

IN THE MATTER OF AUTHORIZING THE COUNTY AUDITOR TO DRAW WARRANTS FOR THEN AND NOW CERTIFICATE PAYMENTS.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 28th day of October, 2014.

Commissioner Spencer moved the adoption of the following:

RESOLUTION

WHEREAS, the practice of using "Then and Now Certificates" has been instituted by the County Auditor.

THEREFORE, BE IT RESOLVED that the Board of County Commissioners, Auglaize County, Ohio, the taxing authority for Auglaize County, having thirty (30) days to approve payment by resolution from receipt of "Then and Now Certificates", does hereby approve the following:

<u>Check #</u>	<u>Amount</u>	<u>Vendor</u>
388428	\$109,000.00	Tumbusch Construction
388431	\$ 7,426.42	Brumbaugh Construction
388439	\$ 986.48	Acres Activity Fund
388444	\$ 8,337.67	Heyne Construction
388458	\$ 1,540.00	Miracle Method
388462	\$ 1,375.00	Gt Environmental
388479	\$ 107.25	West Central Ohio Regional Healthcare
388492	\$ 29,211.34	Concept Rehab
388493	\$ 1,416.33	Dietary Solutions
388512	\$ 513.40	Bornhorst Printing
388518	\$ 530.92	Schindler Elevator

Commissioner Regula seconded the Resolution and upon the roll being called, the vote resulted in the adoption of the Resolution as follows:

Adopted this
28th day of
October, 2014

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

John N. Bergman
John N. Bergman

Douglas A. Spencer yes
Douglas A. Spencer

Don Regula yes
Don Regula

✓ cc: County Auditor

IN THE MATTER OF ENTERING INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF REHABILITATION AND CORRECTION THROUGH ADULT PAROLE AUTHORITY FOR COMMUNITY CONTROL/PROBATION SERVICES.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 28th day of October, 2014.

Commissioner Spencer moved the adoption of the following:

RESOLUTION

WHEREAS, the Ohio Department of Rehabilitation and Correction's Adult Parole Authority has provided community control/probation services to the County; and,

WHEREAS, Judge Frederick Peple has asked the Board of County Commissioners to enter into an agreement with the Ohio Adult Parole Authority so that these services will continue; and,

WHEREAS, the Ohio Adult Parole Authority has prepared the agreement which has been reviewed and executed by Judge Peple; and,

THEREFORE BE IT RESOLVED, that the Board of County Commissioners, Auglaize County, Ohio, does hereby approve and execute the agreement with the Ohio Adult Parole Authority for community control/probation services; and,

BE IT FURTHER RESOLVED that a fully executed copy of this agreement, be hereto attached to and become a part of this Resolution.

Commissioner Regula seconded the Resolution and upon the roll being called, the vote resulted in the adoption of the Resolution as follows:

Adopted this
28th day of
October, 2014

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

John N. Bergman, yes
John N. Bergman

Douglas A. Spencer, yes
Douglas A. Spencer

Don Regula, yes
Don Regula

Attachment

✓ cc: Court of Common Pleas – Judge Frederick Peple



OHIO DEPARTMENT OF REHABILITATION AND CORRECTION
AGREEMENT FOR COMMUNITY CONTROL / PROBATION SERVICES

Auglaize County ("County") is authorized pursuant to ORC 2301.32 to enter into an agreement with the State of Ohio ("State") to provide supervisory services through the Adult Parole Authority pursuant to sections 2301.32, 5149.06 and 5149.12 of the Ohio Revised Code (ORC) to provide such services to local courts. This agreement is made and entered into this 1st day of September, 2014 by and between the State of Ohio Department of Rehabilitation and Correction (ODRC), Division of Parole and Community Services (DPCS), (hereinafter referred to as State) and the undersigned representative of Auglaize County (hereinafter referred to as the County) pursuant to authority in sections 2301.32, 5149.06 and 5149.12 of the Ohio Revised Code and shall be updated and renewed on or about the 30th day of September, 2016.

A. ANALYSIS OF COUNTY'S DATA:

- Current year county DRC Intake profile (Attachment #1)
- Recidivism data for community control cases (Attachment #2)
- APA/ CCA comparison by county (Attachment #3)
- DRC funding to County by category – APA, CCA, CBCF, HWH (Attachment #4)
- APA Conditions of Supervision (Attachment #5)

B. SUPERVISION PERSONNEL:

The number of offenders under supervision referred by the County from May 2011 to April 2012 (12 month average) comes to an average number of 182 offenders under supervision per month.

C. SUPERVISION:

The State will provide supervision services for offenders placed on probation, community control, judicial release, or treatment in lieu of conviction by the Court pursuant to the policies of the DRC and the DPCS according to the following general standards and guidelines:

1. The County agrees to comply with ORC 2951.03 with respect to the preparation of a PSI for each offender placed under a community control sanction. The County is responsible for the preparation of a PSI and requests to the State to supervise the offender. The County agrees to provide the PSI to the State. The county agrees to complete the appropriate ORAS assessment and enter it in the electronic ODRC Gateway. The currently established protocol to notify the State of new supervision referrals will be maintained.
2. Supervision services shall commence upon the Court pronouncing sentence and verified upon receipt of the Court's sentencing entry, or other official notification by the Court

pending receipt of the sentencing entry. A sentencing entry is required for each offender under supervision.

Such entry must include an order requiring the State Adult Parole Authority (APA) to supervise the offender. In the event the court places the offender under supervision, the entry shall order the offender to comply with the APA's standard conditions of supervision (attached herewith as Attachment 5), and any Auglaize County Common Pleas Court conditions as approved by the APA. Cases placed under supervision by the Court shall be supervised according to APA Policy 100-APA-13 Supervision Reentry Planning and Classification.

3. The State will otherwise monitor compliance with all court-ordered sanctions (residential, non-residential, and financial) as expressly provided in the sentencing entry.
4. At the Court's request, the State will furnish the Court with the pertinent information concerning the offender's conduct.
5. As soon as the State has reason to believe that one or more sanction(s) or condition(s) of supervision have been violated, the State will conduct an investigation, and may arrest, or cause the arrest of the offender pursuant to ORC 2951.08.
6. Upon learning of an offender's arrest, the State will notify the Court within two business days of that arrest(provided that the nature of the arrest indicates the offender may have violated the terms of their supervision).
7. If an offender is notified to appear before the Court to answer allegations of a violation, a written violation report and recommendation will be submitted to the Court prior to the hearing if a prison sanction is recommended, or likely to be imposed.
8. Once the State determines that an offender has absconded from the jurisdiction of the Court, a request for a capias and an entry tolling the period of supervision will be submitted to the Court within one business day of that determination. A written violation report will be

provided in approximately 30 days. Any recommendation will be withheld until such time as the offender appears before the Court.

9. The State will submit a narrative report to the Court prior to the scheduled termination date of the offender's period of supervision.
10. The County agrees that an offender who is arrested pursuant to ORC 2951.08, and detained in the county jail, must be transported to the Court by the County Sheriff pursuant to Attorney General Opinion Number 95-033.
11. If a Court imposes supervision fees pursuant to ORC 2951.021 on an offender supervised by the State, the fees shall be deposited as provided by ORC 2951.021(D)(4).
12. Neither the State nor its employees will accept financial payments directly from Offenders on probation or community control.

***Goal:** Provide Cost Effective and evidence based Options for Safely Supervising Offenders in the Community.

Objective: To address at least 30% of technical supervision violations prior to initiating the formal violation process during FY 2012.

Measure: The number of offenders engaging in unit based resolution alternatives compared to the number of formal revocation hearings during FY 2012.

1. Caseload, Contact Standards and Risk Assessment

- a. The current average caseload size per officer will be approximately 90 cases per month.
- b. Referrals from the County to the state shall be made via the currently established protocol accompanied by the PSI and Sentencing entry or entries.

The level and method of supervision for offenders in the community, including type and

Frequency of contacts:

- c. The supervision/risk level and method of supervision for offenders in the community, including type and frequency of minimum contacts, are listed in policy 100-APA-13 and will be determined

by conducting an assessment using the Ohio Risk Assessment System (ORAS).

d. Conditions of supervision and special conditions imposed are listed in Policy 100-APA-09.

2. Services and sanctions

a. Standard programming is provided in the community. Sex offender and Substance Abuse Services may be provided by the APA if needed.

b. Sanctions will be imposed on Offenders according to policy 100-APA-14 or as indicated by the Court.

c. Direct APA services including Thinking For Change, Citizen's Circle, and other Evidenced Based Practices will also be utilized by APA staff in attempts to successfully address negative behaviors and attitudes.

3. Terminations

a. Criteria for successful completion of supervision:

i. Offenders shall be considered annually for early termination and all Court

ordered Special conditions including court costs, fines, restitution and programming need to be satisfactorily addressed.

Extensions of supervision will require a hearing before the court or the filing of a Journal Entry defining the reason for the extension.

b. What other types of terminations are used including the criteria for each?

Other types of terminations and criteria for each:

Successful: meeting all conditions and conditions of supervision as ordered.

Unsuccessful: serving the maximum term of supervision and not having completed terms and conditions as ordered by the Court; having accumulated the total jail time credit for their prison term in prison, the County Jail, or any other facility that requires the granting of jail time credit; or convicted of a new felony while under supervision without the current supervision being revoked.

Administrative: Any other circumstances that lead the Court to terminate the supervision period which doesn't meet the criteria for either successful or unsuccessful (e.g. death).

4. Drug testing

a. Type(s) of drug/alcohol testing used:

The APA uses the iCUP which is manufactured by Instant Technologies, Inc., to test the Offender's urine for certain substances.

Number of panels per test and what is the cost per panel:

There 11 panels on the tests which are provided by the APA. The tests are purchased by the Operations Support Center (OSC) and are distributed to the Regions. If an offender tests positive for any substance, they may be assessed a \$5.00 fee.

b. Court supplied drug tests:

The court supplies GCMS testing for verification as needed. Said verification is completed by Pathology Laboratories; Lima, Ohio. The offender is assessed a fee by the court on their Court Costs.

The Court also supplies oral swabs to be utilized as determined by the Court.

c. Substances tested:

Handheld breathalyzers are used to test the offender for alcohol.

The following substances are also tested using the iCups:

Drug Name:

**Abbr:
Cutoff:**

Amphetamine

AMP
1000ng/mL

Barbiturates

BAR
300ng/mL

Benzodiazepines

BZO
300ng/mL

Cocaine	COC 300ng/mL
Ecstasy	MDMA 500ng/mL
Marijuana	THC 50ng/mL
Methamphetamine	mAMP 1000ng/mL
Morphine	MOR 300ng/mL
Opiates	OPI 2000ng/mL
Oxycodone	OXY 100ng/mL
Phencyclidine	PCP 25ng/mL

c. Frequency of testing:

The frequency of testing is delineated in APA Drug Testing Policy 103-APA-07 or as Judicially Mandated.

d. Reasonable attempts will be made to insure that the drug test is monitored.

D. RESOURCE ALLOCATION:

1. The parties agree that the following items are necessary or desirable for the performance of services under this agreement and agree to provide for them as follows: **Auglaize County**

a. Forensic Evaluations shall be provided by the county for community control / probation cases.

b. Unless the Adult Parole Authority provides a District Office for its staff, the following will be provided by the **County**:

Clerical support

Office space and utilities

Paper

Office equipment

Office supplies

Telephone services

Copier accessibility

Parking

The following will be provided by the **State**:

Fax machine

Office equipment/ furnishings

Postage

Computer

Microsoft Office software

2. The State will be responsible for the hiring, training, and general management of employees. Decisions regarding the hiring, evaluation, discipline or assignment of these employees shall be within the sole discretion of the State. All salaries, employee benefits, mileage costs, training, and its related costs shall be paid by the State. State employees may receive additional training, subject to the approval of the Adult Parole Authority, paid for through other County sources.

3. Auglaize County shall be responsible for the hiring, training, and general management of county employees. All salaries, employee benefits, mileage costs, training, and its related costs for county employees shall be paid by the County.

E. STATE RESOURCES AND WORKLOAD:

The State will monitor workloads during the term of the agreement and make the necessary budgeting request for additional personnel if necessary. The County understands that such requests are considered on a biennial basis and the State may not receive the necessary personnel or funds to meet increased workloads. If additional funds are received, allocations will be based on areas with the highest increase in workloads.

In the event that workloads increase and the State is unable to reassign staff, and additional funding is not provided, then:

- a. The County may need to hire employees to cover the increased workload.
- b. The State may be able to provide services for the increased workload. However, such services would have to be at reduced levels, as mutually agreed to by the parties.

It is understood between the parties of this agreement that this agreement is subject to section 126.07 of the Revised Code which requires certification by the Director of Budget and Management as to appropriations by the Legislature.

Are any of the following financial resources collected to help offset or pay for the operating expenses of services (i.e. drug testing, fees paid by offender for services/sanctions, GPS)?

Neither the State nor its employees will accept financial sanction payments directly from offenders on probation, community control, or Intervention in Lieu of Conviction.

F. RESOLUTION OF DISPUTES:

The State and County agree that if any controversy or dispute arises out of or relates to this agreement, or any breach of this agreement, they will attempt in good faith to settle the dispute within 30 days. Should this fail the parties agree to mediation. The parties shall attempt to mutually agree to a mediator. Any costs associated with mediation services shall be equally borne by both parties of this agreement. In the event a judge or judges of the Court of Common Pleas

shall find an officer assigned to Auglaize County to be unacceptable, the Court may, through the Administrative or Presiding Judge request in writing to the Adult Parole Authority Unit Supervisor that said officer be considered for reassignment.

G. AGREEMENT TERMINATION:

In the event that either party wishes to terminate this Agreement, they agree to supply the reason(s) for the intent to terminate in writing to the other party. This notice will be given sixty (60) days prior to the termination.

Either party shall have thirty (30) days following the receipt of such notice to request reconsideration to the Chief of the Adult Parole Authority or to the Administrative Judge of the Court.

H. RELATIONSHIP TO THE COMMUNITY CORRECTIONS ACT PROGRAM (If applicable)

Local Community Corrections Act (CCA) programs shall work in collaboration with the State in providing alternative sentencing options for the Court. Whenever possible, and not legally prohibited, resources should be shared to allow cost benefits to state and community programs. The County and the State recognize that the CCA programs are targeted for specific purposes and offenders.

1. The CCA program will transfer offenders upon completion of the CCA program to the State if further supervision is required.
2. Probationers / community control offenders may be transferred to the county CCA program when violation or other behavior(s) occur that make the CCA program more appropriate.
3. The County and the State shall share information and, wherever possible, unify procedures to enhance program effectiveness in state and county programs.
4. A representative of the State may be appointed as a non-voting member of the Local

Community Corrections Board.

I. AGREEMENT COMPLIANCE

This agreement supersedes any previous Agreement(s) executed by the parties or their authorized representatives. This document represents the sole agreement between the parties.

This agreement shall be governed by the laws of the State of Ohio. It constitutes the entire agreement between the parties regarding its subject matter. It is subject, however, to modifications in writing at any time upon the mutual consent of the parties.

If any provision in this Agreement is determined by an appropriate court of law to be invalid and unenforceable, the remaining provisions shall continue in full force and effect to the extent possible.

J. AGREEMENT RENEWAL OR EXTENSION

The Agreement for Services should be reviewed and renewed every two- (2) years. In the event the Agreement for Services is not renewed by the termination date, it will continue in effect unless altered by mutual consent of the County and State. **Mutually agreed upon changes to terms and conditions of this agreement may be made as needed during the two year period.**

FOR THE STATE:

David J. Bobby, Northwest Regional Director
Ohio Department of Rehabilitation and Corrections

Date

Sara Andrews, Deputy Director
Adult Parole Authority

Date

FOR THE COUNTY:

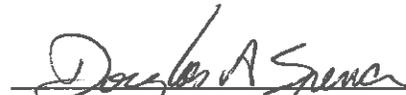
It is hereby certified that the County has properly agreed to the terms of this agreement and has designated the undersigned to sign on behalf of the County.



Judge Frederick D. Pepple
Date 10/22/14



County Commissioner, President
Date 10-28-14



County Commissioner
Date 10/28/14



County Commissioner,
Date 10-28-14



County Administrator
Date 10-28-14

Attachments:

- DRC county intake data
- APA/ CCA comparison by county
- APA workload by county (number of offenders by release type, supervision level and number of staff)
- APA recidivism data
- DRC funding to county by category – CCA, HWH, CBCF etc. (county snapshots)
- Requested supplemental attachments
- APA Conditions of Supervision

IN THE MATTER OF AUTHORIZING EMPLOYMENT OF ROBERT CHANDLER FOR THE AIRPORT ASSISTANT GROUNDS POSITION FOR AUGLAIZE COUNTY.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 28th day of October, 2014.

Commissioner Spencer moved the adoption of the following:

RESOLUTION

WHEREAS, the Airport Assistant Grounds position has been vacated at the Neil Armstrong Airport for Auglaize County; and,

WHEREAS, resumes have been received, reviewed and interviews have been given for the Airport Assistant Grounds position; and,

WHEREAS, Robert Chandler was selected to be offered the position; with Mr. Chandler agreeing to accept the position.

THEREFORE, BE IT RESOLVED that the Board of Commissioners, Auglaize County, Ohio, does hereby authorize the employment of Robert Chandler as the Airport Assistant Grounds position as mentioned above; and,

BE IT FURTHER RESOLVED, that the following stipulations apply to this employment:

1. Compensation for Mr. Chandler will be in the amount of \$14.00 per hour with a probation period of 180 days;
2. After probation is satisfactorily served, Mr. Chandler will receive a \$.50 per hour increase in compensation;
3. Employment to commence on Monday, November 3, 2014.

Commissioner Regula seconded the Resolution and upon the roll being called, the vote resulted in the adoption of the Resolution as follows:

Adopted this
28th day of
October, 2014

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

John N. Bergman, yes
John N. Bergman

Douglas A. Spencer, yes
Douglas A. Spencer

Don Regula, yes
Don Regula

- cc: Robert Chandler
- ✓ Airport Manager – Matt Bailey
- ✓ Deputy County Auditor – Lori Yahl

IN THE MATTER OF AUTHORIZING THE COUNTY AUDITOR TO ISSUE A WARRANT TO THE VILLAGE OF MINSTER FROM THEIR PERMISSIVE LICENSE PLATE TAX FUND AS RECOMMENDED BY THE COUNTY ENGINEER.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 28th day of October, 2014.

Commissioner Spencer moved the adoption of the following:

RESOLUTION

WHEREAS, the following letter of request was submitted to the Board of County Commissioners by Doug Reinhart, County Engineer:

The Village of Minster has provided to me a paid invoice for over \$136,000 for resurfacing improvements during 2014 which qualifies for Permissive License Plate Tax reimbursement. Please authorize the Auglaize County Auditor to reimburse the Village of Minster in the amount of \$18,937.05 that currently exists in their Permissive License Plate Fund.

s/Douglas Reinhart
Douglas Reinhart, P.E., P.S.
Auglaize County Engineer

THEREFORE, BE IT RESOLVED that the Board of County Commissioners, respective of Engineer Reinhart's request, does hereby authorize the County Auditor to issue a warrant in the amount of \$18,937.05 made payable to the Village of Minster with funds to be drawn from their Permissive License Plate Tax Fund.

Commissioner Regula seconded the Resolution and upon the roll being called, the vote resulted in the adoption of the Resolution a follows:

Adopted this
28th day of
October, 2014

**BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO**

John N. Bergman, yes
John N. Bergman

Douglas A. Spencer, yes
Douglas A. Spencer

Don Regula, yes
Don Regula

- ✓ cc: County Engineer
- ✓ County Auditor
- ✓ Village of Minster

IN THE MATTER OF MAKING APPOINTMENTS TO THE BOARD OF TRUSTEES OF THE MIDWEST
POOL RISK MANAGEMENT AGENCY.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 28th day of
October, 2014.

Commissioner Spencer moved the adoption of the following:

RESOLUTION

WHEREAS, Auglaize County is a member county of the Midwest Pool Risk Management Agency; and,

WHEREAS, Article V of the By-laws of the corporation state: "The Agency shall have a Board of Trustees in accordance
with Ohio nonprofit corporation laws. Each Member shall appoint three (3) trustees and an alternate trustee to
serve when any trustee appointed by that Member is unable to carry out his or her duties as trustee."

THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Auglaize County, Ohio does hereby
make the following appointments to the Board of Trustees of the Midwest Pool Risk Management Agency
effective as of 10/28/14 and shall serve as Trustee or Alternate until their respective successors are duly elected or
appointed to the Board of Trustees:

- Trustee: John Bergman
- Trustee: Douglas A. Spencer
- Trustee: Don Regula
- Alternate: Erica L. Preston.

Commissioner Regula seconded the Resolution and upon the roll being called, the vote
resulted in the adoption of the Resolution as follows:

Adopted this
28th day of
October, 2014

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

John N. Bergman
John N. Bergman

Douglas A. Spencer Yes
Douglas A. Spencer

Don Regula Yes
Don Regula

- ✓ cc: Hancock County Commissioners
- ✓ Mercer County Commissioners
- ✓ Shelby County Commissioners
- ✓ Van Wert County Commissioners
- ✓ Arthur J. Gallagher & Co. – Kevin Fink

IN THE MATTER OF MAKING APPOINTMENTS TO THE BOARD OF TRUSTEES OF THE MIDWEST
EMPLOYEE BENEFIT CONSORTIUM, INC.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 28th day of
October, 2014.

Commissioner Spencer moved the adoption of the following:

RESOLUTION

WHEREAS, Auglaize County is a member county of the Midwest Employee Benefit Consortium, Inc.; and,

WHEREAS, Article V of the By-laws of the corporation state: "The Agency shall have a Board of Trustees in accordance
with Ohio nonprofit corporation laws. Each Member shall appoint three (3) trustees and an alternate trustee to
serve when any trustee appointed by that member is unable to carry out his or her duties as trustee."

THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Auglaize County, Ohio does hereby make
the following appointments to the Board of Trustees of the Midwest Employee Benefit Consortium, Inc. effective
as of 10/28/14 and shall serve as Trustee or Alternate until their respective successors are duly elected or appointed
to the Board of Trustees:

- Trustee: John Bergman
- Trustee: Douglas A. Spencer
- Trustee: Don Regula
- Alternate: Erica L. Preston.

Commissioner Regula seconded the Resolution and upon the roll being called, the vote resulted
in the adoption of the Resolution as follows:

Adopted this
28th day of
October, 2014

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

John N. Bergman, yes
John N. Bergman

Douglas A. Spencer, yes
Douglas A. Spencer

Don Regula, yes
Don Regula

- cc: Hancock County Commissioners
- Mercer County Commissioners
- Arthur J. Gallagher & Co. – Kyle Anthony

IN THE MATTER OF AUTHORIZING BUDGET ADJUSTMENTS.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 28th day of October, 2014.

Commissioner Spencer moved the adoption of the following:

RESOLUTION

WHEREAS, the Board has been requested to authorize budget adjustments as follows: and,

Public Assistance Fund:

Amount:	From:	To:
\$ 70,000.00	006.0008.536600 (Health Insurance)	006.0008.530600 (Contract Services)
\$ 70,000.00	006.0008.536600 (Health Insurance)	006.0008.538600 (H5 General)

Children's Services Fund:

\$100,000.00	050.0004.530200 (Transfer Out)	050.0004.530600 (Contract Services)
--------------	--------------------------------	-------------------------------------

THEREFORE BE IT RESOLVED that the Board of County Commissioners of Auglaize County, Ohio, does hereby authorize the budget adjustments to show the changes as tabulated above.

Commissioner Regula seconded the Resolution and upon the roll being called, the vote resulted in the adoption of the Resolution as follows:

Adopted this
28th day of
October, 2014

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

John N. Bergman, yes
John N. Bergman

Douglas A. Spencer, yes
Douglas A. Spencer

Don Regula, yes
Don Regula

✓cc: County Auditor
✓ Job & Family Services

IN THE MATTER OF AUTHORIZING CHANGE ORDER NO. 1 WITH STEMEN'S CONCRETE FOR THE CITY OF WAPAKONETA 2014 GIBBS STREET SIDEWALK/APPROACH INSTALLATION PHASE I PROJECT, USING FY'13CDBG ALLOCATION PROGRAM FUNDS; AND AUTHORIZES THE PRESIDENT OF THE BOARD TO EXECUTE SAID CHANGE ORDER #1.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 28th day of October, 2014.

Commissioner Spencer moved the adoption of the following:

RESOLUTION

WHEREAS, the City of St. Wapakoneta has been granted funding in the amount of \$30,800.00 through the F.Y. '13 CDBG Allocation Program Funds for the Gibbs Street Sidewalk/Approach Installation Phase I Project; and,

WHEREAS, bid award for this project was granted to Stemen's Concrete at the cost of \$31,957.50; and,

WHEREAS, it was determined by Auglaize County and the City of Wapakoneta that the following Change Order #1 needed to be made to the contract documents, this increased the contract by a grand total of \$1,712.60: "due to installation over estimated square footage of 4" concrete sidewalk"; and,

WHEREAS, the Change Order #1 which will be part of this resolution; and,

WHEREAS, Poggemeyer Design Group, Inc., County's CDBG Administrator, reviewed the suggestions; finding all to be in order and allowable; and,

WHEREAS, Stemen's Concrete is able to accommodate this Change Order #1; and,

WHEREAS, Change Order # 1 for the City of Wapakoneta Gibbs Street Sidewalk/Approach Installation Phase I Project has been presented to the Board of County Commissioners for approval and authorization of the following project.

THEREFORE, BE IT RESOLVED that the Board of Commissioners, Auglaize County, Ohio, does hereby approve and authorize the President of the Board to execute Change Order No. 1 for the additions to the contract with Stemen's Concrete for the City of Wapakoneta Gibbs Street Sidewalk/Approach Installation Phase I Project; and,

BE IT FURTHER RESOLVED that the Stemen's Concrete contract price for said project has been increased by \$1,712.60 for a total of \$33,670.10 and the CDBG grant fund will pay \$30,800.00 and the City of Wapakoneta will be invoiced for the \$2,870.10.

Commissioner Regula seconded the Resolution and upon the roll being called, the vote resulted in the adoption of the Resolution as follows:

Adopted this
28th day of
October, 2014

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

John N. Bergman, yes
John N. Bergman

Douglas A. Spencer, Yes
Douglas A. Spencer

Don Regula, yes
Don Regula

- cc: Gayle Flaczynski – Poggemeyer Design Group
- ✓ City of Wapakoneta
- ✓ Clerk of the Board
- ✓ Stemen's Concrete

CHANGE ORDER

No. 1 Project: City of Wapakoneta CDBG Gibbs St Sidewalk / Approach Installation Phase I
Date: 10/15/14 Contract No. _____

I. The following changes are hereby made to the contract documents (attach documentation):

Went over estimated square footage of 4" Concrete Sidewalk Installation.

II. The following change is made to the contract price:

\$ 31,957.50 original contract price
-0- previous change/extras
1,712.60 this change/extra
\$ 33,670.10 subtotal
-0- deductions
\$ 33,670.10 net total

III. The following change is made to the contract time:

The contract time will be (increased) (decreased) by 2 calendar days, making the date for completion of all work Completed.

IV. X There will be no claims for damages resulting from this change.

_____ Claims for damages resulting from this change are anticipated for such categories as _____ and should not exceed \$ _____.

Change requested by [Signature] Date 10/22/14
Change recommended by Stemen's Concrete Date 10-22-14
City of Wapakoneta
Change accepted by John N. Bergman Date 10-28-2014
BOCC President, John N. Bergman

IN THE MATTER OF DESIGNATING THE OFFICIAL REPRESENTATIVE AND ALTERNATE FOR THE PURPOSE OF VOTING AT THE ANNUAL MEETING OF THE COUNTY COMMISSIONERS ASSOCIATION OF OHIO (CCAO) IN 2015.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 28th day of October, 2014.

Commissioner Spencer moved the adoption of the following:

RESOLUTION

WHEREAS, Article IV, Section 6, of the Code of Regulations of the County Commissioners' Association of Ohio requires each member county to, for the purpose of voting at any annual or special meeting of the Association, designate an Official Representative and Alternate; and,

WHEREAS, the designation of the Official Representative and Alternate for a county organized under the statutory form of county government shall be by resolution of the Board of County Commissioners; and,

WHEREAS, in designating the Official Representative and Alternate only a member of the Board of County Commissioners is eligible to be designated as the Office Representative and Alternate.

NOW THEREFORE BE IT RESOLVED that the President of the Board of County Commissioners, Auglaize County, Ohio, is designated as the Official Voting Representative of Auglaize County; and,

BE IT FURTHER RESOLVED that the Vice-President of the Board of County Commissioners, Auglaize County, Ohio is designated as the Alternate Voting Representative of Auglaize County.

Commissioner Regula seconded the Resolution and upon the roll being called, the vote resulted in the adoption of the Resolution as follows:

Adopted this
28th day of
October, 2014

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

John N. Bergman yes
John N. Bergman

Douglas A. Spencer yes
Douglas A. Spencer

Don Regula yes
Don Regula

✓cc: CCAO
certified copy

IN THE MATTER OF AUTHORIZING THE EXECUTION OF THE LOCAL PROGRAM ADMINISTRATION (LPA) NON-FEDERAL LOCAL-LET PROJECT AGREEMENT WITH OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE COUNTY'S AUG-CR 66A-18.97 BRIDGE PROJECT THROUGH THE AUGLAIZE COUNTY ENGINEER.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 28th day of October, 2014.

Commissioner Spencer moved the adoption of the following:

RESOLUTION

WHEREAS, Auglaize County has received a grant agreement through the Auglaize County Engineer from Local Program Administration (LPA) with ODOT, in the amount of \$269,000.00 for the county's AUG-CR 66A-18.97 bridge project and ODOT shall provide to the LPA 95 percent of the eligible costs, up to a maximum of \$366,938.00 in State Funds; and,

WHEREAS, County Engineer Doug Reinhart has presented to the Board of County Commissioners a project grant agreement for this applicable ODOT grant, requesting that the Board approve the agreement and authorize the execution of same.

THEREFORE, BE IT RESOLVED that the Board of County Commissioners does hereby approve the project grant agreement between Auglaize County through the Auglaize County Engineer and State of Ohio, Department of Transportation for the Local Program Administration (LPA) Non-federal Local-Let Project Agreement for a grant of \$269,000.00 to be used for the County's AUG-CR 66A-18.97 Bridge Project; and,

BE IT FURTHER RESOLVED that said Board authorizes Commissioner John N. Bergman to execute the project grant agreement as presented.

Commissioner Regula seconded the Resolution and upon the roll being called, the vote resulted in the adoption of the Resolution as follows:

Adopted this
28th day of
October, 2014

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

John N. Bergman, yes
John N. Bergman

Douglas A. Spencer, yes
Douglas A. Spencer

Don Regula, yes
Don Regula

cc: County Engineer
ODOT

LPA NON-FEDERAL LOCAL-LET PROJECT AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the Auglaize County Commissioners acting by and through the Auglaize County Engineer, hereinafter referred to as the LPA, P.O. Box 59, 1014 South Blackhoof, Wapakoneta, Ohio 45895

1. PURPOSE

- 1.1 Section 5501.03 (D) of the Ohio Revised Code provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable State laws and regulations with oversight by ODOT.
- 1.2 The AUG-CR 66A-18.97 (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive State funding.
- 1.3 The LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for the State fund involved.
- 1.4 It is the mutual desire of both ODOT and the LPA to have the LPA serve as the responsible lead agency for the administration of the PROJECT.
- 1.5 The purpose of this Agreement is to set forth requirements associated with the State funds available for the PROJECT and to establish the responsibilities for the local administration of the PROJECT.

2. LEGAL REFERENCES

- 2.1 This Agreement is authorized by the following statutes and/or policies, which are incorporated in their entirety:
 - a. Section 5501.03(D) of the Ohio Revised Code;
 - b. ODOT Locally Administered Transportation Projects, Manual of Procedures.
- 2.2 The LPA shall comply with all applicable State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

3. FUNDING

- 3.1 The total cost for the PROJECT is estimated to be \$269,000 as set forth in Attachment 1. ODOT shall provide to the LPA 95 percent of the eligible costs, up to a maximum of \$366,938 in State funds. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager. Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with the actual construction of the transportation project improvements and construction engineering/inspection activities.

3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all cost overruns and contractor claims.

4. PROJECT DEVELOPMENT AND DESIGN

4.1 The LPA and ODOT agree that the LPA is qualified to administer this PROJECT and is in full compliance with all LPA participation requirements.

4.2 The LPA and ODOT agree that the LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for monitoring such projects using the State funds involved.

4.3 The LPA agrees to (option one, LPA to construct curb ramps: install and/or repair, prior to the construction commencement date of the PROJECT, all curb ramps which are necessary to ensure compliance with the Americans with Disabilities Act. or option two, ODOT to construct curb ramps: allow ODOT to proceed with, as part of the highway improvement, the installation and/or repair of curb ramps which are necessary to ensure compliance with the Americans with Disabilities Act.)

4.4 The LPA shall design and construct the PROJECT in accordance with a recognized set of written design standards. The LPA shall (option one: follow its own formally written set of local design standards or option two: make use of ODOT's Location and Design Manual (L&D), or the appropriate AASHTO publication. Even though the LPA may use its own standards, ODOT may require the LPA to use a design based on the L&D manual for projects that contain a high crash rate or areas of crash concentrations. Where the LPA has adopted ODOT standards for the PROJECT, the LPA shall be responsible for ensuring that any ODOT standards used for the PROJECT are current and/or updated. The LPA shall be responsible for periodically contacting the ODOT District LPA Coordinator or through the following Internet website for any changes or updates <http://www.dot.state.oh.us/drrc/Pages/default.aspx>.

4.5 The LPA shall either designate an LPA employee, who is a registered professional engineer, to act as the PROJECT Design Engineer and serve as the LPA's principal representative for attending to PROJECT responsibilities, or engage the services of a prequalified ODOT consultant who has been chosen using a Qualification-Based Selection (QBS) process as required pursuant to Ohio Revised Code sections 153.65 through 153.71. The prequalified list is available on the ODOT web page at www.dot.state.oh.us/DIVISIONS/PRODMGT/CONSULTANT

4.6 ODOT reserves the right to move this PROJECT into a future sale year if the LPA does not adhere to the established PROJECT schedule, regardless of any funding commitments.

5. ENVIRONMENTAL RESPONSIBILITIES

5.1 In the administration of this PROJECT, the LPA shall be responsible for conducting any required public involvement events, for preparing all required documents, reports and other supporting materials needed for addressing applicable environmental assessment, for clearance responsibilities for the PROJECT pursuant to the National Environmental Policy Act and related regulations, including the requirements of the National Historic Preservation Act; and for securing all necessary permits.

5.2 If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire an ODOT Prequalified Consultant through a QBS process. The prequalified list is available on the ODOT web page at <http://www.dot.state.oh.us/CONTRACT>. If the LPA hires a prequalified consultant, the LPA shall be responsible for monitoring the

consultant's activities and ensuring that the consultant is following all State laws, regulations, policies, and guidelines.

- 5.3 ODOT shall be responsible for the review of all environmental documents and reports, and complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.
- 5.4 The LPA shall be responsible for assuring compliance with all commitments made as part of the PROJECT's environmental clearance and/or permit requirements.
- 5.5 The LPA shall require its consultant, selected to prepare a final environmental document pursuant to the requirements of the National Environmental Policy Act, to execute a copy of a disclosure statement specifying that the consultant has no financial or other interest in the outcome of the PROJECT.
- 5.6 The LPA shall provide a letter indicating the proposed Best Management Practices (BMPs) to be utilized for post construction storm water management in accordance with the Ohio EPA National Pollutant Discharge Elimination System (NPDES) Construction General Permit. If no BMPs are proposed, a letter stating concurrence is required from the Ohio EPA.

6. RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION

- 6.1 All right of way acquisition activities shall be performed by the LPA in accordance with State rules, policies and guidelines issued by ODOT.
- 6.2 If existing and acquired right of way is required for this PROJECT, the LPA shall certify that the right of way has been acquired in conformity with State laws, regulations, policies, and guidelines. As specified in ODOT's Real Estate Policy and Procedures Manual, Section 5202.01-II-(B), any LPA staff who perform any real estate functions shall be prequalified by the ODOT's Office of Real Estate. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA shall hire an ODOT Prequalified Consultant through a Qualifications Based Selection process. The LPA shall not hire the same consultant to perform both the appraisal and appraisal review functions. Appraisal review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA. Likewise, a consultant hired to perform right of way acquisition work can not also perform both the relocation and relocation review functions. Relocation review shall be performed by an independent staff or fee reviewer.
- 6.3 If the LPA hires a prequalified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all State laws, regulations, policies, and guidelines.
- 6.4 All relocation assistance activities shall be performed by the LPA in conformity with State laws and rules, policies and guidelines issued by ODOT. The LPA shall not hire a consultant to perform both the relocation and relocation review functions nor shall the LPA hire a sub-consultant for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA.
- 6.5 The LPA shall provide the ODOT District Office with its certification that all right of way property rights necessary for the PROJECT are under the LPA's control, that such right of way has been cleared of all encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with PROJECT construction activities. ODOT shall make use of the LPA's Right of Way Certification, as well as evaluate the LPA's and/or consultant's performance of the PROJECT real estate activities, as appropriate.

- 6.6 In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual. When applicable, the LPA shall enter into a utility relocation agreement with each utility prior to the letting of construction. No reimbursable construction costs shall be incurred by the LPA prior to the receipt of the "Authorization to Advertise" notification from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all funding commitments.
- 6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT for approval.
- 6.8 The LPA shall be responsible for any necessary railroad coordination and agreements.
- 6.9 Consistent with sections 10.1 and 10.4 of this agreement, the LPA shall assure that if any property acquired for this project is subsequently sold for less than fair market value that all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 10.1 and 10.4 of this agreement the LPA shall assure that if the LPA grants a permit or license for the property acquired for this project that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.
7. ADVERTISING, SALE AND AWARD
- 7.1 The LPA **shall not** advertise for bids prior to the receipt of the "Authorization to Advertise" notification from ODOT. Upon approval of the Plan Package Submittal by the Office of Local Projects, the LPA shall commence all competitive bidding and contract award activities associated with the PROJECT's construction in accordance with all applicable State and local bidding requirements.
- 7.2 Any use of sole source or proprietary bid items must be approved by the applicable ODOT district. All sole source or proprietary bid items should be brought to the attention of the LPA Coordinator as soon as possible so as not to cause a delay in the plan package submission process. Bid items for traffic signal and highway lighting projects must be in conformance with ODOT's Traffic Engineering Manual.
- 7.3 The LPA shall incorporate ODOT's LPA Bid Template in its bid documents.
- 7.4 In accordance with Executive Order 2002-13T, the LPA shall require the contractor to be enrolled in, and in good standing with, the Drug-Free Safety Program (DFSP) or a similar program approved by the Bureau of Workers' Compensation, and require the same of any of its subcontractors.
- 7.5 Only ODOT prequalified contractors are eligible to submit bids for this PROJECT. Prequalification status must be in force **at the time of bidding, at the time of award, and through the life of the construction contract**. For work types that ODOT does not prequalify, the LPA must still select a qualified contractor. Subcontractors are not subject to the prequalification requirement. The "prime" contractor must perform no less than 30 percent of the total original contract price.
- 7.6 In accordance with Section 153.54, et. seq. of the Ohio Revised Code, the LPA shall require that the selected contractor provide a performance and payment bond in an amount at least equal to 100 percent of its contract price as security for the faithful performance of its contract. ODOT shall be named an obligee on any bond.
- 7.7 Before awarding a contract to the selected contractor, the LPA shall verify either that the contractor is not subject to a finding for recovery under R.C. 9.24, or that the contractor has taken the appropriate remedial steps required under R.C. 9.24, or that the contractor otherwise qualifies under the exceptions to this section. Findings for recovery can be viewed on the Auditor of State's

website at <http://www.auditor.state.oh.us/resources/findings/default.htm>. If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all State funding commitments.

- 7.8 After analyzing all bids for completeness, accuracy, and responsiveness, the LPA shall approve the award of the contract in accordance with laws and policies governing the LPA. Within 45 days of that approval, the LPA shall submit to ODOT notification of the project award by submitting a bid tabulation, a copy of the ordinance or resolution, and direct payment information as required in Attachment 2 of this agreement, if applicable.

8. CONSTRUCTION CONTRACT ADMINISTRATION

- 8.1 The LPA shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the PROJECT. The LPA shall bear the responsibility of ensuring that construction conforms to the approved plans, surveys, profiles, cross sections and material specifications. If a consultant is used for engineering and/or inspection activities, the LPA must use a QBS process as required pursuant to ORC sections 153.65 through 153.71. Any construction contract administration or engineering costs incurred by the LPA or their consultant prior to the construction contract award date will not be eligible for reimbursement under this agreement.
- 8.2 The LPA shall certify both the quantity and quality of material used, the quality of the work performed, and the amount of construction engineering cost, when applicable, incurred by the LPA for the eligible work on the PROJECT, as well as at the completion of construction. The LPA shall certify that the construction is in accordance with the approved plans, surveys, profiles, cross sections and material specifications or approved amendments thereto.
- 8.3 The LPA shall review and/or approve all invoices prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT. The LPA shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The LPA must submit to ODOT a written request for either current payment or reimbursement of the State share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed on a daily basis as the items of work are completed and accepted.
- 8.4 ODOT shall pay, or reimburse, the LPA or, at the request of the LPA and with concurrence of ODOT, pay directly to the LPA's construction Contractor ("Contractor"), the eligible items of expense in accordance with the cost sharing provisions of this Agreement. If the LPA elects to have the Contractor paid directly, Attachment 2 to this Agreement shall be completed and submitted with the project bid tabulations and the Contractor shall be required to establish Electronic Funds Transfer with the State of Ohio. ODOT shall pay the Contractor or reimburse the LPA within thirty (30) days of receipt of the approved contractor's invoice from the LPA.
- 8.5 The LPA shall notify ODOT of the filing of any mechanic's liens against the LPA's Contractor within three (3) business days of receipt of notice of lien. Failure to so notify ODOT or failure to process a mechanic's lien in accordance with the provisions of Chapter 1311 of the Ohio Revised Code may result in the termination of this Agreement. Upon the receipt of notice of a mechanic's lien, ODOT reserves the right to (1) withhold an amount of money equal to the amount of the lien that may be due and owing to either the LPA or the Contractor; (2) terminate direct payment to the affected Contractor; or (3) take both actions, until such time as the lien is resolved.

8.6 Payment or reimbursement to the LPA shall be submitted to:

Douglas Reinhart, P.E., P.S.
Auglaize County Engineer
1014 Blackhoof Street
Wapakoneta, Ohio 45895-0059
(419)-739-6520

8.7 If, for any reason, the LPA contemplates suspending or terminating the contract of the Contractor, it shall first seek ODOT's written approval. Failure to timely notify ODOT of any contemplated suspension or termination, or failure to obtain written approval from ODOT prior to suspension or termination, may result in ODOT terminating this Agreement and ceasing all state funding commitments.

8.8 If ODOT approves any suspension or termination of the contract, ODOT reserves the right to amend its funding commitment in paragraph 3.1 and if necessary, unilaterally modify any other term of this Agreement. Upon request, the LPA agrees to assign all rights, title, and interests in its contract with the Contractor to ODOT in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

8.9 Any right, claim, interest, and/or right of action, whether contingent or vested, of the LPA, arising out of or related to any contract entered into by the LPA for the work to be performed by the Contractor on this PROJECT, may be subrogated to ODOT, and ODOT shall have all of the LPA's rights in and to the Claim and against any other person(s) or entity(ies) against which such subrogation rights may be enforced. The LPA shall immediately notify ODOT in writing of any Claim. The LPA further authorizes ODOT to sue, compromise, or settle any such Claim. It is the intent of the parties that ODOT be fully substituted for the LPA and subrogated to all of the LPA's rights to recover under such Claim(s). The LPA agrees to cooperate with reasonable requests from ODOT for assistance in pursuing any action on the subrogated Claim including requests for information and/or documents and/or to testify.

8.10 After completion of the PROJECT and in accordance with applicable provisions of the Ohio Revised Code, the LPA shall maintain the PROJECT to design standards and provide adequate maintenance activities for the PROJECT, unless otherwise agreed to by ODOT. The PROJECT must remain under the ownership and authority of the LPA for 20 years, unless otherwise agreed to by ODOT. If the PROJECT is not being adequately maintained, ODOT shall notify the LPA of any deficiencies and if the maintenance deficiencies are not corrected within a reasonable amount of time, ODOT may determine that the LPA is no longer eligible for future participation in any State-funded programs.

9. CERTIFICATION AND RECAPTURE OF FUNDS

9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by Ohio Revised Code section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.

9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT.

10. NONDISCRIMINATION

- 10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, age, or disability as that term is defined in the American with Disabilities Act. The LPA shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, ancestry, age, disability, military status, or genetic information. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.
- 10.2 The LPA agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex, national origin, ancestry, age, or disability. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such PROJECT work.
- 10.3 For any project in which the Engineer's Estimate exceeds \$200,000, the LPA shall ensure that Encouraging Diversity, Growth and Equity (EDGE) requirements, as defined in Ohio Revised Code 123.152, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with State funds provided in conjunction with this Agreement. To meet this requirement, EDGE certified firms are those who have been certified by the Ohio Department of Administrative Services. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

Encouraging Diversity, Growth and Equity (EDGE) requirements. EDGE participation goals (subcontracts, materials, supplies) have been set on this project for those EDGE firms who have been certified by the Ohio Department of Administrative Services pursuant to Ohio Revised Code 123.152, and where applicable qualified to bid with ODOT under Chapter 5525 of the Ohio Revised Code.

WAIVER PROCESS FOR EDGE GOALS

In the event the Contractor is unable to meet the EDGE Goal placed on this project, a request for waiver of all or part of the goal may be made to the Ohio Department of Transportation through the LPA. The Contractor must document the progress and efforts being made in securing the services of EDGE subcontractors. In the event the Contractor is unable to meet the EDGE Goal placed on this Local Let project, a request for a waiver of all or part of the goal may be made. The written request must indicate a good faith effort was made to meet the goal and be sent to the LPA contracting authority. The LPA forwards the request with recommended action to the ODOT District. The ODOT District then makes recommendation and forwards the request to Office of Contracts, 1980 West Broad Street, Columbus, Ohio, 43223. There will be no extension of time for the project granted if the Contractor wishes to avail himself of this process. If an item of work subcontracted to a DBE firm is non-performed by LPA or the subject of an approved VECP, the Contractor may request a waiver for the portion of work excluded.

The Contractor must provide the following information and documentation when requesting EDGE goal waiver:

1. Dollar value and % of EDGE goal. Dollar value and % of waiver request.
2. Signed copy of each subcontract or purchase order agreement between the prime and EDGE subcontractor/supplier utilized in meeting the contract goal.
3. Copy of dated written communication, fax confirmation, personal contact, follow up and negotiation with the EDGE firm.
4. Copy of dated written communication and/or fax confirmation that bidder solicited and provided EDGE with adequate information about the plans, specifications and requirements of the contract in a timely manner to assist them in responding to a solicitation.

5. Copy of dated written communication and/ or fax confirmation of each noncompetitive EDGE quote that includes the dollar value of each reference item and work type.
6. Copy of dated written communication and/ or dated fax confirmation of EDGE firms that were not interested in providing a quote for the project.
7. Documentation of all negotiating efforts and reason for rejecting quotes from EDGE firms.
8. Documentation of good faith efforts (GFE) to meet the EDGE subcontract goal, by looking beyond the items typically subcontract or consideration of subcontracting items normally performed by the prime as a way to meet the EDGE goal.

ODOT shall supply the percentage goal to the LPA upon review of the Engineer's Estimate. The LPA must obtain written, signed documentation from the contractor that the EDGE goal has been satisfied prior to executing the contract with the contractor. The LPA, in turn, must provide such documentation to ODOT in order for ODOT to encumber the State funds.

11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

- 11.1 The LPA shall ensure that any designs, specifications, processes, devices or other intellectual properties specifically devised for the PROJECT by its consultants or contractors performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultants and contractors shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices or other intellectual properties, and in providing them to the PROJECT shall relinquish any such protections should they exist.
- 11.2 The LPA shall not allow its consultants or contractors to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device or other intellectual property unless the consultant or contractor has provided for such use by suitable legal agreement with the owner of such copyright, patent or similar protection. A consultant or contractor making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.
- 11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

- 12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA's control. If a default has occurred, ODOT may terminate this agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.
- 12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of

such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.

12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its rights, title, and interest to any contracts it has with any consultants or contractors. Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.

12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

13.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the Revised Code.

13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA's obligations made or agreed to herein.

14. NOTICE

14.1 Notice under this Agreement shall be directed as follows:

If to the LPA:

Douglas Reinhart, P.E., P.S.
Auglaize County Engineer
1014 Blackhoof Street
Wapakoneta, Ohio 45895-0059

If to ODOT:

Ben Wiltheiss, P.E.
Ohio Department of Transportation
1001 St. Marys Avenue
Sidney, Ohio 45365

15. GENERAL PROVISIONS

15.1 Recovery of Overhead and Fringe Costs:

The LPA shall select which of the following methods it will use for recovering indirect expenses associated with LPA labor on this project:

- Safe Harbor Rates (30% Fringe, 38% Overhead)
- Actual Costs (Fringe only)
- Current Cost Allocation Plan rate approved by ODOT Office of Audits
- LPA will not seek recovery of costs associated with Fringe and Overhead

The LPA shall meet all timekeeping requirements outlined in OMB Circular A-87 and the LAMP Manual for any labor costs to be eligible for reimbursement with Federal aid funds.

Should the LPA exercise its option to recover indirect costs, it must follow the LAMP Manual of Procedures.

- 15.2 *Record Retention:* The LPA, when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT, its books, documents, and records relating to the LPA's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three years after payment of the LPA's final voucher for payment or reimbursement of PROJECT expenses. In the event that an audit-related dispute should arise during this retention period, any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

As ODOT may legitimately request from time to time, the contractor agrees to make available for inspection and/or reproduction by the LPA or ODOT, all records, books, and documents of every kind and description that relate to this contract.

Nothing contained in this Agreement shall in any way modify the LPA's legal duties and obligations to maintain and/or retain its records under Ohio public records laws.

- 15.3 *Ohio Ethics Laws:* Contractor agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.
- 15.4 *State Property Drug-Free Workplace Compliance:* In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.
- 15.5 *Governing Law:* This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any

litigation arising out of or relating in any way to this Agreement or the performance there under, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

- 15.6 *Assignment:* Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
- 15.6 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. This Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 15.7 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 15.8 *Signatures:* Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

LPA: **AUGLIZE COUNTY
COMMISSIONERS**

**STATE OF OHIO
OHIO DEPARTMENT OF TRANSPORTATION**

By: 
Title: John N. Bergman
BOCC President

By: _____
Jerry Wray
Director

Date: 10/28/2014

Date: _____

Attachment 1

PROJECT BUDGET – SOURCES AND USES OF FUNDS

SOURCES USES	LPA FUNDS			STATE FUNDS			TOTAL
	Amount	%	SAC	Amount	%	SAC	
PRELIMINARY DEVELOPMENT							
FINAL DESIGN, CONSTRUCTION PLANS & SPECIFICATIONS							
ACQUISITION OF RIGHT OF WAY & UTILITY RELOCATION							
PROJECT CONSTRUCTION COSTS	\$12,225	5	LNTP	\$232,275	95	4C87	\$244,500
INSPECTION	\$1,225	5	LNTP	\$23,275	95	4C87	\$24,500
TOTALS	\$13,450			\$255,532			\$269,000

Attachment 2

COUNTY-ROUTE-SECTION

PID NUMBER

AGREEMENT NUMBER

DIRECT PAYMENT OF CONTRACTOR

At the direction of the LPA and upon approval of ODOT, payments for work performed under the terms of the Agreement by the LPA's contractor shall be paid directly to the contractor in the prorata share of Federal/State participation. The invoice package shall be prepared by the LPA as previously defined in this agreement, and shall indicate that the payment is to be made to the contractor. In addition, the invoice must state the contractor's name, mailing address and OAKS Vendor ID. Separate invoices shall be submitted for payments that are to be made to the contractor and those that are to be made to the LPA.

We _____ (*INSERT NAME OF LPA*) request that all payments for the Federal/State share of the construction costs of this agreement performed by _____ (*CONTRACTOR'S NAME*) be paid directly to _____ (*CONTRACTOR'S NAME*).

Contractor Name:
OAKS Vendor ID:
Mailing Address:

LPA signature

LPA Name:
OAKS Vendor ID:
Mailing Address:

Approved, ODOT signature