

IN THE MATTER OF AMENDING THE ANNUAL APPROPRIATION AS REQUESTED BY THE AUGLAIZE COUNTY JFS DIRECTOR.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 6th day of May, 2024.

Commissioner Bergman moved the adoption of the following:

RESOLUTION

WHEREAS, under date of January 2, 2024, the Annual Appropriation for Auglaize County was accepted, having been prepared with the 2024 Annual Amended Official Certificate of Estimated Resources which was given to the Board of County Commissioners by the County Auditor; and,

WHEREAS, County Auditor's Office informed the Board that an amendment was made to the Annual Amended Official Certificate of Estimated Revenue for the WIOA Fund (035) by \$11,500.00; and,

WHEREAS, JFS Director has requested that the Board amend the 2024 Annual Appropriation to reflect the following increase:

Increase 035.0035.530601 (WIOA Adult/Dislocated) \$59,080.80.

THEREFORE BE IT RESOLVED that the Board of County Commissioners of Auglaize County, Ohio, does hereby order the 2024 Annual Appropriation Resolution be amended to show the changes as tabulated above.

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

Adopted this
6th day of
June, 2024

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

ABSENT
Douglas A. Spencer

David Bambauer, yes
David Bambauer

John N. Bergman, yes
John N. Bergman

- cc: ✓ County Auditor
- ✓ County Administrator
- ✓ JFS Director

IN THE MATTER OF RECORDING THE FILING OF THE 2025 BUDGETS FOR VARIOUS COUNTY ENTITIES WITH THE BOARD OF COUNTY COMMISSIONERS PURSUANT TO OHIO REVISED CODE SECTION 5705.28.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 6th day of June, 2024.

Commissioner Bergma moved the adoption of the following:

RESOLUTION

WHEREAS, Ohio Revised Code Section 5705.28 directs the head of each department, board, commission and district authority entitled to participate in any appropriation of revenue for subdivision shall file with the taxing authority, before the first day of June each year; and,

WHEREAS, the following departments have filed to date:

<u>Entities</u>	<u>Date Filed</u>
Auditor (Miscellaneous)	May 15, 2024
Auditor & Real Estate Assessment	May 15, 2024
Board of Elections	May 2, 2024
Certificate of Title/Clerk of Courts	May 16, 2024
Clerk of Courts (Common Pleas)	May 16, 2024
Clerk of Courts (Municipal)	May 16, 2024
Commissioners	May 6, 2024
Commissioners (Miscellaneous)	May 6, 2024
Common Pleas Court & Adult Probation	May 23, 2024
Coroner	May 28, 2024
DD Board	May 14, 2024
Domestic Relations Court	May 31, 2024
Emergency Management	May 31, 2024
Extension Office – OSU	May 29, 2024
Engineer & MVGT	May 31, 2024
GIS	May 31, 2024
Jobs & Family/Public Assistance/CSEA/WIOA	May 29, 2024
Juvenile Court & Juvenile Probation	May 31, 2024
Law Library Resources	May 22, 2024
LEPC/SERC	May 31, 2024
Municipal Court & Muni Court Project/IDAT	May 23, 2024
Probate Court	May 31, 2024
Prosecuting Attorney and SVAA	May 31, 2024
Public Defender	May 17, 2024
Recorder & Microfilm	May 31, 2024
Sanitary Engineer & Sewers	May 31, 2024
Sheriff's Office	May 31, 2024
Soil & Water Conservation	May 13, 2024
Treasurer	May 29, 2024
Veterans Service Commission	May 21, 2024
Youth Services/Felony Delinquency C&C	May 31, 2024; and,

WHEREAS, the following departments have not filed their budgets in accordance with the Ohio Revised Code: Dog Warden, Heritage Trails Park and Solid Waste Management District.

Resolution - continued

Budgets filed

June 6, 2024

THEREFORE BE IT RESOLVED that the Board of County Commissioners, Auglaize County, Ohio, does hereby record the filing of the submitted departmental budgets and does order that a copy of this resolution be distributed to each department that has not filed a budget for 2025 with said Board; and,

BE IT FURTHER RESOLVED that the Board does request of these departments that have not yet submitted a budget for 2025, to do so as soon as possible so that the proper budget documentation can be compiled.

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

Adopted this
6th day of
June, 2024

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

ABSENT, _____

Douglas A. Spencer

David Bambauer, *yes*
David Bambauer

John N. Bergman, *yes*
John N. Bergman

cc: non-complying departments & offices

✓✓✓

IN THE MATTER OF AUTHORIZING EMPLOYMENT OF JEFF MOORE TO THE FULL-TIME SORT LINE OPERATOR/DRIVER POSITION FOR AUGLAIZE COUNTY.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 6th day of June, 2024.

Commissioner Bergman moved the adoption of the following:

RESOLUTION

WHEREAS, Scott Cisco, Solid Waste Coordinator, recommended to the Board of County Commissioners the employment of a full-time Sort Line Operator/Driver position; and,

WHEREAS, the Board solicited resumes for the position, receiving one resume; and,

WHEREAS, a candidate was interviewed for the position by Solid Waste Coordinator and County Administrator; and,

WHEREAS, after the interview Mr. Cisco recommended to the Board that the appointment for the full-time Sort Line Operator/Driver position be made to Jeff Moore; and,

WHEREAS, Mr. Moore was contacted about filling the Full-time Sort Line Operator/Driver position and he has accepted the position with the effective date contingent on a completed background check with a starting wage of \$18.50 per hour; there will be a one hundred and eighty (180) day probationary period.

THEREFORE, BE IT RESOLVED that the Board of Commissioners, Auglaize County, Ohio, does hereby authorize the employment of Jeff Moore as a full-time Sort Line Operator/Driver position as mentioned above; and,

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

1. Compensation for Mr. Moore will be \$18.50 per hour.
2. There will be a probationary period of 180 days.

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

Adopted this
6th day of
June, 2024

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

ABSENT,
Douglas A. Spencer

David Bambauer, yes
David Bambauer

John N. Bergman, yes
John N. Bergman

cc: Jeff Moore
-County Auditor
-Solid Waste Coordinator

County Commissioners Office
Auglaize County, Ohio
June 6, 2024

NO. #24-325

IN THE MATTER OF APPROVING THE RE-EVALUATION OF THE ASSESSMENT BASE FOR THE MAINTENANCE FOR THE MCCUNE DITCH; CHANGING THE WATERSHED MAP AND CERTIFYING THE MAINTENANCE BASE TO THE COUNTY AUDITOR.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 6th day of June, 2024.

Commissioner Bergman moved the adoption of the following:

RESOLUTION

WHEREAS, in Resolution #24-179, the Board of Auglaize County Commissioners set this date, June 6, 2024, to hold a public hearing on the base assessments for the McCune Ditch Maintenance fund established in 1984; and,

WHEREAS, that this hearing is for the review and re-evaluation of the McCune Ditch which is provided under section 6137.112 of the Ohio Revised Code; and,

WHEREAS, in addition to reevaluating the McCune watershed; and,

WHEREAS, the current balance in the maintenance fund is \$681.95; and,

WHEREAS, notification of the public hearing and base assessments were given, via U.S. Mail, to all landowners involved in said watershed.

THEREFORE BE IT RESOLVED, that the Board of Auglaize County Commissioners, does hereby approve the re-evaluation of the assessment base from \$4,473.90 to \$31,159.24 and update the watershed boundaries from the 1984 petition McCune watershed map; and,

BE IT FURTHER RESOLVED that the Board of Auglaize County Commissioners, does hereby authorize the changes to the watershed map; and,

BE IT STILL FURTHER RESOLVED that said Board certifies to Auglaize County Auditor said maintenance assessment base and acreage adjustments.

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

Adopted this
6th day of
June, 2024

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY

ABSENT
Douglas A. Spencer

David Bambauer, yes
David Bambauer

John N Bergman, yes
John N. Bergman

cc: Engineer, Auditor

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 6th day of June, 2024.

Commissioner Bergman 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 No.</u>	<u>Amount</u>	<u>Vendor</u>
480222	141219.46	ST. MARYS CITY
480261	1190.00	TREASURER OF STATE DEPT OF ADMIN SRV
480315	771.50	CDW
480345	3250.00	KEY TO RECOVERY SERVICE

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

Adopted this
6th day
June, 2024

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

ABSENT
Douglas A. Spencer

David Bambauer, yes
David Bambauer

John N Bergman, yes
John N. Bergman

cc: County Auditor

IN THE MATTER OF APPROVING THE AGREEMENT WITH KLEINFELDER, INC. FOR PROFESSIONAL SERVICES FOR THE PREPARATION AND SUBMISSION OF THE PY2024 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CRITICAL INFRASTRUCTURE (CI) PROGRAM GRANT APPLICATION ON BEHALF OF THE VILLAGE OF CRIDERSVILLE.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 6th day of June, 2024.

Commissioner Bergman moved the adoption of the following:

RESOLUTION

WHEREAS, the State of Ohio, Ohio Department of Development, the Office of Community Enhancements (ODOD-OCE), provides funding under the Community Development Block Grant (CDBG) Critical Infrastructure for improvement projects that improve quality of life for local residents; and,

WHEREAS, the Auglaize County Board of County Commissioners will be submitting an application to the ODOD-OCE for a Community Development Block Grant (CDBG) Critical Infrastructure Grant for PY2024 on behalf of the Village of Cridersville for water facility improvements; and,

WHEREAS, Kleinfelder, Inc. has submitted an agreement to the Board for said firm to provide professional planning services to assist the County, for the lump sum fee of \$5,000.00 invoiced monthly on a percentage completed basis, with the preparation of the PY2024 CDBG Critical Infrastructure grant application for said water facility improvement; and,

WHEREAS, the Board of County Commissioners has reviewed the agreement finding same to be in order and reasonable.

THEREFORE BE IT RESOLVED that the Board of County Commissioners, Auglaize County, Ohio does hereby approve the agreement for professional planning services of Kleinfelder, Inc. for the assistance in the application procedure for the PY2024 CDBG Critical Infrastructure Grant at the terms so specified in said contract; and,

BE IT FURTHER RESOLVED that said Board authorizes the Vice President of the Board, David Bambauer, to execute said agreement.

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

Adopted this
6th day of
June, 2024

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

ABSENT

Douglas A. Spencer

David Bambauer yes

David Bambauer

John N. Bergman yes

John N. Bergman

cc: Kleinfelder, Inc.

CLIENT PROFESSIONAL SERVICES AGREEMENT
Auglaize County PY2024 CDBG Critical Infrastructure Grant on behalf of the Village of Cridersville
Auglaize County, Ohio (Opp#1083130)

This Agreement is made on: June 4, 2024

Between Auglaize County, Ohio/Board of County Commissioners with offices at 209 South Blackhoof Street, Room 201, Wapakoneta, OH 45895 (**Client**)

And Kleinfelder, Inc. with offices at 1168 N. Main Street, Bowling Green, Ohio 43402 (**Kleinfelder**).

Recitals

A. Client wishes to appoint Kleinfelder to provide certain services (the **Services**, as defined below) required by Client or Client's agreement with the Owner on the terms and conditions contained in this Agreement.

B. Kleinfelder has agreed to perform the Services on the terms and conditions contained in this Agreement.

Now it is agreed as follows:

1. CONTENTS OF AGREEMENT

1.1 The parties agree that the documents listed in 1.1(a) through (c) constitute the "**Contract Documents**" of this Agreement. To establish obligations and resolve ambiguities among the Contract Documents, the following order of precedence will prevail:

- (a) first, amendments and Change Orders issued in accordance with this Agreement;
- (b) second, Kleinfelder's Proposal, dated January 20, 2023, which Client acknowledges receipt and confirms understanding of, and agreement with the contents thereof, in full (Appendix A);
- (c) third, this Agreement; and

1.2 To the extent of any inconsistency between this Agreement and any Prime Agreement, the provisions of this Agreement will always prevail.

1.3 Any pre-printed terms and conditions on forms used by either party in the administration of this Agreement are void and do not supplement or replace the terms and conditions of the Contract Documents of this Agreement.

2. APPOINTMENT AND SCOPE OF SERVICES

- 2.1 Kleinfelder shall perform the services set forth in its Proposal attached hereto as Appendix A, and such additional services as Kleinfelder and Client jointly agree in writing (collectively, Services). The Proposal also shall specify Client's project for which the Services will be performed (Project), the location of Client's Project for providing the Services (Site), the time period for performance, the agreed fees and additional provisions, if any, applicable to such Services. The Services, including any additions and modifications, shall be performed in accordance with this Agreement.

3. STANDARD OF CARE

- 3.1 Kleinfelder will perform its Services in a manner consistent with that level of care and skill ordinarily exercised by other members of Kleinfelder's profession practicing in the same locality, under similar conditions and at the date the Services are provided.
- 3.2 Kleinfelder makes no representation, guarantee or warranty, express or implied, regarding the Services, or any communication (oral or written), certification, report, opinion, or Instrument of Service provided pursuant to this Agreement.
- 3.3 Kleinfelder will not be responsible for constant or exhaustive inspection of the work, for the means, methods, techniques sequences or procedures of construction, or for the safety procedures employed by any party other than its own employees, subconsultants and subcontractors.
- 3.4 No level of assessment can conclusively determine whether a property or its structures are completely free of geotechnical hazards or hazardous substances (including but not limited to mold). Client represents that it has carefully reviewed the limitations described in the Proposal.
- 3.5 Even with diligent observation, some defects, deficiencies, or omissions may occur. Before exercising any other remedy for any alleged breach by Kleinfelder of this Agreement, Client will direct Kleinfelder in writing to re-perform any defective Services within twelve (12) months after completion of the Services.
- 3.6 Kleinfelder will only sign certifications relating to the Services if Kleinfelder agreed in writing prior to the commencement of the Services to provide such certifications. Such certifications are statements of professional opinion only.

4. KLEINFELDER'S RESPONSIBILITIES

- 4.1 Kleinfelder will perform the Services as an independent contractor and not as an agent or employee of Client. Nothing in this Agreement creates any special relationship or fiduciary duty.
- 4.2 Kleinfelder will, as reasonably directed by Client or its authorized agent:
- (a) provide qualified staff to perform the Services;
 - (b) maintain records of Project activities and costs for no more than three years from its completion of the Services;
 - (c) coordinate to the extent reasonably possible with Client's employees, contractors, consultants so as not to impede the progress of the Project; and
 - (d) require its personnel to maintain a safe, clean and orderly work environment.

5. TERM AND TERMINATION

- 5.1 This Agreement will commence on the date of its execution, except as to any Services authorized by Client and performed by Kleinfelder beforehand. All Services shall be fully completed no later than June 12, 2024, unless earlier terminated by either party or extended by the parties' mutual written agreement.
- 5.2 Either party may terminate this Agreement at any time by providing ten (10) days' written notice to the other.
- 5.3 Within fifteen (15) days from termination Client will pay Kleinfelder on demand for all Services rendered and costs incurred through to the date of any termination and for all reasonable costs and expenses incurred by Kleinfelder in effecting the termination, including, without limitation, non-cancellable commitments, fixed cost components and other demobilization costs.

6. COMPENSATION

- 6.1 Kleinfelder will perform the Services in exchange for the following compensation:
- Client will pay on a **time and material** basis. Kleinfelder will invoice according to its fee schedule attached to the Proposal or attached hereto at Appendix A.
 - Client will pay a **lump sum** of **\$5,000** for preparation of the PY2024 CDBG Critical Infrastructure Grant Application for Auglaize County, on behalf of the Village of Cridersville. Kleinfelder will invoice monthly on a percentage completed basis.
 - Client will pay on a **time and material basis not to exceed** the sum of \$. Kleinfelder will invoice according to its fee schedule attached to the Proposal or attached hereto at Appendix A up to the stated limit. Upon reaching the stated limit, Kleinfelder will stop performing unless Client authorizes further work and funding in writing.
- 6.2 Client agrees to provide any special invoicing requirements to Kleinfelder in advance of signing this Agreement, to which additional charges may apply.
- 6.3 The proposed fees set forth in this Agreement shall be open for acceptance for ninety (90) days from the above date. If the Agreement is signed after that date, the proposed fees may be adjusted prior to commencement of Services. The hourly rates charged for Kleinfelder's Services are adjusted annually in January of each year to reflect changes in the various elements that comprise such hourly rates. All adjustments will be in accordance with generally accepted accounting practices as applied on a consistent basis by Kleinfelder and consistent with Kleinfelder's overall compensation practices and procedures. Kleinfelder reserves the right to periodically adjust its fee schedule.
- 6.4 Kleinfelder will generally submit its invoices to Client on a monthly basis. Client must pay all invoices within thirty (30) days from the date of invoice, with interest at the rate of one and one-half percent (1 1/2 %) per month payable on all outstanding payments. Interest on all outstanding payments will be charged from the initial date of invoice.
- 6.5 Kleinfelder may suspend performance of Services under this Agreement until it has been paid in full for all outstanding payments, including interest charges.
- 6.6 Kleinfelder will be entitled to recover from Client on demand all expenses incurred (including all legal costs and expenses) in recovering any outstanding payments from Client.
- 6.7 All travel will be invoiced at cost and reimbursed by Client. All travel required under this Agreement is subject to the terms, conditions and applicable rates set forth in the U.S. Federal Travel Regulations.

7. INSURANCE

- 7.1 Kleinfelder will maintain during the term of this Agreement worker's compensation, commercial general liability, automobile liability and professional indemnity insurance coverage.
- 7.2 Client will maintain during the term of this Agreement adequate insurance coverage and will require and verify any contractors or parties it hires to have adequate insurance coverage. Client agrees that failure to comply with this clause will invalidate any indemnify provided by Kleinfelder under clause 12.1.

8. CHANGES TO SCOPE OF SERVICES

- 8.1 Client or Kleinfelder may request to modify the scope of Services, whereon both parties agree to negotiate in good faith and execute a written Change Order. A **Change Order** is an amendment to this Agreement that modifies the Services and specifies the following:
- (a) a change in the terms and conditions of Services;
 - (b) an adjustment in the schedule for performance; and
 - (c) the amount of adjustment in Kleinfelder's compensation.
- 8.2 Kleinfelder will treat as a Change Order any written or oral Client order (including directions, instructions, interpretations, or determinations) which request changes in the Services. Kleinfelder will give Client written notice within a reasonable time of any resulting adjustment in the schedule and compensation. Unless Client objects in writing within 5 business days, the proposed terms of the Change Order with the adjustment in the schedule and price shall become a part of this Agreement.
- 8.3 If Client and Kleinfelder cannot agree upon an equitable adjustment in the schedule and compensation, and Kleinfelder does not sign the Change Order, the disagreement shall be treated as a Dispute under clause 18.

9. FORCE MAJEURE

- 9.1 Kleinfelder will not be liable for delay or failure to perform its Services caused directly or indirectly by circumstances beyond its control, including but not limited to, acts of God, fire, flood, war, sabotage, accident, labor dispute, shortage, government action or inaction, changed conditions, delays resulting from actions or inactions of Client or third parties, Site inaccessibility or inability of others to obtain material, labor, equipment, or transportation.
- 9.2 Should any of the preceding circumstances occur, then the date for completion or any other milestone date shall be adjusted for the delay in accordance with clause 8, provided Kleinfelder reports the delay to Client within a reasonable time of discovery.

10. INSTRUMENTS OF SERVICE

- 10.1 All data, reports, drawings, plans, or other documents (or copies) provided to Kleinfelder by Client for the purposes of this Agreement will, at Client's written request, be returned upon completion of the Services and payment in full for all Services rendered. Client agrees that Kleinfelder may retain one copy of all such documents.
- 10.2 Client agrees:
- (a) all reports, drawings, plans, documents, software, source code, object code, boring logs, field data, field notes, calculations, estimates, laboratory test data and other similar data, documents and work

- products (or copies thereof) in any form prepared by Kleinfelder pursuant to this Agreement are instruments of service (**Instruments of Service**), not products;
- (b) Kleinfelder will retain exclusive ownership, copyright and title to all Instruments of Service, and Client has no rights to incomplete or partial data;
 - (c) all opinions, certifications, communications (oral or written) or Instruments of Service furnished to Client are intended for the benefit of Client for the specific purposes stated herein and therein, are not intended to inform, guide, or otherwise influence any entities or persons other than Client in relation to the Project, and are not intended or represented to be suited for reuse by Client or others, and;
 - (d) reuse without the specific prior written consent of Kleinfelder will be at the user's sole risk and without Kleinfelder liability, and Client agrees (i) to remove Kleinfelder's and Kleinfelder's consultants' names and seals therefrom, and (ii) to defend, indemnify and hold harmless Kleinfelder and Kleinfelder's contractors, consultants, affiliates, directors and employees from and against all losses, damages and liabilities (including all legal expenses) in connection with the unauthorized use.
- 10.3 Any requests by third parties for reliance upon any communication (oral or written), certification, report, opinion, or Instrument of Service provided by Kleinfelder pursuant to this Agreement will be subject to approval at Kleinfelder's sole discretion and to additional fees, terms and conditions.

11. CLIENT'S RESPONSIBILITIES

- 11.1 Client agrees to provide and discuss with Kleinfelder on an ongoing basis all available material, data, and information pertaining to the Services, including, without limitation, (i) the composition, quantity, toxicity, or potentially hazardous properties of any material known or believed to be present at any Site, (ii) any hazards that may be present, (iii) the nature and location of underground or otherwise not readily apparent utilities, (iv) summaries and assessments of the Site's past and present compliance status, (v) the status of any judicial or administrative action concerning the Site or Project, and (vi) Client records (in electronic format where possible) for such data as benchmarks, plans, maps, and property ownership; and
- 11.2 Client will ensure the cooperation of Client's employees, contractors and consultants with Kleinfelder.
- 11.3 Client acknowledges and agrees that Kleinfelder is entitled to rely upon the accuracy and completeness of any information given by Client, its employees, contractors and consultants.
- 11.4 Client will provide reasonable assistance to obtain data and records concerning the Site or Project in the possession, custody or control of third parties.

12. ALLOCATION OF RISK AND INDEMNITIES

- 12.1 Subject to the limitation of liability provisions of this Agreement, Kleinfelder indemnifies Client against all liabilities, losses or damages caused by the negligence or other fault of Kleinfelder and its employees, agents, representatives, subcontractors, and any other party for whom Kleinfelder is legally responsible (**Kleinfelder Parties**), but only to the extent such liabilities, losses or damages are caused by the negligence or other fault of the Kleinfelder Parties when compared to the negligence or other fault of all other persons and entities. If California law applies to this Agreement, the parties also expressly agree that this indemnity provision does not include, and in no event shall Kleinfelder be required to assume, any obligation or duty to defend any claims, cause of action, demands, or lawsuits in connection with or arising out of this Project or the Services rendered by Kleinfelder. This clause 12.1 is not intended to and will not in any way be limited by any insurance coverage available to Client under any Kleinfelder insurance policy.
- 12.2 Subject to any applicable statutory limitations, the indemnity obligations in this clause 12 shall survive the expiration or termination of this Agreement.

13. LIMITATION OF LIABILITY

- 13.1 The maximum aggregate liability of Kleinfelder arising out of or related to this Agreement, as amended, whether based in contract or tort or otherwise in law or equity, will be limited to the greater of the compensation actually paid to Kleinfelder for the Services or \$50,000, and Client hereby releases Kleinfelder from any liability above such amount. This limitation of liability includes any losses payable to Client under clause 12.1 and will apply to any and all claims.
- 13.2 This limitation of liability has been agreed after Client and Kleinfelder discussed the risks and rewards associated with the Project and the Services as well as the provision of the Services within both the obligations of this Agreement and the associated compensation. Upon written request by Client, the parties may negotiate in good faith and agree, by way of a written Change Order in accordance with clause 8 herein, to increase the amount of this liability limitation or eliminate it in exchange for payment of increased compensation to Kleinfelder.
- 13.3 As used in this clause 13, "Kleinfelder" includes Kleinfelder, its affiliates, subconsultants and subcontractors, and their respective partners, officers, directors, shareholders and employees. The limitation of liability established in this clause 13 shall survive the expiration or termination of this Agreement.

14. WAIVER OF CONSEQUENTIAL DAMAGES

- 14.1 Neither party will be liable to the other party for any special, incidental, indirect, exemplary, punitive, penal or consequential damages however arising incurred by either Kleinfelder or Client or for which either may be liable to a third party.

15. NO CONTROL OF MEANS AND METHODS OF OTHERS

- 15.1 Client agrees:
- (a) Kleinfelder will have no control over or charge of or responsibility for the construction means, methods, techniques, sequences, or procedures, or for the safety precautions and programs of Client's employees, or contractors or consultants engaged by Client in connection with the Project;
 - (b) Kleinfelder's performance of the Services does not include any job site safety obligations which may be required by or in connection with the Project or the Services or any applicable code or regulation, other than strictly in respect of its own employees; and
 - (c) Kleinfelder will not have control over or charge of the acts or omissions of any contractor or contractors' agents, employees or subcontractors.

16. SITE ACCESS

- 16.1 Client agrees to:
- (a) provide unimpeded and timely access to the Site, including any third party sites, if required;
 - (b) provide an adequate area for Kleinfelder's Site office facilities, equipment storage, and parking;
 - (c) furnish all construction utilities and utility releases necessary for the performance of the Services; and
 - (d) obtain all permits, licenses or authorizations necessary for the performance of the Services.

17. WARRANTY OF TITLE, WASTE OWNERSHIP

- 17.1 Kleinfelder will not take title to or be liable for any hazardous materials found at any Project Site. Any risk of loss with respect to all materials remains with Client or the Site owner, who will be considered the generator of such materials, execute all manifests as the generator of such materials, and be liable for the arrangement,
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transportation, treatment, and/or disposal of all material. All samples remain the property of Client. Client agrees to promptly, at its cost, remove and lawfully dispose of samples, cuttings, and hazardous materials.

18. DISPUTE RESOLUTION

- 18.1 If a dispute arises out of or relates this Agreement (**Dispute**), the parties agree to submit the Dispute to mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association (**AAA**). The mediator will be an independent person agreed between the parties from a panel suggested by the Institute or, failing agreement, a mediator appointed by AAA. A party shall not call for mediation of any Dispute after such period of time as would bar the initiation of legal proceedings to litigate such Dispute under the laws of the state in which the Project is located.
- 18.2 Client and Kleinfelder agree that in the event of a Dispute, they will not seek recourse against individual officers, employees, directors, or shareholders of the other party.
- 18.3 A party shall not start court proceedings in relation to a Dispute until it has exhausted the procedures in this clause, unless the party seeks injunctive or other interlocutory relief.
- 18.4 If the Dispute cannot be resolved through mediation, either party may file suit in an appropriate court in the state where the Services are performed.
- 18.5 This clause survives termination or expiry of this Agreement.

19. MISCELLANEOUS

- 19.1 This Agreement is governed and construed in accordance with the laws of the state where the Services are performed. The parties hereby submit to the jurisdiction of the courts of the state where the Services are performed and waive any right to object to any proceedings being brought in those courts.
- 19.2 Waiver of any term, condition or breach of this Agreement will not operate as a subsequent waiver of the same term, condition or breach. A waiver is not valid or binding unless made in writing.
- 19.3 If any provision of this Agreement is found by a duly constituted authority to be invalid, void, or unenforceable, all remaining provisions shall continue in force.
- 19.4 This Agreement does not create, nor will it be construed to create, any benefit or right in any third party or any special relationship or fiduciary duty to third parties.
- 19.5 Client and Kleinfelder shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

- 19.6 This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter. It supersedes all earlier conduct, prior agreements and understandings between the parties in connection with its subject matter.
- 19.7 Each party must do anything necessary to give full effect to this Agreement.
- 19.8 All notices, requests or instructions hereunder must be in writing and either hand delivered to the recipient, delivered by registered mail or express mail to the addresses given in this Agreement.
- 19.9 This Agreement cannot be assigned by either party without the prior written approval of the other party. Kleinfelder may subcontract performance of portions of the Services to a qualified subcontractor.
- 19.10 Any amendment or revision to this Agreement must be in writing and signed by both parties. Any oral modification or revision of this Agreement shall not operate to modify this Agreement.
- 19.11 This Agreement may be executed in counterparts, including photo or electronic copies, which taken together shall constitute one original document.

IN WITNESS WHEREOF, Client and Kleinfelder have caused this Agreement to be executed on the date first written above.

CLIENT:

KLEINFELDER:

By David Bambuer

By: Denise M. Plummer

Printed Name: David Bambuer
~~Douglas A. Spencer~~

Printed Name: Denise M. Plummer, P.E.

Vice
Title: President, Board of Commissioners

Title: Area Manager

ATTACHMENTS: Appendix A, Kleinfelder Proposal
Exhibit A, Project Scope/Fee Schedule

**EXHIBIT A
PROJECT SCOPE AND FEE SCHEDULE**

**PROJECT TITLE: PY2024 CRITICAL INFRASTRUCTURE GRANT PROGRAM
APPLICATION PREPARATION**

Project scope consists of preparation of the PY2024 Auglaize County CDBG Critical Infrastructure Grant Application on behalf of Auglaize County for the Village of Cridersville, OH. Includes coordination with Auglaize County Board of Commissioners, preparation of required OCEAN forms, and submission of the application through ODOD/OCD OCEAN Software System by the required due date, Wednesday, June 12, 2024. Preparation of the Grant Application: \$5,000 L/S Fee.