder, to the extent such costs are based on wages and salaries paid to employees of Design-Builder covered under Sections 6.3.1 through 6.3.3 hereof.

**6.3.5** The reasonable portion of the cost of travel, accommodations and meals for Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Work.

**6.3.6** Payments properly made by Design-Builder to Subcontractors and Design Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants.

**6.3.7** Costs incurred by Design-Builder in repairing or correcting defective, damaged or nonconforming Work (including any warranty or corrective Work performed after Substantial Completion), provided that such Work was beyond the reasonable control of Design-Builder, or caused by the ordinary mistakes or inadvertence, and not the negligence, of Design-Builder or those working by or through Design-Builder. If the costs associated with such Work are recoverable from insurance, Subcontractors or Design Consultants, Design-Builder shall exercise its best efforts to obtain recovery from the appropriate source and provide a credit to Owner if recovery is obtained.

**6.3.8** Costs, including transportation, inspection, testing, storage and handling, of materials, equipment and supplies incorporated or reasonably used in completing the Work.

**6.3.9** Costs (less salvage value) of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Design-Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling and removing such items.

**6.3.10** Costs of removal of debris and waste from the Site.

**6.3.11** The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying and reasonable petty cash expenses.

**6.3.12** Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Design-Builder at the Site, whether rented from Design-Builder or others, and incurred in the performance of the Work.

**6.3.13** Premiums for insurance and bonds required by this Agreement or the performance of the Work.

**6.3.14** All fuel and utility costs incurred in the performance of the Work.

**6.3.15** Sales, use or similar taxes, tariffs or duties incurred in the performance of the Work.

**6.3.16** Legal costs, court costs and costs of mediation and arbitration reasonably arising from Design-Builder's performance of the Work, provided such costs do not arise from disputes between Owner and Design-Builder.

#### **6.4 Allowance Items and Allowance Values.**

**6.4.1** Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in the GMP Exhibit or GMP Proposal and are included within the GMP.

**6.4.2** Design-Builder and Owner have worked together to review the Allowance Items and Allowance Values based on design information then available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. Design-Builder and Owner will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by Design-Builder that the Allowance Item in question can be performed for the Allowance Value.

**6.4.3** No work shall be performed on any Allowance Item without Design-Builder first obtaining in writing advanced authorization to proceed from Owner. Owner agrees that if Design-Builder is not provided written authorization to proceed on an Allowance Item by the date set forth in the Project schedule, due to no fault of Design-Builder, Design-Builder may be entitled to an adjustment of the Contract Time(s) and Contract Price.

**6.4.4** The Allowance Value for an Allowance Item includes the direct cost of labor, materials, equipment, transportation, taxes and insurance associated with the applicable Allowance Item. All other costs, including design fees, Design-Builder's overall project management and general conditions costs, overhead and fee, are deemed to be included in the original Contract Price, and are not subject to adjustment, regardless of the actual amount of the Allowance Item.

**6.4.5** Whenever the actual costs for an Allowance Item is more than or less than the stated Allowance Value, the Contract Price shall be adjusted accordingly by Change Order, subject to Section 6.4.4. The amount of the Change Order shall reflect the difference between actual costs incurred by Design-Builder for the particular Allowance Item and the Allowance Value.

#### **6.5 Non-Reimbursable Costs.**

**6.5.1** The following shall not be deemed as costs of the Work:

**6.5.1.1** Compensation for Design-Builder's personnel stationed at Design-Builder's principal or branch offices, except as provided for in Sections 6.3.1, 6.3.2 and 6.3.3 hereof.

**6.5.1.2** Overhead and general expenses, except as provided for in Section 6.3 hereof, or which may be recoverable for changes to the Work.

**6.5.1.3** The cost of Design-Builder's capital used in the performance of the Work.

**6.5.1.4** If the parties have agreed on a GMP, costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded.

**6.6 The Guaranteed Maximum Price ("GMP").**

**6.6.1 GMP Established after Execution of this Agreement.**

**6.6.1.1 GMP Proposal.** If requested by Owner, Design-Builder shall submit a GMP Proposal to Owner which shall include the following, unless the parties mutually agree otherwise:

**6.6.1.1.1** A proposed GMP, which shall be the sum of:

i. Design-Builder's Fee as defined in Section 6.2.1 hereof;

ii. The estimated Cost of the Work as defined in Section 6.3 hereof, inclusive of any Design-Builder's Contingency as defined in Section 6.6.1.2 hereof; and

iii. If applicable, any prices established under Section 6.1.2 hereof.

**6.6.1.1.2** The Basis of Design Documents, which may include, by way of example, Owner's Project Criteria, which are set forth in detail and are attached to the GMP Proposal;

**6.6.1.1.3** A list of the assumptions and clarifications made by Design-Builder in the preparation of the GMP Proposal, which list is intended to supplement the information contained in the drawings and specifications and is specifically included as part of the Basis of Design Documents;

**6.6.1.1.4** The Scheduled Substantial Completion Date upon which the proposed GMP is based, to the extent said date has not already been established under Section 5.2.1 hereof, and a schedule upon which the Scheduled Substantial Completion Date is based;

**6.6.1.1.5** If applicable, a list of Allowance Items, Allowance Values, and a statement of their basis;

**6.6.1.1.6** If applicable, a schedule of alternate prices;

**6.6.1.1.7** If applicable, a schedule of unit prices;

**6.6.1.1.8** If applicable, a statement of Additional Services which may be performed but which are not included in the GMP and which, if performed, shall be the basis for an increase in the GMP and/or Contract Time(s); and

**6.6.1.1.9** The time limit for acceptance of the GMP Proposal.

**6.6.1.2** Review and Adjustment to GMP Proposal. After submission of the GMP Proposal, Design-Builder and Owner shall meet to discuss and review the GMP Proposal. If Owner has any comments regarding the GMP Proposal, or finds any inconsistencies or inaccuracies in the information presented, it shall promptly give written notice to Design-Builder of such comments or findings. If appropriate, Design-Builder shall, upon receipt of Owner's notice, make appropriate adjustments to the GMP Proposal.

**6.6.1.3** Acceptance of GMP Proposal. If Owner accepts the GMP Proposal, as may be amended by Design-Builder, the GMP and its basis shall be set forth in an amendment to this Agreement.

**6.6.1.4** Failure to Accept the GMP Proposal. If Owner rejects the GMP Proposal, or fails to notify Design-Builder in writing on or before the date specified in the GMP Proposal that it accepts the GMP Proposal, the GMP Proposal shall be deemed withdrawn and of no effect. In such event, Owner and Design-Builder shall meet and confer as to how the Project will proceed, with Owner having the following options:

**6.6.1.4.1** Owner may suggest modifications to the GMP Proposal, whereupon, if such modifications are accepted in writing by Design-Builder, the GMP Proposal shall be deemed accepted and the parties shall proceed in accordance with Section 6.6.2.3 above;

**6.6.1.4.2** Owner may authorize Design-Builder to continue to proceed with the Work on the basis of reimbursement as provided in Section 6.1 hereof without a GMP, in which case all references in this Agreement to the GMP shall not be applicable; or

**6.6.1.4.3** Owner may terminate this Agreement for convenience in accordance with Article 8 hereof; provided, however, in this event, Design-Builder shall not be entitled to the payment provided for in Section 8.2 hereof.

## **Article 7**

### **Procedure for Payment**

#### **7.1 Progress Payments.**

**7.1.1** Design-Builder shall submit to Owner on the last day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with Article 6 of the General Conditions of Contract.

**7.1.2** Owner shall make payment within ten (10) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.



**7.1.3** If Design-Builder's Fee under Section 6.2.1 hereof is a fixed amount, the amount of Design-Builder's Fee to be included in Design-Builder's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Builder's Fee.

**7.2 Retainage on Progress Payments.**

**7.2.1** Owner will retain ten percent ( 10 %) of each Application for Payment. Owner will also reasonably consider reducing retainage for Subcontractors completing their work early in the Project.

**7.2.1.1** Amounts of the Design-Builder's Payment Applications associated with Preconstruction Services, Construction Stage Personnel Costs, Design Services Fees and Design-Builder's Fee are not subject to retainage.

**7.2.2** Within fifteen (15) days after Substantial Completion of the entire Work or, if applicable, any portion of the Work, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to: (a) the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion; and (b) all other amounts Owner is entitled to withhold pursuant to Section 6.3 of the General Conditions of Contract.

**7.3 Final Payment.** Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment (less any amount the parties may have agreed to set aside for warranty work) within ten (10) days after Owner's receipt of the Final Application for Payment, provided that Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract.

**7.4 Record Keeping and Finance Controls.** Design-Builder acknowledges that this Agreement is to be administered on an "open book" arrangement relative to Costs of the Work. Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner's accountants shall be afforded access to, and the right to audit from time-to-time, upon reasonable notice, Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the Work, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment. Such inspection shall take place at Design-Builder's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by the Owner and Design-Builder as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, with the composition of such multiplier or markup not being subject to audit.

## **Article 8**

### **Termination for Convenience**

**8.1** Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Design-Builder for the following:

**8.1.1** All Work executed and for proven loss, cost or expense in connection with the Work;

8.1.2 The fair and reasonable sums for overhead and profit on the sum of items 8.1.1 above.

8.2 If Owner terminates this Agreement pursuant to Section 8.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Section 4.3 hereof. Such rights may not be transferred or assigned to others without Design-Builder's express written consent and such third parties' agreement to the terms of Article 4.

## Article 9

### Representatives of the Parties

#### 9.1 Owner's Representatives.

9.1.1 Owner designates the individual listed below as its Senior Representative ("Owner Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

**Tiffany Zindel**  
Warren County Administrator  
(513) 695-1241  
[Tiffany.Zindel@co.warren.oh.us](mailto:Tiffany.Zindel@co.warren.oh.us)

9.1.2 Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

**Trevor Hearn**  
Director – Department of Facilities Management  
(513) 695-1463  
[Trevor.Hearn@co.warrent.oh.us](mailto:Trevor.Hearn@co.warrent.oh.us)

#### 9.2 Design-Builder's Representatives.

9.2.1 Design-Builder designates the individual listed below as its Senior Representative ("Design-Builder's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

**Joe Frecker**  
HGC Construction / 513-861-8866  
[jfrecker@hgconstruction.com](mailto:jfrecker@hgconstruction.com)

9.2.2 Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

**Jacob Reeves**  
HGC Construction / 513-861-8866  
[jreeves@hgconstruction.com](mailto:jreeves@hgconstruction.com)

## Article 10

### **Bonds and Insurance**

**10.1 Insurance.** Design-Builder and Owner shall procure the insurance coverages set forth in the Insurance Exhibit attached hereto and in accordance with Article 5 of the General Conditions of Contract.

**10.2 Bonds and Other Performance Security.** Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security:

**Performance Bond.**

Required                       Not Required

**Payment Bond.**

Required                       Not Required

## Article 11

### **Other Provisions**

**11.1 Antidiscrimination Provisions:**

As required by ORC Section 153.59, the Design-Builder agrees; (a) that the hiring of employees for the performance of the Work under this Contract or any subcontractor hereunder, no contractor, or subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, sex, disability or military status as defined in Section 4112.01 of the Revised Code, or color shall discriminate against any citizen of the State of Ohio who is qualified to and available to perform the Work to which the employment relates; (b) that no contractor, subcontractor or any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of the Work under this Contract on account of race, creed, sex, disability or military status as defined in Section 4112.01 of the Revised Code, or color.

**11.1.1** In the event the Design-Builder fails to comply with any of these nondiscrimination clauses, the Owner shall deduct from the amount payable to the Design-Builder a forfeiture of the statutory penalty pursuant to ORC 153.60 for each person who is discriminated against or intimidated in violation of this Section 11.1.

**11.1.2** The contract may suspended in whole or in part by the Owner and all money to become due hereunder may be forfeited in the event of a subsequent violation of this Section 11.1

**11.2 E-Verify Provisions:**

Design-Builder will enroll in and verify the work eligibility status of all newly hired employees through the E-Verify program for as long as the program remains in existence.

**11.3 Standard of Care:**

Notwithstanding Section 2.3.1 of the General Conditions of Contract, if the parties agree upon specific performance standards in the Basis of Design Documents, the design professional services shall be performed to achieve such standards.

- 11.4** Any claims, disputes, or controversies between the parties arising out of or related to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 10.2 of the General Conditions of Contract shall be resolved in a court of competent jurisdiction in Warren County, Ohio.

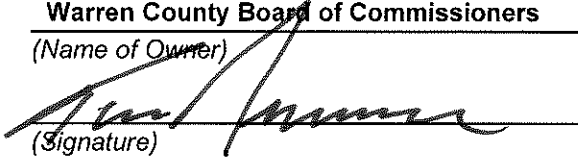
In executing this Agreement, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

**OWNER:**

**DESIGN-BUILDER:**

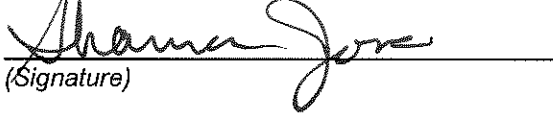
Warren County Board of Commissioners

(Name of Owner)

  
(Signature)


Tom Grossmann, Commissioner

(Printed Name and Title)

  
(Signature)

Shannon Jones, Commissioner

(Printed Name and Title)

  
(Signature)


David G. Young, Commissioner

(Printed Name and Title)

Date: 8/14/18

HGC Construction, Co.

(Name of Design-Builder)

  
(Signature)

Adam Kuehne, Vice President

(Printed Name and Title)

   
(Signature)

   
(Printed Name and Title)

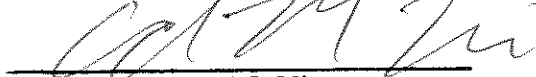
   
(Signature)

   
(Printed Name and Title)

Date:  

Caution: An original DBIA document has this caution printed in blue. This is a printable copy and an original assures that changes will not be obscured as may occur when documents are reproduced.

**APPROVED AS TO FORM**



Adam M. Nice

Asst. Prosecuting Attorney

Exhibit B



Personnel Billing Rate Schedule

Reg. Hourly Rates		HGC
\$	104.00	Project Executive
\$	100.00	Preconstruction Manager
\$	104.00	Estimator
\$	93.00	Senior Project Manager
\$	77.00	Project Manager
\$	62.00	Project Engineer
\$	74.00	Safety
\$	56.00	Accounting
\$	55.00	Project Coordinator
\$	35.00	Assistant Project Engineer (Co-Op)
\$	79.00	Superintendent
\$	67.00	Foreman
\$	53.00	Lead Carpenter
\$	49.00	Carpenter
\$	43.00	Laborer
<b>Elevar</b>		
\$	158.00	Principal Engineer (P.E.)
\$	140.00	Senior Project Engineer (P.E.)
\$	125.00	Project Engineer II (P.E.)
\$	115.00	Project Engineer I (P.E.)
\$	100.00	Engineer II
\$	90.00	Engineer I
\$	86.00	Structural Designer



# Insurance Exhibit

## Design-Builder's Insurance Requirements

*(The Parties are strongly encouraged to consult their insurance advisors prior to completing this Exhibit)*

### 1.0 Insurance Types and Limits

1.1 Design-Builder shall purchase and maintain insurance of the types, with limits of liability, containing such endorsements and subject to such terms and conditions, as follows as well as Article 5 of the General Conditions of Contract:

Type of Insurance	Minimum Limits Required Per Claim/Occurrence	Minimum Limits Required Aggregate Policy Limits	Maximum Deductible
1. Worker's Compensation	Statutory Limits	Statutory Limits	
2. Employer's Liability (Bodily Injury by Accident)	\$	\$	\$
a. By Disease	\$1,000,000	\$	\$
b. Each Accident	\$1,000,000	\$	\$
c. Each Employee	\$1,000,000	\$	\$
3. Commercial General Liability			
a. Bodily Injury/Property Damage per occurrence limit	\$2,000,000	n/a	\$
b. Bodily Injury/Property Damage aggregate limit	n/a	\$2,000,000	\$
c. Products/Completed Operation Aggregate Limit	n/a	\$2,000,000	\$
d. Personal and Advertising Injury aggregate Limit.	n/a	\$1,000,000	\$
e. Medical Expense Limit (any one person)	\$5,000	\$5,000	\$
4. Contractor's Protective Liability (if applicable)	\$	\$	\$
5. Commercial Automobile Liability	\$1,000,000	\$1,000,000	\$
6. Professional Errors and Omissions pursuant to Section 1.3 below (per claim/aggregate)	\$2,000,000	\$2,000,000	\$
7. Contractor's Pollution Liability including coverage for microbial matter (if applicable)	\$	\$	\$
8. Umbrella Excess Liability Insurance	\$3,000,000	\$3,000,000	\$
9. Other Coverages Required on a Project Specific Basis (e.g. Aircraft Liability)	\$	\$	\$

1.2 The insurance required by this Section 1 shall be written for not less than limits of liability specified in the table above or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of Final Payment.

**1.3 Select One:**

- The professional liability policy required pursuant to Section 1.1.6 above shall be written on a Project specific basis and the policy premium shall be paid by Owner.
- The requirement for professional liability coverage on this Project shall be the standard form practice policy provided by Design Consultant. Design-Builder shall provide Owner with prior written notice of any cancellation or non-renewal of the Design Consultant's practice policy and shall include in the Design Consultant Agreement a provision requiring the Design Consultant to give the Design-Builder 15 Days written notice of any cancellation or non-renewal. The Design Consultant's practice policy must: (a) permit reporting of circumstances that could give rise to a claim; and (b) provide coverage for post-expiration claims resulting from such circumstances

**1.4 Any coverage required to be maintained after Final Payment shall be identified below.**

Professional Liability Insurance (E+0) must be maintained for a minimum of three (3) years after the Date of Final Completion

**2.0 Endorsements and Certificates**

**2.1** Commercial General Liability Insurance shall be written on an occurrence basis, utilizing standard ISO unmodified coverage form or equivalent. Endorsements excluding, restricting, or limiting coverage may be acceptable under certain circumstances provided the same are agreed upon by Owner and Design-Builder. For example, Nuclear Energy Exclusions and those Exclusionary Endorsements relating to Pollutants, Asbestos, Lead, etc. may be acceptable depending on project parameters and the grant of coverage that is provided for such exposures under the Professional Liability and Contractors Pollution Liability policies.

**2.2** General Liability, Automobile Liability, Employers Liability and Umbrella Excess Liability policies shall each include the following endorsements:

- .1 Unintentional Errors and Omissions Endorsement
- .2 Notice of Occurrence Endorsement
- .3 Knowledge of Occurrence Endorsement

**2.3** Commercial Automobile Liability coverage shall be provided by standard ISO Commercial Automobile or Truckers Policy covering all Owned, Non-Owned and Hired Vehicles.

**2.4** Umbrella/Excess Liability must schedule Commercial General Liability, Automobile/Truckers Liability and Employers Liability as underlying policies. The Umbrella/Excess Liability policies shall be written in accordance with the scheduled underlying policies and must be as broad as the underlying policies.

**2.5** Contractors Pollution Liability shall either be written on an occurrence or claims-made basis. If coverage in whole or in part is written on a claims-made basis, the policy must: (a) permit reporting of circumstances that could give rise to a claim; and (b) provide coverage for post-expiration claims resulting from such circumstances.

**2.5.1** The policy is to provide coverage for off-site Transportation by all applicable modes of conveyance. When required, coverage is also to be provided for claims involving materials removed from the site and brought to off-site Disposal, Treatment and Storage facilities.

**2.5.2** Any restriction, limitation, or exclusion related to Naturally Occurring Substances must be modified so as not to apply to the release of such Naturally Occurring Substances as a result of the performance of Operations.



### **3.0 Additional Insureds**

**3.1** Owner and Owner's officers, directors, consultants and employees shall be included as an additional insured on general liability, umbrella and automobile liability policies of insurance of the Design-Builder and its Subcontractors and Design Consultants at any tier. If required, as set forth above, Owner shall also be included as an additional insured on the Design-Builder's Contractor's Pollution Liability policy of insurance. Any coverage granted to an additional insured shall be primary and that coverage independently carried by an additional insured shall not contribute. Design-Builder shall furnish to Owner a copy of all Certificates of Insurance showing the Owner as additional insured as set forth above. Design-Builder shall require Subcontractors and Design Consultants of any tier to furnish such certificates, and upon request of the same will furnish them to the Owner. Owner shall not be an additional insured on any other of Design-Builder's policies except for those which are specifically listed below:

Additional Insured includes:

**Warren County, Ohio**

**Warren County Board of Commissioners**

Tom Grossman  
Shannon Jones  
David G. Young

**Warren County Staff**

Tiffany Zindel                      County Administrator  
Trevor Hearn                      Director – Department of Facilities Management

**Owner's Criteria Architect**

K2M Design, Inc.  
Scott C. Maloney, AIA  
Daniel D. Rawlins, RA, DBIA

**3.2** Additional Insured coverage provided under the Commercial General Liability Umbrella/Excess and, if applicable, Design-Builder's Contractor's Pollution Liability policies, shall cover both the premises/operations and completed operations hazards.

### **4.0 Terms and Effective Dates**

**4.1** If the General Liability coverages are provided by a Commercial General Liability Policy on a claims-made basis, the policy date or Retroactive Date shall predate the Agreement. The termination date of the policy or applicable extended reporting period shall be no earlier than the termination date of coverages required to be maintained after Final Payment is made.

**4.2** If the Contractor's Pollution Policy is made on a claims-made basis, the policy date or Retroactive Date shall predate the Agreement. The termination date of the policy or applicable extended reporting period shall be no earlier than the termination date of coverages required to be maintained after final payment is made.

**4.3** Professional Liability coverage shall be retroactive to the date that professional services first commenced.

**4.4** If the Professional Liability coverage is provided on a Project specific basis it shall include an extended reporting period of 3 years beyond the date for Substantial Completion of the Project unless otherwise specified.



## Insurance Exhibit

# Owner's Insurance Requirements

*(The Parties are strongly encouraged to consult their insurance advisors prior to completing this Exhibit)*

### 1.0 Insurance Types and Limits

1.1 Owner shall purchase and maintain insurance of the types, with limits of liability, containing such endorsements and subject to such terms and conditions, as follows as well as Article 5 of the General Conditions of Contract:

Type of Insurance	Minimum Limits Required <i>Per Claim/Occurrence</i>	Minimum Limits Required <i>Aggregate Policy Limits</i>	Maximum Deductible
1. Worker's Compensation	Statutory Limits	Statutory Limits	
2. Builder's Risk Insurance	\$	\$ Contract Sum	\$

1.2 The insurance required by this Section 1 shall be written for not less than limits of liability specified in the table above or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of Final Payment.

1.3 Any coverage required to be maintained after Final Payment shall be identified below.

*(List here any coverage to be maintained after Final Payment)*

1.4 In the event the Owner is providing any design services (either in-house or through a separate designer contracted by Owner), the Owner shall provide to Design-Builder evidence of professional liability coverage for that scope of work.

### 2.0 Additional Insureds

2.1 Design-Builder and Design-Builder's officers, directors and employees and Subcontractors and Design Consultants of any tier shall be included as an additional insured on general liability, umbrella liability and automobile liability policies of insurance of the Owner. Any coverage granted to an additional insured shall be primary and that coverage independently carried by an additional insured shall not contribute. Owner shall furnish to Design-Builder a copy of all Certificates of Insurance showing the parties named as an additional insured as set forth above. Design-Builder shall not be an additional insured on any other of Owner's policies except for those which are specifically listed below:

*(List here any other policies for which the Design-Builder will be an additional insured, as well as other entities who are to be named as an additional insured on any of the specified policies)*



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# STANDARD FORM OF GENERAL CONDITIONS OF CONTRACT BETWEEN OWNER AND DESIGN-BUILDER

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**Document No. 535**

Second Edition, 2010

© Design-Build Institute of America

Washington, DC



## Design-Build Institute of America - Contract Documents LICENSE AGREEMENT

By using the DBIA Contract Documents, you agree to and are bound by the terms of this License Agreement.

- 1. License.** The Design-Build Institute of America ("DBIA") provides DBIA Contract Documents and licenses their use worldwide. You acknowledge that DBIA Contract Documents are protected by the copyright laws of the United States. You have a limited nonexclusive license to: (a) Use DBIA Contract Documents on any number of machines owned, leased or rented by your company or organization; (b) Use DBIA Contract Documents in printed form for bona fide contract purposes; and (c) Copy DBIA Contract Documents into any machine-readable or printed form for backup or modification purposes in support of your permitted use.
- 2. User Responsibility.** You assume sole responsibility for the selection of specific documents or portions thereof to achieve your intended results, and for the installation, use, and results obtained from the DBIA Contract Documents. You acknowledge that you understand that the text of the DBIA Contract Documents has important legal consequences and that consultation with an attorney is recommended with respect to use or modification of the text. You will not represent that any of the contract documents you generate from DBIA Contract Documents are DBIA documents unless (a) the document text is used without alteration or (b) all additions and changes to, and deletions from, the text are clearly shown.
- 3. Copies.** You may not use, copy, modify, or transfer DBIA Contract Documents, or any copy, modification or merged portion, in whole or in part, except as expressly provided for in this license. Reproduction of DBIA Contract Documents in printed or machine-readable format for resale or educational purposes is expressly prohibited. You will reproduce and include DBIA's copyright notice on any printed or machine-readable copy, modification, or portion merged into another document or program.
- 4. Transfers.** You may not transfer possession of any copy, modification or merged portion of DBIA Contract Documents to another party, except that a party with whom you are contracting may receive and use such transferred material solely for purposes of its contract with you. You may not sublicense, assign, or transfer this license except as expressly provided in this Agreement, and any attempt to do so is void.
- 5. Term.** The license is effective for one year from the date of purchase. DBIA may elect to terminate it earlier, by written notice to you, if you fail to comply with any term or condition of this Agreement.
- 6. Limited Warranty.** DBIA warrants the electronic files or other media by which DBIA Contract Documents are furnished to be free from defects in materials and workmanship under normal use during the Term. There is no other warranty of any kind, expressed or implied, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose. Some states do not allow the exclusion of implied warranties, so the above exclusion may not apply to you. This warranty gives you specific legal rights and you may also have other rights which vary from state to state. DBIA does not warrant that the DBIA Contract Documents will meet your requirements or that the operation of DBIA Contract Documents will be uninterrupted or error free.
- 7. Limitations of Remedies.** DBIA's entire liability and your exclusive remedy shall be: the replacement of any document not meeting DBIA's "Limited Warranty" which is returned to DBIA with a copy of your receipt, or at DBIA's election, your money will be refunded. In no event will DBIA be liable to you for any damages, including any lost profits, lost savings or other incidental or consequential damages arising out of the use or inability to use DBIA Contract Documents even if DBIA has been advised of the possibility of such damages, or for any claim by any other party. Some states do not allow the limitation or exclusion of liability for incidental or consequential damages, so the above limitation or exclusion may not apply to you.
- 8. Acknowledgement.** You acknowledge that you have read this agreement, understand it and agree to be bound by its terms and conditions and that it will be governed by the laws of the District of Columbia. You further agree that it is the complete and exclusive statement of your agreement with DBIA which supersedes any proposal or prior agreement, oral or written, and any other communications between the parties relating to the subject matter of this agreement.

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## Article 1

### General

#### 1.1 Mutual Obligations

1.1.1 *Owner and Design-Builder* commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

#### 1.2 Basic Definitions

1.2.1 *Agreement* refers to the executed contract between Owner and Design-Builder under either DBIA Document No. 525, *Standard Form of Agreement Between Owner and Design-Builder - Lump Sum* (2010 Edition) or DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee with an Option for a Guaranteed Maximum Price* (2010 Edition).

1.2.2 *Basis of Design Documents* are as follows: For DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee With an Option for a Guaranteed Maximum Price*, the Basis of Design Documents are those documents specifically listed in, as applicable, the GMP Exhibit or GMP Proposal as being the "Basis of Design Documents." For DBIA Document No. 525, *Standard Form of Agreement Between Owner and Design-Builder - Lump Sum*, the Basis of Design Documents are the Owner's Project Criteria, Design-Builder's Proposal and the Deviation List, if any.

1.2.3 *Construction Documents* are the documents, consisting of Drawings and Specifications, to be prepared or assembled by the Design-Builder consistent with the Basis of Design Documents unless a deviation from the Basis of Design Documents is specifically set forth in a Change Order executed by both the Owner and Design-Builder, as part of the design review process contemplated by Section 2.4 of these General Conditions of Contract.

1.2.4 *Day or Days* shall mean calendar days unless otherwise specifically noted in the Contract Documents.

1.2.5 *Design-Build Team* is comprised of the Design-Builder, the Design Consultant, and key Subcontractors identified by the Design-Builder.

1.2.6 *Design Consultant* is a qualified, licensed design professional who is not an employee of Design-Builder, but is retained by Design-Builder, or employed or retained by anyone under contract with Design-Builder, to furnish design services required under the Contract Documents. A Design Sub-Consultant is a qualified, licensed design professional who is not an employee of the Design Consultant, but is retained by the Design Consultant or employed or retained by anyone under contract to Design Consultant, to furnish design services required under the Contract Documents.

1.2.7 *Final Completion* is the date on which all Work is complete in accordance with the Contract Documents, including but not limited to, any items identified in the punch list prepared under Section 6.6.1 and the submission of all documents set forth in Section 6.7.2.

1.2.8 *Force Majeure Events* are those events that are beyond the control of both Design-Builder and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

1.2.9 *General Conditions of Contract* refer to this DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition).

1.2.10 *GMP Exhibit* means that exhibit attached to DBIA Document No. 530, *Standard Form of*

*Agreement Between Owner and Design-Builder - Cost Plus Fee With an Option for a Guaranteed Maximum Price*, which exhibit will have been agreed upon by Owner and Design-Builder prior to the execution of the Agreement.

**1.2.11** *GMP Proposal* means that proposal developed by Design-Builder in accordance with Section 6.6 of DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee With an Option for a Guaranteed Maximum Price*.

**1.2.12** *Hazardous Conditions* are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.

**1.2.13** *Legal Requirements* are all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

**1.2.14** *Owner's Project Criteria* are developed by or for Owner to describe Owner's program requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Builder's performance of the Work. Owner's Project Criteria may include conceptual documents, design criteria, design performance specifications, design specifications, and LEED® or other sustainable design criteria and other Project-specific technical materials and requirements.

**1.2.15** *Site* is the land or premises on which the Project is located.

**1.2.16** *Subcontractor* is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include materialmen and suppliers.

**1.2.17** *Sub-Subcontractor* is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.

**1.2.18** *Substantial Completion* or *Substantially Complete* means the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project or a portion thereof for its intended purposes.

**1.2.19** *Work* is comprised of all Design-Builder's design, construction and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents.

## **Article 2**

### **Design-Builder's Services and Responsibilities**

#### **2.1 General Services.**

**2.1.1** Design-Builder's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced only with the mutual agreement of Owner and Design-Builder.

**2.1.2** Design-Builder shall provide Owner with a monthly status report detailing the progress of

the Work, including (i) whether the Work is proceeding according to schedule, (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) whether health and safety issues exist in connection with the Work; (iv) status of the contingency account to the extent provided for in the Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee with an Option for a Guaranteed Maximum Price; and (v) other items that require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price and within the Contract Time(s).

**2.1.3** Unless a schedule for the execution of the Work has been attached to the Agreement as an exhibit at the time the Agreement is executed, Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 2.1.4 hereof, a schedule for the execution of the Work for Owner's review and response. The schedule shall indicate the dates for the start and completion of the various stages of Work, including the dates when Owner information and approvals are required to enable Design-Builder to achieve the Contract Time(s). The schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. Owner's review of, and response to, the schedule shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

**2.1.4** The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

## **2.2 Design Professional Services.**

**2.2.1** Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Design Consultant.

## **2.3 Standard of Care for Design Professional Services.**

**2.3.1** The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project.

## **2.4 Design Development Services.**

**2.4.1** Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that Owner may wish to review, which interim design submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. Interim design submissions shall be consistent with the Basis of Design Documents, as the Basis of Design Documents may have been changed through the design process set forth in this Section 2.4.1. On or about the time of the scheduled submissions, Design-Builder and Owner shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any changes to the Basis of Design Documents, or, if applicable, previously submitted design submissions. Changes to the Basis of Design Documents, including those that are deemed minor changes under Section 9.3.1, shall be processed in accordance with Article 9. Minutes of the meetings, including a full listing of all changes, will be maintained by Design-Builder and provided



to all attendees for review. Following the design review meeting, Owner shall review and approve the interim design submissions and meeting minutes in a time that is consistent with the turnaround times set forth in Design-Builder's schedule.

**2.4.2** Design-Builder shall submit to Owner Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting and recorded in the meetings minutes. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth in Section 2.4.1 above. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction.

**2.4.3** Owner's review and approval of interim design submissions, meeting minutes, and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither Owner's review nor approval of any interim design submissions, meeting minutes, and Construction Documents shall be deemed to transfer any design liability from Design-Builder to Owner.

**2.4.4** To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Builder may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

## **2.5 Legal Requirements.**

**2.5.1** Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

**2.5.2** The Contract Price and/or Contract Time(s) shall be adjusted to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of the Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

## **2.6 Government Approvals and Permits.**

**2.6.1** Except as identified in an Owner's Permit List attached as an exhibit to the Agreement, Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project.

**2.6.2** Design-Builder shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

## **2.7 Design-Builder's Construction Phase Services.**

**2.7.1** Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

**2.7.2** Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-

Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

**2.7.3** Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Owner may reasonably object to Design-Builder's selection of any Subcontractor, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that Owner's decision impacts Design-Builder's cost and/or time of performance.

**2.7.4** Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

**2.7.5** Design-Builder shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

**2.7.6** Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use.

## **2.8 Design-Builder's Responsibility for Project Safety.**

**2.8.1** Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

**2.8.2** Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any Owner-specific safety requirements set forth in the Contract Documents, provided that such Owner-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

**2.8.3** Design-Builder's responsibility for safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injuries, losses, damages or accidents resulting from

their performance of the Work.

## **2.9 Design-Builder's Warranty.**

**2.9.1** Design-Builder warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work in a commercially reasonable manner. Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 2.9 or the Contract Documents. Design-Builder will provide Owner with all manufacturers' warranties upon Substantial Completion.

## **2.10 Correction of Defective Work.**

**2.10.1** Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.9 hereof, within a period of one year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by any specific warranty included in the Contract Documents.

**2.10.2** Design-Builder shall, within seven (7) days of receipt of written notice from Owner that the Work is not in conformance with the Contract Documents, take meaningful steps to commence correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such seven (7) day period, Owner, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by Owner in performing such correction. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) day period identified herein shall be deemed inapplicable.

**2.10.3** The one-year period referenced in Section 2.10.1 above applies only to Design-Builder's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Builder's other obligations under the Contract Documents.

## **Article 3**

### **Owner's Services and Responsibilities**

#### **3.1 Duty to Cooperate.**

**3.1.1** Owner shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

**3.1.2** Owner shall provide timely reviews and approvals of interim design submissions and Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule.

**3.1.3** Owner shall give Design-Builder timely notice of any Work that Owner notices to be

defective or not in compliance with the Contract Documents.

### **3.2 Furnishing of Services and Information.**

**3.2.1** Unless expressly stated to the contrary in the Contract Documents, Owner shall provide, at its own cost and expense, for Design-Builder's information and use the following, all of which Design-Builder is entitled to rely upon in performing the Work:

**3.2.1.1** Surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;

**3.2.1.2** Geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;

**3.2.1.3** Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

**3.2.1.4** A legal description of the Site;

**3.2.1.5** To the extent available, record drawings of any existing structures at the Site; and

**3.2.1.6** To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including Hazardous Conditions, in existence at the Site.

**3.2.2** Owner is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work. Owner is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

### **3.3 Financial Information.**

**3.3.1** At Design-Builder's request, Owner shall promptly furnish reasonable evidence satisfactory to Design-Builder that Owner has adequate funds available and committed to fulfill all of Owner's contractual obligations under the Contract Documents. If Owner fails to furnish such financial information in a timely manner, Design-Builder may stop Work under Section 11.3 hereof or exercise any other right permitted under the Contract Documents.

**3.3.2** Design-Builder shall cooperate with the reasonable requirements of Owner's lenders or other financial sources. Notwithstanding the preceding sentence, after execution of the Agreement Design-Builder shall have no obligation to execute for Owner or Owner's lenders or other financial sources any documents or agreements that require Design-Builder to assume obligations or responsibilities greater than those existing obligations Design-Builder has under the Contract Documents.

### **3.4 Owner's Representative.**

**3.4.1** Owner's Representative shall be responsible for providing Owner-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. Owner's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work. Owner's Representative shall communicate regularly with Design-Builder and shall be vested with the authority to act on behalf of Owner.

### **3.5 Government Approvals and Permits.**

**3.5.1** Owner shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees set forth in the Owner's Permit List attached as an exhibit to the Agreement.

**3.5.2** Owner shall provide reasonable assistance to Design-Builder in obtaining those permits, approvals and licenses that are Design-Builder's responsibility.

### **3.6 Owner's Separate Contractors.**

**3.6.1** Owner is responsible for all work performed on the Project or at the Site by separate contractors under Owner's control. Owner shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with, Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

## **Article 4**

### **Hazardous Conditions and Differing Site Conditions**

#### **4.1 Hazardous Conditions.**

**4.1.1** Unless otherwise expressly provided in the Contract Documents to be part of the Work, Design-Builder is not responsible for any Hazardous Conditions encountered at the Site. Upon encountering any Hazardous Conditions, Design-Builder will stop Work immediately in the affected area and duly notify Owner and, if required by Legal Requirements, all government or quasi-government entities with jurisdiction over the Project or Site.

**4.1.2** Upon receiving notice of the presence of suspected Hazardous Conditions, Owner shall take the necessary measures required to ensure that the Hazardous Conditions are remediated or rendered harmless. Such necessary measures shall include Owner retaining qualified independent experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that Owner must take either to remove the Hazardous Conditions or render the Hazardous Conditions harmless.

**4.1.3** Design-Builder shall be obligated to resume Work at the affected area of the Project only after Owner's expert provides it with written certification that (i) the Hazardous Conditions have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or Site.

**4.1.4** Design-Builder will be entitled, in accordance with these General Conditions of Contract, to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by the presence of Hazardous Conditions.

**4.1.5** To the fullest extent permitted by law, Owner shall indemnify, defend and hold harmless Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them, and their officers, directors, employees and agents, from and against any and all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from the presence, removal or remediation of Hazardous Conditions at the Site.

**4.1.6** Notwithstanding the preceding provisions of this Section 4.1, Owner is not responsible for Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for

whose acts they may be liable. To the fullest extent permitted by law, Design-Builder shall indemnify, defend and hold harmless Owner and Owner's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

#### **4.2 Differing Site Conditions.**

**4.2.1** Concealed or latent physical conditions or subsurface conditions at the Site that (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work are collectively referred to herein as "Differing Site Conditions." If Design-Builder encounters a Differing Site Condition, Design-Builder will be entitled to an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance are adversely impacted by the Differing Site Condition.

**4.2.2** Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written notice to Owner of such condition, which notice shall not be later than fourteen (14) days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

## **Article 5**

### **Insurance and Bonds**

#### **5.1 Design-Builder's Insurance Requirements.**

**5.1.1** Design-Builder is responsible for procuring and maintaining the insurance for the coverage amounts all as set forth in the Insurance Exhibit to the Agreement. Coverage shall be secured from insurance companies authorized to do business in the state in which the Project is located, and with a minimum rating set forth in the Agreement.

**5.1.2** Design-Builder's insurance shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

**5.1.3** Prior to commencing any construction services hereunder, Design-Builder shall provide Owner with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Owner. If any of the foregoing insurance coverages are required to remain in force after final payment are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the Final Application for Payment. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by the Design-Builder with reasonable promptness according to the Design-Builder's information and belief.

#### **5.2 Owner's Liability Insurance.**

**5.2.1** Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located such liability insurance as set forth in the Insurance Exhibit to the Agreement to protect Owner from claims which may arise from the performance of Owner's obligations under the Contract Documents or Owner's conduct during the course of the Project.

### **5.3 Owner's Property Insurance.**

**5.3.1** Unless otherwise provided in the Contract Documents, Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located property insurance upon the entire Project to the full insurable value of the Project, including professional fees, overtime premiums and all other expenses incurred to replace or repair the insured property. The property insurance obtained by Owner shall be the broadest coverage commercially available, and shall include as additional insureds the interests of Owner, Design-Builder, Design Consultants and Subcontractors of any tier. Such insurance shall include but not be limited to the perils of fire and extended coverage, theft, vandalism, malicious mischief, collapse, flood, earthquake, debris removal and other perils or causes of loss as called for in the Contract Documents. The property insurance shall include physical loss or damage to the Work, including materials and equipment in transit, at the Site or at another location as may be indicated in Design-Builder's Application for Payment and approved by Owner. The Owner is responsible for the payment of any deductibles under the insurance required by this Section 5.3.1.

**5.3.2** Unless the Contract Documents provide otherwise, Owner shall procure and maintain boiler and machinery insurance that will include the interests of Owner, Design-Builder, Design Consultants, and Subcontractors of any tier. The Owner is responsible for the payment of any deductibles under the insurance required by this Section 5.3.2.

**5.3.3** Prior to Design-Builder commencing any Work, Owner shall provide Design-Builder with certificates evidencing that (i) all Owner's insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect until Design-Builder has completed all of the Work and has received final payment from Owner and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Design-Builder. Owner's property insurance shall not lapse or be canceled if Owner occupies a portion of the Work pursuant to Section 6.6.3 hereof. Owner shall provide Design-Builder with the necessary endorsements from the insurance company prior to occupying a portion of the Work.

**5.3.4** Any loss covered under Owner's property insurance shall be adjusted with Owner and Design-Builder and made payable to both of them as trustees for the insureds as their interests may appear, subject to any applicable mortgage clause. All insurance proceeds received as a result of any loss will be placed in a separate account and distributed in accordance with such agreement as the interested parties may reach. Any disagreement concerning the distribution of any proceeds will be resolved in accordance with Article 10 hereof.

**5.3.5** Owner and Design-Builder waive against each other and Owner's separate contractors, Design Consultants, Subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. Design-Builder and Owner shall, where appropriate, require similar waivers of subrogation from Owner's separate contractors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts. These waivers of subrogation shall not contain any restriction or limitation that will impair the full and complete extent of its applicability to any person or entity unless agreed to in writing prior to the execution of this Agreement.

### **5.4 Bonds and Other Performance Security.**

**5.4.1** If Owner requires Design-Builder to obtain performance and labor and material payment bonds, or other forms of performance security, the amount, form and other conditions of such security shall be as set forth in the Agreement.

**5.4.2** All bonds furnished by Design-Builder shall be in a form satisfactory to Owner. The surety shall be a company qualified and registered to conduct business in the state in which the Project is located.

## **Article 6**

### **Payment**

#### **6.1 Schedule of Values.**

**6.1.1** Unless required by the Owner upon execution of this Agreement, within ten (10) days of execution of the Agreement, Design-Builder shall submit for Owner's review and approval a schedule of values for all of the Work. The Schedule of Values will (i) subdivide the Work into its respective parts, (ii) include values for all items comprising the Work and (iii) serve as the basis for monthly progress payments made to Design-Builder throughout the Work.

**6.1.2** The Owner will timely review and approve the schedule of values so as not to delay the submission of the Design-Builder's first application for payment. The Owner and Design-Builder shall timely resolve any differences so as not to delay the Design-Builder's submission of its first application for payment.

#### **6.2 Monthly Progress Payments.**

**6.2.1** On or before the date established in the Agreement, Design-Builder shall submit for Owner's review and approval its Application for Payment requesting payment for all Work performed as of the date of the Application for Payment. The Application for Payment shall be accompanied by all supporting documentation required by the Contract Documents and/or established at the meeting required by Section 2.1.4 hereof.

**6.2.2** The Application for Payment may request payment for equipment and materials not yet incorporated into the Project, provided that (i) Owner is satisfied that the equipment and materials are suitably stored at either the Site or another acceptable location, (ii) the equipment and materials are protected by suitable insurance and (iii) upon payment, Owner will receive the equipment and materials free and clear of all liens and encumbrances.

**6.2.3** All discounts offered by Subcontractor, Sub-Subcontractors and suppliers to Design-Builder for early payment shall accrue one hundred percent to Design-Builder to the extent Design-Builder advances payment. Unless Owner advances payment to Design-Builder specifically to receive the discount, Design-Builder may include in its Application for Payment the full undiscounted cost of the item for which payment is sought.

**6.2.4** The Application for Payment shall constitute Design-Builder's representation that the Work described herein has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project, or upon Design-Builder's receipt of payment, whichever occurs earlier.

#### **6.3 Withholding of Payments.**

**6.3.1** On or before the date established in the Agreement, Owner shall pay Design-Builder all amounts properly due. If Owner determines that Design-Builder is not entitled to all or part of an Application for Payment as a result of Design-Builder's failure to meet its obligations hereunder, it will notify Design-Builder in writing at least five (5) days prior to the date payment is due. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify Owner's concerns. Design-Builder and Owner will attempt to resolve Owner's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under Article 10 hereof.

**6.3.2** Notwithstanding anything to the contrary in the Contract Documents, Owner shall pay



Design-Builder all undisputed amounts in an Application for Payment within the times required by the Agreement.

#### **6.4 Right to Stop Work and Interest.**

**6.4.1** If Owner fails to pay timely Design-Builder any amount that becomes due, Design-Builder, in addition to all other remedies provided in the Contract Documents, may stop Work pursuant to Section 11.3 hereof. All payments due and unpaid shall bear interest at the rate set forth in the Agreement.

#### **6.5 Design-Builder's Payment Obligations.**

**6.5.1** Design-Builder will pay Design Consultants and Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from Owner on account of their work. Design-Builder will impose similar requirements on Design Consultants and Subcontractors to pay those parties with whom they have contracted. Design-Builder will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof.

#### **6.6 Substantial Completion.**

**6.6.1** Design-Builder shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is Substantially Complete. Within five (5) days of Owner's receipt of Design-Builder's notice, Owner and Design-Builder will jointly inspect such Work to verify that it is Substantially Complete in accordance with the requirements of the Contract Documents. If such Work is Substantially Complete, Owner shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed before final payment, (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Design-Builder's responsibility for the Project's security, maintenance, utilities and insurance pending final payment, and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

**6.6.2** Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

**6.6.3** Owner, at its option, may use a portion of the Work which has been determined to be Substantially Complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above, (ii) Design-Builder and Owner have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) Owner and Design-Builder agree that Owner's use or occupancy will not interfere with Design-Builder's completion of the remaining Work.

#### **6.7 Final Payment.**

**6.7.1** After receipt of a Final Application for Payment from Design-Builder, Owner shall make final payment by the time required in the Agreement, provided that Design-Builder has achieved Final Completion.

**6.7.2** At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

**6.7.2.1** An affidavit that there are no claims, obligations or liens outstanding or

unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;

**6.7.2.2** A general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to Owner and remaining unsettled at the time of final payment;

**6.7.2.3** Consent of Design-Builder's surety, if any, to final payment;

**6.7.2.4** All operating manuals, warranties and other deliverables required by the Contract Documents; and

**6.7.2.5** Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

**6.7.3** Upon making final payment, Owner waives all claims against Design-Builder except claims relating to (i) Design-Builder's failure to satisfy its payment obligations, if such failure affects Owner's interests, (ii) Design-Builder's failure to complete the Work consistent with the Contract Documents, including defects appearing after Substantial Completion and (iii) the terms of any special warranties required by the Contract Documents.

**6.7.4** Deficiencies in the Work discovered after Substantial Completion, whether or not such deficiencies would have been included on the Punch List if discovered earlier, shall be deemed warranty Work. Such deficiencies shall be corrected by Design-Builder under Sections 2.9 and 2.10 herein, and shall not be a reason to withhold final payment from Design-Builder, provided, however, that Owner shall be entitled to withhold from the Final Payment the reasonable value of completion of such deficient work until such work is completed.

## Article 7

### Indemnification

#### 7.1 Patent and Copyright Infringement.

**7.1.1** Design-Builder shall defend any action or proceeding brought against Owner based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. Owner shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify and hold harmless Owner from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against Owner or Design-Builder in any such action or proceeding. Design-Builder agrees to keep Owner informed of all developments in the defense of such actions.

**7.1.2** If Owner is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense, (i) modify the Work so as to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

**7.1.3** Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process

or product of a particular manufacturer specified by Owner and not offered or recommended by Design-Builder to Owner or (ii) arising from modifications to the Work by Owner or its agents after acceptance of the Work. If the suit, claim or proceeding is based upon events set forth in the preceding sentence, Owner shall defend, indemnify and hold harmless Design-Builder to the same extent Design-Builder is obligated to defend, indemnify and hold harmless Owner in Section 7.1.1 above.

**7.1.4** The obligations set forth in this Section 7.1 shall constitute the sole agreement between the parties relating to liability for infringement of violation of any patent or copyright.

## **7.2 Tax Claim Indemnification.**

**7.2.1** If, in accordance with Owner's direction, an exemption for all or part of the Work is claimed for taxes, Owner shall indemnify, defend and hold harmless Design-Builder from and against any liability, penalty, interest, fine, tax assessment, attorneys' fees or other expenses or costs incurred by Design-Builder as a result of any action taken by Design-Builder in accordance with Owner's directive. Owner shall furnish Design-Builder with any applicable tax exemption certificates necessary to obtain such exemption, upon which Design-Builder may rely.

## **7.3 Payment Claim Indemnification.**

**7.3.1** Provided that Owner is not in breach of its contractual obligation to make payments to Design-Builder for the Work, Design-Builder shall indemnify, defend and hold harmless Owner from any claims or mechanic's liens brought against Owner or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, Owner will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys' fees.

## **7.4 Design-Builder's General Indemnification.**

**7.4.1** Design-Builder, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Owner, its officers, directors, and employees from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) to the extent resulting from the negligent acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

**7.4.2** If an employee of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against Owner, its officers, directors, employees, or agents, Design-Builder's indemnity obligation set forth in Section 7.4.1 above shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Design-Builder, Design Consultants, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

## **7.5 Owner's General Indemnification.**

**7.5.1** Owner, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Design-Builder and any of Design-Builder's officers, directors, and employees, from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) to the extent resulting from the negligent acts or omissions of Owner's separate contractors or anyone for

whose acts any of them may be liable.

## **Article 8**

### **Time**

#### **8.1 Obligation to Achieve the Contract Times.**

**8.1.1** Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 5 of the Agreement.

#### **8.2 Delays to the Work.**

**8.2.1** If Design-Builder is delayed in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, the Contract Time(s) for performance shall be reasonably extended by Change Order. By way of example, events that will entitle Design-Builder to an extension of the Contract Time(s) include acts or omissions of Owner or anyone under Owner's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, and Force Majeure Events.

**8.2.2** Notwithstanding anything to the contrary in the Contract Documents, Design-Builder's sole and exclusive remedy for any (i) delay in the commencement, prosecution or completion of the Work, (ii) hinderance, interference or obstruction in the performance of the Work, (iii) loss of productivity, or (iv) other similar claims (collectively referred to in this Section 8.2.2 as "Delays") whether or not such Delays are foreseeable, shall be an extension of the Contract Time(s) in which to complete the Work if an extension is permitted under Section 8.2.1, and demonstrable direct costs incurred by Design-Builder as a result of such Delay, except to the extent such Delay is caused by Design-Builder's negligence or failure to perform its obligations under the Contract Documents. In no event shall Design-Builder be entitled to any other compensation or damages in connection with any Delay, including, without limitation, consequential damages.

## **Article 9**

### **Changes to the Contract Price and Time**

#### **9.1 Change Orders.**

**9.1.1** A Change Order is a written instrument issued after execution of the Agreement signed by Owner and Design-Builder, stating their agreement upon all of the following:

**9.1.1.1** The scope of the change in the Work;

**9.1.1.2** The amount of the adjustment to the Contract Price; and

**9.1.1.3** The extent of the adjustment to the Contract Time(s).

**9.1.2** All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes.

**9.1.3** If Owner requests a proposal for a change in the Work from Design-Builder and

subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse Design-Builder for reasonable costs incurred for estimating services, design services and services involved in the preparation of proposed revisions to the Contract Documents.

## **9.2 Work Change Directives.**

**9.2.1** A Work Change Directive is a written order prepared and signed by Owner directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

**9.2.2** Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.

## **9.3 Minor Changes in the Work.**

**9.3.1** Minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however, that Design-Builder shall promptly inform Owner, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

## **9.4 Contract Price Adjustments.**

**9.4.1** The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

**9.4.1.1** Unit prices set forth in the Agreement or as subsequently agreed to between the parties;

**9.4.1.2** A mutually accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner;

**9.4.1.3** Costs, fees and any other markups set forth in the Agreement; or

**9.4.1.4** If an increase or decrease cannot be agreed to as set forth in items 9.4.1.1 through 9.4.1.3 above and Owner issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Agreement.

**9.4.2** If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to Owner or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

**9.4.3** If Owner and Design-Builder disagree upon whether Design-Builder is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or proposed changes to the Work, Owner and Design-Builder shall resolve the disagreement pursuant to Article 10 hereof. As part of the negotiation process, Design-Builder shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations. If the parties are unable to agree and Owner expects Design-Builder to perform the services in accordance with Owner's interpretations, Design-Builder shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to Design-Builder (i) directing Design-Builder to proceed and (ii) specifying Owner's

interpretation of the services that are to be performed. If this occurs, Design-Builder shall be entitled to submit in its Applications for Payment an amount equal to fifty percent (50%) of its reasonable estimated direct cost to perform the services, and Owner agrees to pay such amounts, with the express understanding that (i) such payment by Owner does not prejudice Owner's right to argue that it has no responsibility to pay for such services and (ii) receipt of such payment by Design-Builder does not prejudice Design-Builder's right to seek full payment of the disputed services if Owner's order is deemed to be a change to the Work.

## **9.5 Emergencies.**

**9.5.1** In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

# **Article 10**

## **Contract Adjustments and Disputes**

### **10.1 Requests for Contract Adjustments and Relief.**

**10.1.1** If either Design-Builder or Owner believes that it is entitled to relief against the other for any event arising out of or related to the Work or Project, such party shall provide written notice to the other party of the basis for its claim for relief. Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of these General Conditions of Contract. In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed twenty-one (21) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later. Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

### **10.2 Dispute Avoidance and Resolution.**

**10.2.1** The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

**10.2.2** Design-Builder and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and Owner's Representative which shall conclude within fourteen (14) days of the written notice provided for in Section 10.1.1 unless the Owner and Design-Builder mutually agree otherwise.

**10.2.3** If a dispute or disagreement cannot be resolved through Design-Builder's Representative and Owner's Representative, Design-Builder's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) days prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

**10.2.4** If after meeting the Senior Representatives determine that the dispute or disagreement

cannot be resolved on terms satisfactory to both parties, the parties shall submit within thirty (30) days of the conclusion of the meeting of Senior Representatives the dispute or disagreement to non-binding mediation. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator. Unless otherwise mutually agreed by the Owner and Design-Builder and consistent with the mediator's schedule, the mediation shall commence within ninety (90) days of the submission of the dispute to mediation.

### **10.3 Arbitration.**

**10.3.1** Any claims, disputes or controversies between the parties arising out of or relating to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 10.2 above, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the AAA then in effect, unless the parties mutually agree otherwise.

**10.3.2** The award of the arbitrator(s) shall be final and binding upon the parties without the right of appeal to the courts. Judgment may be entered upon it in accordance with applicable law by any court having jurisdiction thereof.

**10.3.3** Design-Builder and Owner expressly agree that any arbitration pursuant to this Section 10.3 may be joined or consolidated with any arbitration involving any other person or entity (i) necessary to resolve the claim, dispute or controversy, or (ii) substantially involved in or affected by such claim, dispute or controversy. Both Design-Builder and Owner will include appropriate provisions in all contracts they execute with other parties in connection with the Project to require such joinder or consolidation.

**10.3.4** The prevailing party in any arbitration, or any other final, binding dispute proceeding upon which the parties may agree, shall be entitled to recover from the other party reasonable attorneys' fees and expenses incurred by the prevailing party.

### **10.4 Duty to Continue Performance.**

**10.4.1** Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Design-Builder, pending the final resolution of any dispute or disagreement between Design-Builder and Owner.

### **10.5 CONSEQUENTIAL DAMAGES.**

**10.5.1** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY (EXCEPT AS SET FORTH IN SECTION 10.5.2 BELOW), NEITHER DESIGN-BUILDER NOR OWNER SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL LOSSES OR DAMAGES, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSSES OF USE, PROFITS, BUSINESS, REPUTATION OR FINANCING.

**10.5.2** The consequential damages limitation set forth in Section 10.5.1 above is not intended to affect the payment of liquidated damages or lost early completion bonus, if any, set forth in Article 5 of the Agreement, which both parties recognize has been established, in part, to reimburse Owner or reward Design-Builder for some damages that might otherwise be deemed to be consequential.

## **Article 11**

### **Stop Work and Termination for Cause**

#### **11.1 Owner's Right to Stop Work.**

11.1.1 Owner may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project.

11.1.2 Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension of stoppage of the Work by Owner.

#### **11.2 Owner's Right to Perform and Terminate for Cause.**

11.2.1 If Design-Builder persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Design Consultants or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 11.2.2 and 11.2.3 below.

11.2.2 Upon the occurrence of an event set forth in Section 11.2.1 above, Owner may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Design-Builder's receipt of such notice. If Design-Builder fails to cure, or reasonably commence to cure, such problem, then Owner may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) day period. If Design-Builder, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Owner may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.

11.2.3 Upon declaring the Agreement terminated pursuant to Section 11.2.2 above, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by Owner in completing the Work, such excess shall be paid by Owner to Design-Builder. Notwithstanding the preceding sentence, if the Agreement establishes a Guaranteed Maximum Price, Design-Builder will only be entitled to be paid for Work performed prior to its default. If Owner's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the procurement and defense of claims arising from Design-Builder's default, subject to the waiver of consequential damages set forth in Section 10.5 hereof.

11.2.4 If Owner improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Article 8 of the Agreement.



### **11.3 Design-Builder's Right to Stop Work.**

**11.3.1** Design-Builder may, in addition to any other rights afforded under the Contract Documents or at law, stop the Work for the following reasons:

**11.3.1.1** Owner's failure to provide financial assurances as required under Section 3.3 hereof; or

**11.3.1.2** Owner's failure to pay amounts properly due under Design-Builder's Application for Payment.

**11.3.2** Should any of the events set forth in Section 11.3.1 above occur, Design-Builder has the right to provide Owner with written notice that Design-Builder will stop the Work unless said event is cured within seven (7) days from Owner's receipt of Design-Builder's notice. If Owner does not cure the problem within such seven (7) day period, Design-Builder may stop the Work. In such case, Design-Builder shall be entitled to make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been adversely impacted by such stoppage.

### **11.4 Design-Builder's Right to Terminate for Cause.**

**11.4.1** Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

**11.4.1.1** The Work has been stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by Owner under Section 11.1.1 hereof, provided that such stoppages are not due to the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.

**11.4.1.2** Owner's failure to provide Design-Builder with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the Work being stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though Owner has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.

**11.4.1.3** Owner's failure to cure the problems set forth in Section 11.3.1 above after Design-Builder has stopped the Work.

**11.4.2** Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Builder may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Owner's receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under Article 8 of the Agreement.

### **11.5 Bankruptcy of Owner or Design-Builder.**

**11.5.1** If either Owner or Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code (such party being referred to as the "Bankrupt Party"), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

**11.5.1.1** The Bankrupt Party, its trustee or other successor, shall furnish, upon request

of the non-Bankrupt Party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and

**11.5.1.2** The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If the Bankrupt Party fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the non-Bankrupt Party under this Article 11.

**11.5.2** The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of the non-Bankrupt Party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Design-Builder to stop Work under any applicable provision of these General Conditions of Contract.

## **Article 12**

### **Electronic Data**

#### **12.1 Electronic Data.**

**12.1.1** The parties recognize that Contract Documents, including drawings, specifications and three-dimensional modeling (such as Building Information Models) and other Work Product may be transmitted among Owner, Design-Builder and others in electronic media as an alternative to paper hard copies (collectively "Electronic Data").

#### **12.2 Transmission of Electronic Data.**

**12.2.1** Owner and Design-Builder shall agree upon the software and the format for the transmission of Electronic Data. Each party shall be responsible for securing the legal rights to access the agreed-upon format, including, if necessary, obtaining appropriately licensed copies of the applicable software or electronic program to display, interpret and/or generate the Electronic Data.

**12.2.2** Neither party makes any representations or warranties to the other with respect to the functionality of the software or computer program associated with the electronic transmission of Work Product. Unless specifically set forth in the Agreement, ownership of the Electronic Data does not include ownership of the software or computer program with which it is associated, transmitted, generated or interpreted.

**12.2.3** By transmitting Work Product in electronic form, the transmitting party does not transfer or assign its rights in the Work Product. The rights in the Electronic Data shall be as set forth in Article 4 of the Agreement. Under no circumstances shall the transfer of ownership of Electronic Data be deemed to be a sale by the transmitting party of tangible goods.

#### **12.3 Electronic Data Protocol.**

**12.3.1** The parties acknowledge that Electronic Data may be altered or corrupted, intentionally or otherwise, due to occurrences beyond their reasonable control or knowledge, including but not limited to compatibility issues with user software, manipulation by the recipient, errors in transcription or transmission, machine error, environmental factors, and operator error.

Consequently, the parties understand that there is some level of increased risk in the use of Electronic Data for the communication of design and construction information and, in consideration of this, agree, and shall require their independent contractors, Subcontractors and Design Consultants to agree, to the following protocols, terms and conditions set forth in this Section 12.3.

**12.3.2** Electronic Data will be transmitted in the format agreed upon in Section 12.2.1 above, including file conventions and document properties, unless prior arrangements are made in advance in writing.

**12.3.3** The Electronic Data represents the information at a particular point in time and is subject to change. Therefore, the parties shall agree upon protocols for notification by the author to the recipient of any changes which may thereafter be made to the Electronic Data, which protocol shall also address the duty, if any, to update such information, data or other information contained in the electronic media if such information changes prior to Final Completion of the Project.

**12.3.4** The transmitting party specifically disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with respect to the media transmitting the Electronic Data. However, transmission of the Electronic Data via electronic means shall not invalidate or negate any duties pursuant to the applicable standard of care with respect to the creation of the Electronic Data, unless such data is materially changed or altered after it is transmitted to the receiving party, and the transmitting party did not participate in such change or alteration.

## **Article 13**

### **Miscellaneous**

#### **13.1 Confidential Information.**

**13.1.1** Confidential Information is defined as information which is determined by the transmitting party to be of a confidential or proprietary nature and: (i) the transmitting party identifies as either confidential or proprietary; (ii) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (iii) the document is not otherwise available in or considered to be in the public domain. The receiving party agrees to maintain the confidentiality of the Confidential Information and agrees to use the Confidential Information solely in connection with the Project.

#### **13.2 Assignment.**

**13.2.1** Neither Design-Builder nor Owner shall, without the written consent of the other assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents.

#### **13.3 Successorship.**

**13.3.1** Design-Builder and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

#### **13.4 Governing Law.**

**13.4.1** The Agreement and all Contract Documents shall be governed by the laws of the place of the Project, without giving effect to its conflict of law principles.

**13.5 Severability.**

**13.5.1** If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

**13.6 No Waiver.**

**13.6.1** The failure of either Design-Builder or Owner to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

**13.7 Headings.**

**13.7.1** The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

**13.8 Notice.**

**13.8.1** Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice, (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement, or (iii) if transmitted by facsimile, by the time stated in a machine generated confirmation that notice was received at the facsimile number of the intended recipient.

**13.9 Amendments.**

**13.9.1** The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

# Resolution

Number 18-1295

Adopted Date August 14, 2018

## ESTABLISH BOUNDARIES OF THE WAYNESVILLE REGIONAL WASTEWATER TREATMENT SERVICE AREA OF THE WARREN COUNTY SEWER DISTRICT

WHEREAS, by Resolution No. 89-621, this Board's predecessors consolidated the Franklin-Lebanon Sewer District, the Hamilton-Deerfield Sewer District, the Polk Run Sewer District, the Wayne-Massie Sewer District, Morrow-Roachester Sewer District, and all "sub-sewer districts" and "improvement areas" within such sewer districts, thereby establishing a single sewer district called the Warren County Sewer District of Warren County, Ohio; and

WHEREAS, this Board is authorized by section 6117.01 (B)(1) of the Ohio Revised Code to lay out, establish, and maintain the boundaries of, one or more sewer districts within the County and outside municipal corporations; and

WHEREAS, this Board is authorized by section 6117.03 of the Ohio Revised Code to lay out, establish, and maintain one or more sewer districts within the County to include all or a part of the territory within a municipal corporation as a part of such district; and

WHEREAS, in accordance with section §6117.01 (B)(1) of the Ohio Revised Code, this Board is vested with the discretion to determine whether to construct, maintain, and operate sanitary or drainage facilities within any sewer district that it determines to be necessary or appropriate; and

WHEREAS, on December 31, 2015, this Board purchased the Waynesville Wastewater Treatment Plant from the Village of Waynesville; and

WHEREAS, this Board currently provides sanitary sewer service to the Village of Corwin, the Village of Harveysburg, the Village of Waynesville, and portions of the unincorporated area of Wayne Township; and

WHEREAS, this Board desires to layout, establish and maintain certain boundaries for the Waynesville Regional Wastewater Treatment Service Area as part of the Warren County Sewer District to include a part of Wayne Township, and to include all of the corporate limits of the Villages of Corwin, Harveysburg, and Waynesville, each of whom have authorized such action, by virtue of Village of Corwin Ordinance No. 06-2018, Village of Harveysburg Ordinance No. 2018-001, and Village of Waynesville Ordinance No. 2015-045, copies of which are attached hereto and made a part hereof; and

WHEREAS, due to the acquisition of the Waynesville Wastewater Treatment Plant, this Board adopted Resolution No. 18-1116 on July 17, 2018, setting a public hearing and ordering notice by publication to discuss the necessity to establish and determine the boundaries of the Waynesville Regional Wastewater Treatment Service Area of the Warren County Sewer District; and

RESOLUTION #18-1295  
AUGUST 14, 2018  
PAGE 2

WHEREAS, after publication, this Board met this 14<sup>th</sup> day of August, 2018, for a public hearing to establish and determine the boundaries of the Waynesville Regional Wastewater Treatment Service Area; and

WHEREAS, this Board considered the recommendations made during the public hearing from the County Sanitary Engineer, representatives from the Village of Waynesville and Wayne Township being all those persons present to speak in favor of this matter, and there having been no one present who spoke in opposition; and

WHEREAS, this Board determined that amendments to the draft maps attached to Resolution #18-1116 were necessary and appropriate boundaries for the Waynesville Regional Wastewater Treatment Service Area; and

NOW THEREFORE BE IT RESOLVED, the Board finds its necessary and appropriate for the purpose of preserving and promoting the public health and welfare, to lay out, establish and maintain the boundaries of the Waynesville Regional Wastewater Treatment Service Area as part of the Warren County Sewer District of Warren County, Ohio, said boundaries are illustrated in the amended maps attached hereto and made a part hereof.

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

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

Resolution adopted this 14<sup>th</sup> day of August 2018.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

/tao

cc: Water/Sewer (file)  
Wayne Township Trustees  
Village of Corwin  
Village of Harveysburg  
Village of Waynesville  
Pros Office - Bruce McGary  
Public Hearing file

**VILLAGE OF CORWIN, OHIO  
ORDINANCE NO. 06-2018**

**AN ORDINANCE AUTHORIZING THE BOARD OF COMMISSIONERS OF WARREN COUNTY, OHIO TO INCLUDE THE CURRENT CORPORATION LIMITS OF THE VILLAGE OF CORWIN IN THE BOUNDARIES OF THE WAYNESVILLE REGIONAL WASTEWATER TREATMENT SERVICE AREA OF THE WARREN COUNTY SEWER DISTRICT.**

**WHEREAS**, pursuant to Village Ordinance No. 2005-10, dated December 12, 2005, the Village of Corwin agreed and did subsequently assign on April 10, 2006, to the Warren County Board of County Commissioners ("Warren County"), all funds in the Village's Water and Sewer Fund, all water and sanitary sewer system improvements within the Village including water mains, valves, meters, fire hydrants, sewers, manholes and pump stations, and all easements and title to permanent easements over all properties which were purchased or acquired for the construction, operation and maintenance of all water and sanitary sewer system improvements; and

**WHEREAS**, since owning the sanitary sewer system improvements, and before via contract, Warren County has been solely responsible for planning and administering sanitary sewer service in the corporation limits of the Village of Corwin regardless of the fact Warren County has not formally established a sewer improvement area with the County's Sewer District; and

**WHEREAS**, in accordance with Ohio Rev. Code § 6117.03, a board of county commissioners may only lay out, establish and maintain a sewer district within the county to include a part or all of the territory within a municipal corporation as the whole or part of such district, if the legislative authority of the municipal corporation authorizes such action; and

**WHEREAS**, Warren County is currently in the process of establishing the boundaries of the Waynesville Regional Wastewater Treatment Service Area of the Warren County Sewer District; and

**WHEREAS**, the boundaries of the Waynesville Regional Wastewater Treatment Service Area may only include the corporation limits of the Village of Corwin if the Village Council passes legislation authorizing such action; and

**WHEREAS**, the Village of Corwin acknowledges that it has been made aware that the Waynesville Regional Wastewater Treatment Plant lacks sufficient capacity for the entire service area as currently there is service available for an estimated 300 additional homes; and

**WHEREAS**, the Village of Corwin acknowledges that it has been made aware that sewer service is available to new customers on a first come first serve basis, and that Warren County does not guarantee sewer service availability to future developments, and that Warren County may place yearly limits or moratoriums on future sewer connections.

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the Village of Corwin, Warren County, Ohio, at least a majority of all members elected thereto concurring:

**Section 1.** That the Village of Corwin does hereby authorize Warren County to include the current corporation limits of the Village of Corwin in the boundaries of Waynesville Regional Wastewater Treatment Service Area of the Warren County Sewer District.

**Section 2.** That the Council is acting in its legislative capacity in approving this Ordinance.

**Section 3.** That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

**Section 4.** This Ordinance is hereby declared to be an emergency necessary for the immediate preservation of the public health, safety and/or welfare of the Village of Corwin, and therefore waive multiple readings in compliance with Section 731.17 of the Ohio Revised Code.

**Section 5.** That it is found and determined that all formal actions of the Council concerning and relating to the passage of this Ordinance were conducted in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and Rules of Council.

Councilman Purkey moved for the adoption of the forgoing ordinance.

Councilman Watrous seconded the motion and upon call of the roll thereon, the vote resulted as follows:

Scott Fitzsimmons	<u>Aye</u>	Bill Purkey	<u>Aye</u>
Robert Watrous	<u>Aye</u>	Kevin Cummins	<u>Aye</u>
Andrew Adair	<u>Aye</u>	Joseph Hernandez	<u>Aye</u>

This Ordinance is hereby adopted this 12<sup>th</sup> day of November, 2018.

Attest: Debra R. Femmer  
Debra R. Femmer  
Clerk of Council

Dennis Oszakiewski  
Dennis Oszakiewski  
Mayor

#### CERTIFICATION

I, the undersigned Clerk of Council, do hereby certify the foregoing is a true and correct copy of Ordinance 06-2018 passed by that body on November 12, 2018.

Debra R. Femmer, Clerk of Council



**VILLAGE OF HARVEYSBURG, OHIO**  
**ORDINANCE NO. 2018 - 001**

**AN ORDINANCE AUTHORIZING THE BOARD OF COMMISSIONERS OF  
WARREN COUNTY, OHIO TO INCLUDE THE CURRENT CORPORATION  
LIMITS OF THE VILLAGE OF HARVEYSBURG IN THE BOUNDARIES OF  
THE WAYNESVILLE REGIONAL WASTEWATER TREATMENT SERVICE  
AREA OF THE WARREN COUNTY SEWER DISTRICT**

**WHEREAS**, historically, Warren County has been solely responsible for planning and administering sanitary sewer service in the corporation limits of the Village of Harveysburg regardless of the fact Warren County has not formally established a sewer improvement area with the County's Sewer District; and,

**WHEREAS**, in accordance with Ohio Rev. Code § 6117.03, a board of county commissioners may only lay out, establish and maintain a sewer district within the county to include a part or all of the territory within a municipal corporation as the whole or part of such district, if the legislative authority of the municipal corporation authorizes such action; and,

**WHEREAS**, Warren County is currently in the process of establishing the boundaries of the Waynesville Regional Wastewater Treatment Service Area of the Warren County Sewer District; and,

**WHEREAS**, the boundaries of the Waynesville Regional Wastewater Treatment Service Area may only include the current corporation limits of the Village of Harveysburg if the Village Council passes legislation authorizing such action, and

**WHEREAS**, the Village of Harveysburg acknowledges that it has been made aware that the Waynesville Regional Wastewater Treatment Plant lacks sufficient capacity for the entire service area as currently there is service available for an estimated 300 additional homes; and,

**WHEREAS**, the Village of Harveysburg acknowledges that it has been made aware that sewer service is available to new customers on a first come first serve basis, and that Warren County does not guarantee sewer service availability to future developments, and that Warren County may place yearly limits or moratoriums on future sewer connections.

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the Village of Harveysburg, Ohio, at least a majority of all members elected thereto concurring:

**Section 1.** That the Village of Harveysburg does hereby authorize Warren County to include the current corporation limits of the Village of Harveysburg in the boundaries of Waynesville Regional Wastewater Treatment Service Area of the Warren County Sewer District.

**Section 2.** That the Council is acting in its legislative capacity in approving this Ordinance.

**Section 3.** That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

**Section 4.** That it is found and determined that all formal actions of the Council concerning and relating to the passage of this Ordinance were conducted in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

**Section 5.** This Ordinance shall be deemed an emergency measure for the Village welfare and thereby the three readings as required by law are waived.

Approved this 22<sup>nd</sup> day of OCTOBER, 2018.

Attest: C. Faulkner  
Fiscal Officer/Clerk

Bill Kanga  
Mayor

Approved as to form:

VILLAGE SOLICITOR

By: Jo Lucas, Esq. D  
Date: 10/22/2018

ORDINANCE NO. 2015-045

**AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AMENDED ASSET TRANSFER AGREEMENT RELATED TO THE TRANSFER OF THE WAYNESVILLE WASTE WATER TREATMENT PLANT AND DECLARING AN EMERGENCY**

WHEREAS, the Village of Waynesville has negotiated with Warren County to transfer its waste water treatment plant; and

WHEREAS, the Village has previously authorized the execution of an Asset Transfer Agreement; and

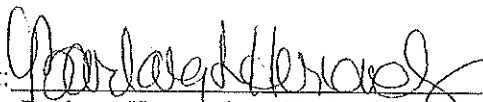
WHEREAS, it has become necessary to authorize the execution of an amended agreement..

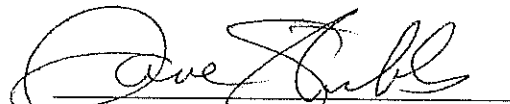
NOW, THEREFORE, BE IT ORDAINED by the Village Council of the Village of Waynesville, 6 members elected thereto concurring that:

Section 1. That the Village Manager is hereby authorized to execute an amended Asset Transfer Agreement, with such amendments as set forth in section 3.10 and section 5.13, related to the transfer of the Waynesville Wastewater Treatment Plant, substantially in the form of the agreement attached hereto as Exhibit "A" and incorporated herein by reference.

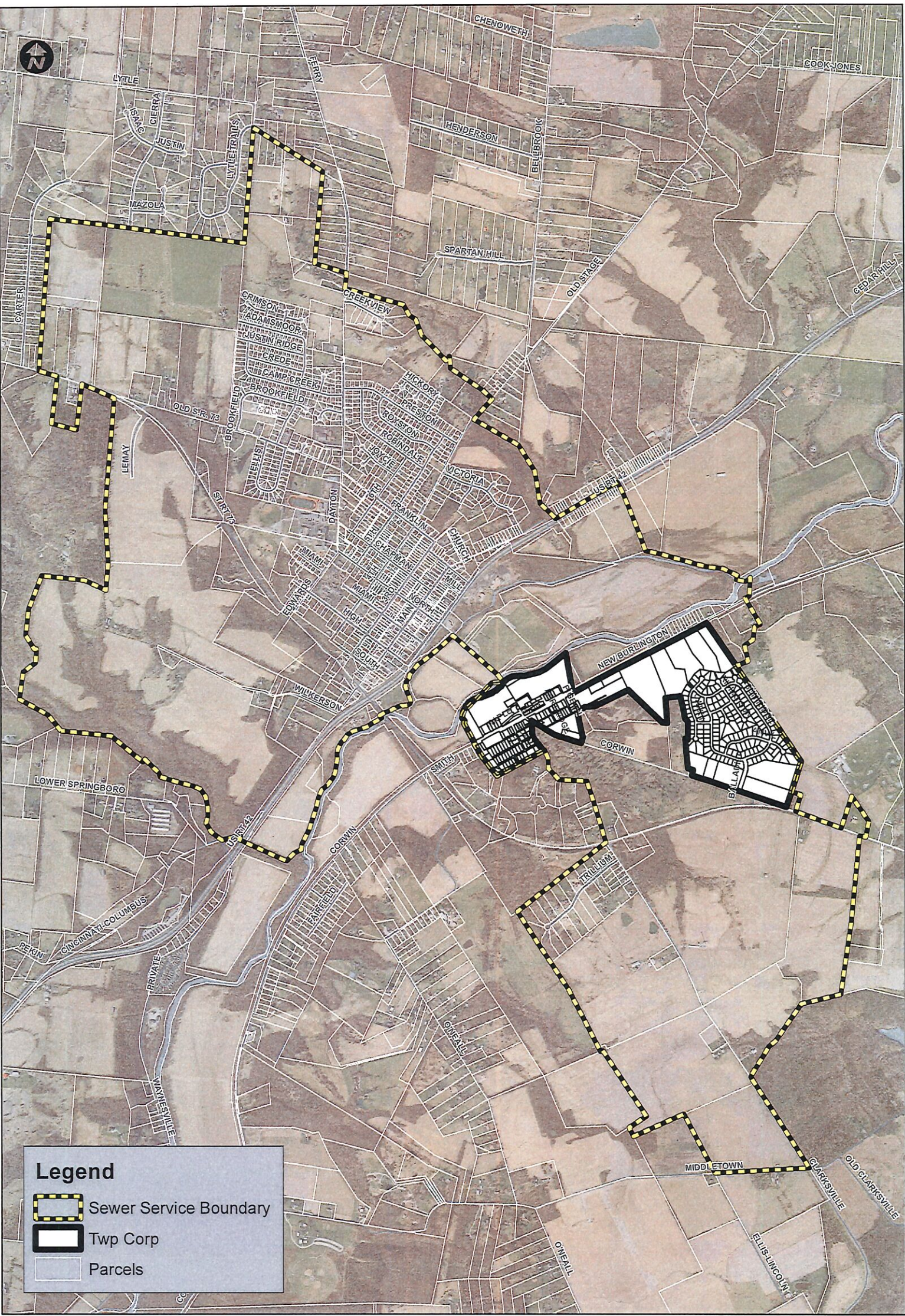
Section 2. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, and welfare, and shall be effective immediately upon its adoption. The reason for said declaration of emergency is the need to execute the amended Agreement at the earliest possible date in order to comply with deadlines found within the original Agreement.

Adopted this 21<sup>st</sup> day of December, 2015.

Attest:   
Barbara Hernandez, Clerk of Council

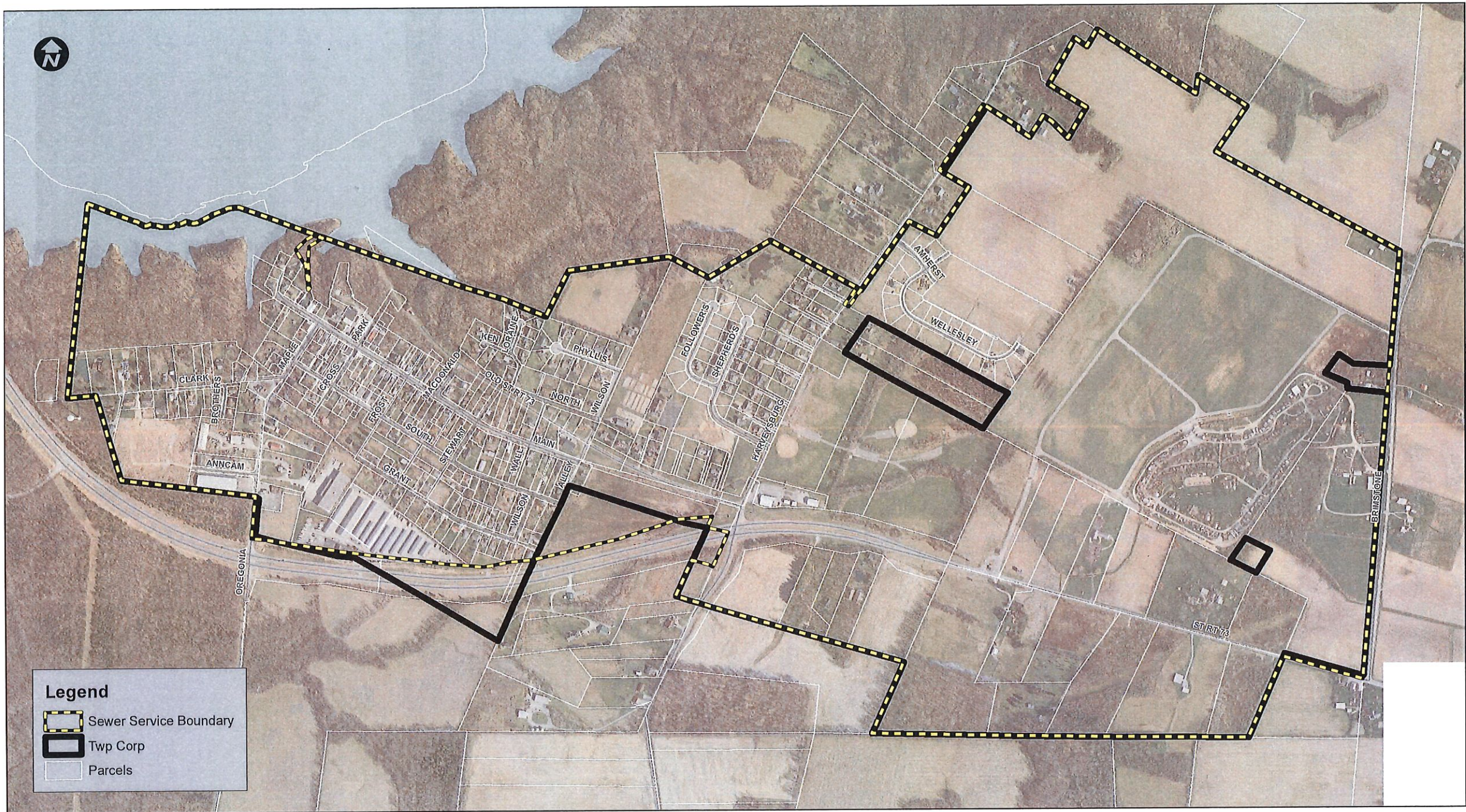
  
David Stubbs, Mayor








**VILLAGE OF CORWIN**  
Waynesville Regional WWTP Sewer Service Area



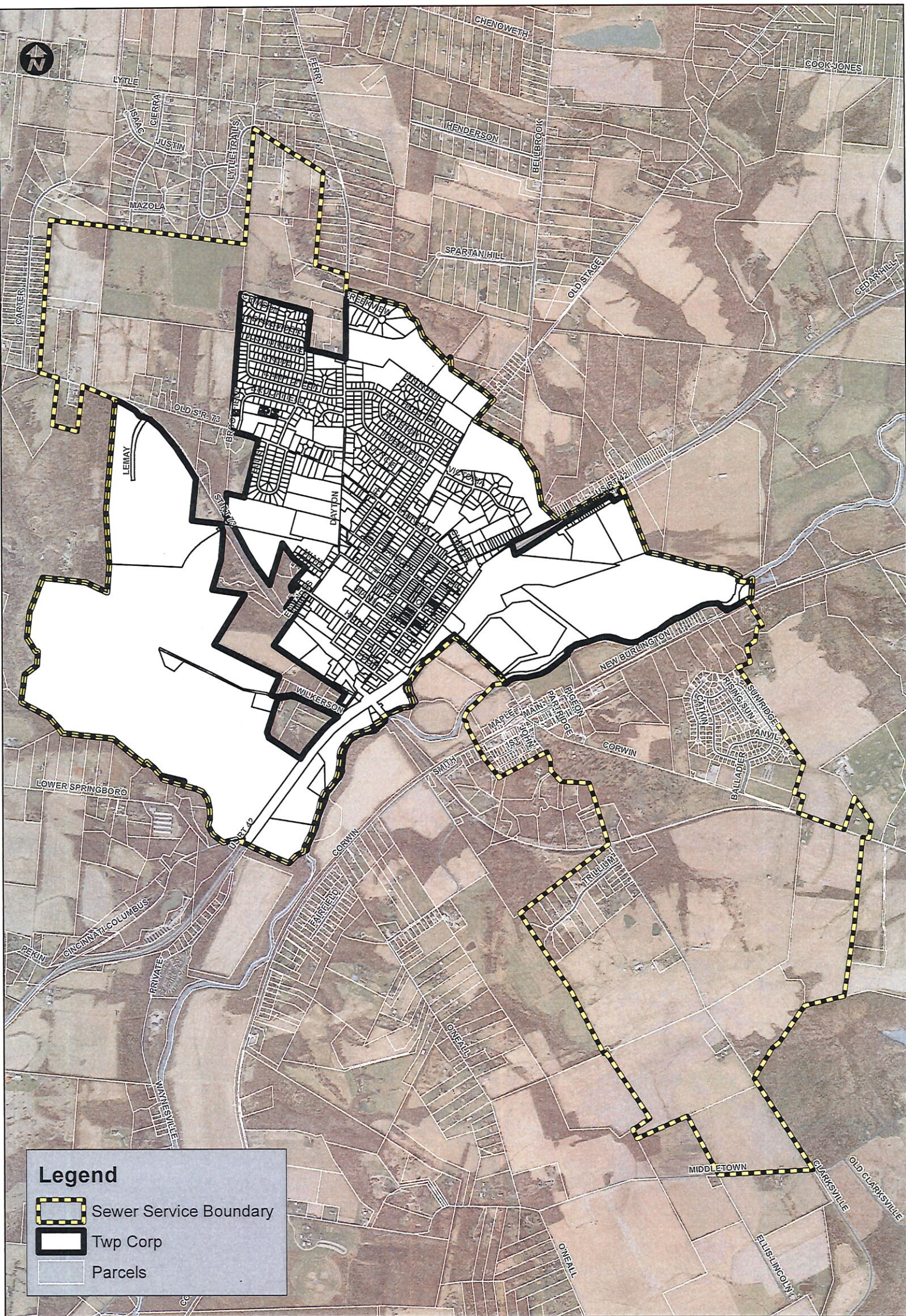


**Legend**




-  Sewer Service Boundary
-  Twp Corp
-  Parcels

**VILLAGE OF HARVEYSBURG**  
**Waynesville Regional WWTP Sewer Service Area**



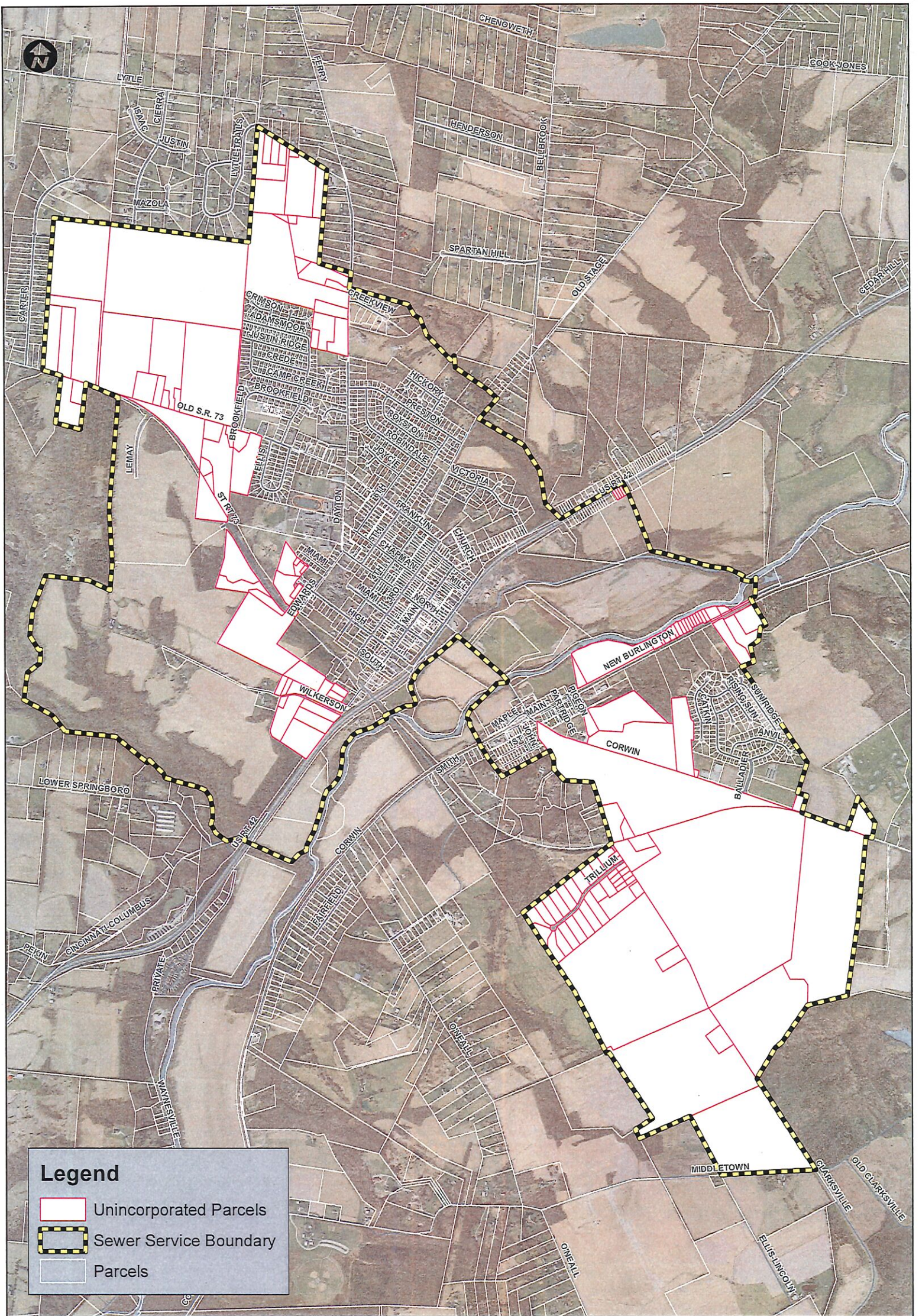


**Legend**

-  Sewer Service Boundary
-  Twp Corp
-  Parcels

**VILLAGE OF WAYNESVILLE**  
 Waynesville Regional WWTP Sewer Service Area





**UNINCORPORATED PARCELS\***  
**Waynesville Regional WWTP Sewer Service Area**

\*A list of the unincorporated parcel numbers and acreage is attached hereto.



**Unincorporated Parcels, Waynesville Regional  
WWTP Sewer Service Area**

<u>Parcel Number</u>	<u>Acreage</u>
5011010040	0.5127
5011010040	40.7003
5011010060	1.211
5011260010	3.36
5011260040	5.868
5011260070	1.392
5011260080	1.114
5011260091	5
5011260092	4.886
5013510260	2.0694
5013510280	9.9481
5023000300	0.657
5023000310	13.682
5023000320	4.598
5023000360	10.246
5023000370	6.681
5023000380	1.396
5023000390	1.668
5023000400	1.94
5023000450	0.5247
5023000470	11.008
5071260120	20.003
5071260130	38.935
5071760130	8.13
5071760140	8.13
5072000020	30.25
5072000040	42.93
5072000050	1
5072000060	1.09
5072000070	17.935
5072000080	101.07
5073000100	7.4998
5073000110	2.5002
5074000030	1.146
5074000060	6.924
5074000070	1.405



**Parcel Number****Acreage**

5074000080	0.933
5074000100	13.146
5074000110	2.001
5074000120	5.019
5074000140	2.824
5074000150	12.768
6313260091	0
6313260092	0
6313260093	0
6313260094	0
6314000020	0.37
6314000030	0.338
6314000040	1.411
6314000040	0.589
6314000070	5.0645
9061010010	8.1
9061010030	2.2226
9061010040	4.0074
9061020030	3.81
9061020091	0.249
9061020120	3.39
9061020131	0.905
9061270130	0.25
9061270140	0.0414
9061270150	0.0414
9061270161	0.0168
9061280020	0.63
9061280030	0.651
9061330222	0.515
9061510041	29.523
9061780132	5.48
9063000081	3.23
9063000090	3.18
9063000100	4
9063000110	7.5
9063000180	1.919
9063000221	1.142
9063000222	0.639

**Parcel Number****Acreage**

9063000270	0.629
9063000280	6.375
9063370021	1.18
9063370030	0.849
10291000010	45.36
10293000040	55.6888
10301000040	5.1
10303000010	1.476
10303000020	90.25
10351000120	1.6046
10351000130	2.7825
10351000140	2.4653
10351000150	2.2656
10351000160	2.2488
10351000170	2.2486
10351000180	2.0004
10351000190	2.4294
10351000200	2.0692
10351000210	2.1951
10351000220	2.0381
10351000230	2.2026
10351000240	2.1875
10351000250	2.1423
10351000260	2.0351
10352000010	1.195
10352000050	3.408
10352000060	102.672
10352000070	5.4671
10354000070	3.408
10354000080	80.142
10361260040	16.9495
10361520102	1.7633
10361770020	14.37
10361770061	1.941
10361770070	21.799
10362010010	0.93
10362010020	0.3
10362010030	0.59

**Parcel Number****Acreage**

10362010050	0.29
10362010060	0.44
10362010090	0.3
10362010100	0.339
10362010120	0.3567
10362010130	0.416
10362010140	0.29
10362010150	0.29
10362010160	0.3528
10362010170	0.29
10362260020	5.077
10362260040	5.0768
10362510020	10.899
10363260020	5.158
10363770040	0.391
10363770050	0.391
10363770060	2.0394
10363770070	1.7422
10363770080	1.739
10363770090	2.0139
10363780010	0
10363780020	0
10363780050	0.5
10363780050	0.5
10363780050	0.5
10363780060	0.5
10363780070	1.6002
10364000030	0
10364000040	5.598
10364000050	0.4017
10364000060	0.4017
10364000070	194.227
10364000080	1.438
10364000080	77.024
10364000090	0.201