

**IN THE MATTER OF PROCLAIMING OCTOBER, 2013 AS "NATIONAL ARTS AND HUMANITIES MONTH" THROUGHOUT AUGLAIZE COUNTY.**

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The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 22nd day of October, 2013.

Commissioner Spencer moved the adoption of the following:

**RESOLUTION**

WHEREAS, the month of October has been recognized as National Arts and Humanities month by thousands of arts and cultural organizations, communities, and states across the country, as well as by the White House and Congress for more than two decades; and,

WHEREAS, the arts and humanities embody much of the accumulated wisdom, intellect, and imagination of humankind; and,

WHEREAS, the arts and humanities enhance and enrich the lives of every American; and,

WHEREAS, the arts and humanities play a unique role in the lives of our families, our communities, and our country; and,

WHEREAS, the nonprofit arts industry also strengthens our economy by generating \$166.2 billion in total economic activity annually and by supporting the full-time equivalent of 5.7 million jobs.

THEREFORE, BE IT RESOLVED that the Board of County Commissioners, Auglaize County, Ohio, does hereby proclaim October, 2013 as

**NATIONAL ARTS AND HUMANITIES MONTH**

in Auglaize County and call upon our citizens to celebrate and promote the arts and culture in our nation and to specifically encourage the greater participation by those said citizens in taking action for the arts and humanities in their towns and cities.

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

Adopted this  
22nd day of  
October, 2013

BOARD OF COUNTY COMMISSIONERS  
AUGLAIZE COUNTY, OHIO

Don Regula, yes  
Don Regula

John N. Bergman, yes  
John N. Bergman

Douglas A. Spencer, yes  
Douglas A. Spencer

✓cc: Arts Place, Collective Center  
Mary Hone, Director

County Commissioners Office  
Auglaize County, Ohio  
October 22, 2013

NO. 13-460

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

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The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 22nd day of October, 2013.

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>
377941	\$ 9,543.75	Clemans Nelson & Associates
377959	\$ 196.90	I <sup>st</sup> Communications
377972	\$ 538.40	Gordon Food Service
377976	\$ 288.04	PDG
377976	\$ 135.00	PDG

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

Adopted this  
22nd day of  
October, 2013

BOARD OF COUNTY COMMISSIONERS  
AUGLAIZE COUNTY, OHIO

Don Regula  
Don Regula

John N. Bergman  
John N. Bergman

Douglas A. Spencer  
Douglas A. Spencer

cc: County Auditor

**IN THE MATTER OF AUTHORIZING A BUDGET ADJUSTMENTS.**

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The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 22nd day of October, 2013.

Commissioner Spencer moved the adoption of the following:

**RESOLUTION**

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

**General Fund:**

<b>Amount:</b>	<b>From:</b>	<b>To:</b>
\$ 70,000.00	001.1401.536100 (Property Ins.)	001.0402.530600 (Contract Services)

**Veteran Services Fund:**

<b>Amount:</b>	<b>From:</b>	<b>To:</b>
\$ 5,000.00	001.0903.530400 (Equipment)	001.0904.535300 (Grave markers)

**County Home Fund:**

<b>Amount:</b>	<b>From:</b>	<b>To:</b>
\$ 3,000.00	097.0097.536400 (Workers Comp)	097.0097.530900 (Other Expense)
\$ 17,496.04	097.0097.536400 (Workers Comp)	097.0097.530500 (Contract Repair)

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

Adopted this  
22nd day of  
October, 2013

BOARD OF COUNTY COMMISSIONERS  
AUGLAIZE COUNTY, OHIO

Don Regula, yes  
Don Regula

John N. Bergman, yes  
John N. Bergman

Douglas A. Spencer, yes  
Douglas A. Spencer

- cc/ County Auditor
- ✓ County Administrator
- ✓ Veteran's Office
- ✓ Auglaize Area

**IN THE MATTER OF AMENDING THE ANNUAL APPROPRIATION DUE TO MONEYS CERTIFIED AND NOT APPROPRIATED.**

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The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 22<sup>nd</sup> day of October, 2013.

Commissioner Spencer moved the adoption of the following:

**RESOLUTION**

**WHEREAS**, the Board has been requested to amend the Annual Appropriation with moneys that the County Auditor has certified and were unappropriated for the following fund listed below:

**001 General Fund.**

**THEREFORE BE IT RESOLVED** that the Board of County Commissioners of Auglaize County, Ohio, does hereby authorize the 2013 Annual Appropriation Resolution be amended as follows:

**Increase 001.0402.530600 (Contract Services) - by \$70,000.00.**

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

Adopted this  
22nd day of  
October, 2013

BOARD OF COUNTY COMMISSIONERS  
AUGLAIZE COUNTY, OHIO

Don Regula, yes  
Don Regula

John N. Bergman, yes  
John N. Bergman

Douglas A. Spencer, Yes  
Douglas A. Spencer

- ✓ cc: County Auditor
- ✓ County Administrator

**IN THE MATTER OF AUTHORIZING THE PURCHASE OF TECHNOLOGY/COMPUTER/SECURITY EQUIPMENT NEEDED FOR THE NEW DOG SHELTER BUILDING PROJECT.**

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The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 22nd day of October, 2013.

Commissioner Spencer moved the adoption of the following:

**RESOLUTION**

**WHEREAS**, Information Technology Manager, Cameron Ruppert, has received quotes for the necessary technology/computer/security equipment needed for the new Dog Shelter Building from various vendors for the total amount of \$15,030.56:

- Prenger – Three security cameras \$4,269.86;
- Prenger – Two computers \$2,726.00;
- CDW-G – Network Rack setup \$ 445.50;
- CDW-G – HP Printer \$ 698.99;
- PerryproTech – Three Cisco phones \$1,574.48;
- PerryproTech – Network switch \$5,315.73.

**THEREFORE BE IT RESOLVED** by the Board of Commissioners of Auglaize County, Ohio does hereby approve and authorize the purchases from the various vendors in the amount of \$15,030.56 for the technology/computer/security equipment needed for the Dog Shelter Building Project; and,

**BE IT FURTHER RESOLVED** that said Board does authorize Information Technology Manager, Cameron Ruppert, to proceed with the purchase of such equipment per the quotes in the amount of \$15,030.56; and,

**BE IT STILL FURTHER RESOLVED** that said Board does authorize the payment of said equipment from the Permanent Improvement Fund at the time the invoices are submitted to the Board.

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

Adopted this  
22nd day of  
October, 2013

BOARD OF COUNTY COMMISSIONERS  
AUGLAIZE COUNTY, OHIO

Don Regula . yes  
Don Regula

John N. Bergman  
John N. Bergman

Douglas A. Spencer . Yes  
Douglas A. Spencer

- ✓✓✓
- cc: Vendors
- ✓ Dog Warden – Russ Bailey
- ✓ IT Manager – Cameron Ruppert

**IN THE MATTER OF RATIFYING THE EMPLOYMENT OF ANGELA SWINEHART AS AN ELIGIBILITY/REFERRAL SPECIALIST 2 POSITION IN THE PUBLIC ASSISTANCE UNIT AT THE AUGLAIZE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES.**

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The Board of County Commissioners of Auglaize County, Ohio, met in regular session on the 22nd of October, 2013.

Commissioner Spencer moved the adoption of the following:

**RESOLUTION**

**WHEREAS**, Michael S. Morrow, Director of the Auglaize County Department of Job & Family Services, informed the Board that the following position of Eligibility/Referral Specialist 2 position was posted and interviews conducted with candidates, Angela Swinehart has being selected to fill the position; and,

**WHEREAS**, Director Morrow recommended that Ms. Swinehart be hired to the position of Eligibility/Referral Specialist 2 position in the Public Assistance in the Auglaize County Department of Job and Family Services, effective October 24, 2013 at the pay rate per hour of \$15.50.

**THEREFORE, BE IT RESOLVED** that the Board of County Commissioners of Auglaize County, Ohio, does hereby ratify the employment of Angela Swinehart to the position so mentioned above in the Auglaize County Department of Job & Family Services; employment in accordance with the specifications as mentioned above.

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

Adopted this  
22nd day of  
October, 2013

BOARD OF COUNTY COMMISSIONERS  
AUGLAIZE COUNTY, OHIO

Don Regula, yes  
Don Regula

John N. Bergman, yes  
John N. Bergman

Douglas A. Spencer, Yes  
Douglas A. Spencer

- ✓ cc: Auglaize County Department of Job & Family Services
- ✓ Lori Yahl – Deputy Auditor

**IN THE MATTER OF RATIFYING THE EMPLOYMENT OF KABETH JARVIS AS AN SOCIAL SERVICE WORKER 2 POSITION IN THE CHILDREN'S SERVICES UNIT AT THE AUGLAIZE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES.**

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The Board of County Commissioners of Auglaize County, Ohio, met in regular session on the 22nd of October, 2013.

Commissioner Spencer moved the adoption of the following:

**RESOLUTION**

**WHEREAS**, Michael S. Morrow, Director of the Auglaize County Department of Job & Family Services, informed the Board that the following position of Social Service Worker 2 position was posted and interviews conducted with candidates, Kabeth Jarvis has being selected to fill the position; and,

**WHEREAS**, Director Morrow recommended that Ms. Jarvis be hired to the position of Social Service Worker 2 position in the Children's Services Unit in the Auglaize County Department of Job and Family Services, effective November 7, 2013 at the pay rate per hour of \$16.50.

**THEREFORE, BE IT RESOLVED** that the Board of County Commissioners of Auglaize County, Ohio, does hereby ratify the employment of Kabeth Jarvis to the position so mentioned above in the Auglaize County Department of Job & Family Services; employment in accordance with the specifications as mentioned above.

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

Adopted this  
22nd day of  
October, 2013

BOARD OF COUNTY COMMISSIONERS  
AUGLAIZE COUNTY, OHIO

Don Regula, yes  
Don Regula  
John N. Bergman, yes  
John N. Bergman  
Douglas A. Spencer, yes  
Douglas A. Spencer

- ✓ cc: Auglaize County Department of Job & Family Services
- ✓ Lori Yahl – Deputy Auditor

**IN THE MATTER OF COMMISSIONERS' FINDING AFFIRMING FORMER ORDER, CONFIRMING THE ASSESSMENTS, AND ORDERING THE LETTING OF THE CONTRACTS FOR HUEBNER DITCH PROJECT.**

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The Board of Auglaize County Commissioners met in regular session on the 22nd day of October, 2013.

Commissioner Spencer made the motion to adopt of the following:

**RESOLUTION**

**WHEREAS**, on October 15, 2013 the Board of County Commissioners held the final hearing for the Huebner Ditch project on the Reports and Schedules of the County Engineer, on the estimated assessments, on claims for compensation or damages and on the proceedings for the improvement, and on application filed for change of route or change in the nature, kind and extent of the work proposed to be done; and,

**WHEREAS**, said Board finds that due and legal notice of this final hearing has been given as required by law; and,

**WHEREAS**, said Board has heard all the evidence offered in the proceedings and received and considered all the schedules and reports filed by the County Engineer; and,

**WHEREAS**, at the time the assessment process was reviewed and assessments were discussed, landowners present were in favor of the project, with said landowners requesting that sixteen (16) semi-annual payment financing should be sought for the note for the balance of moneys needed to complete payment of project after the thirty day assessment payment period has passed.

**THEREFORE, BE IT RESOLVED** that the Board of County Commissioners, Auglaize County, Ohio, does hereby rule in favor of this improvement as in its former order; and,

**BE IT STILL FURTHER RESOLVED** that said Board does approve the maps, profiles, plans, schedules, and reports prepared and presented by the County Engineer at the final hearing; and,

**BE IT STILL FURTHER RESOLVED** that the Board of County Commissioners, Auglaize County, Ohio, does hereby set **November 21, 2013 at 10:00 a.m.** as the date and time to receive and publicly open bids in the Commissioner's Chambers, Administration Building, 209 S. Blackhoof Street – Room 201, Wapakoneta, Ohio for the construction of this project; and,

**BE IT FURTHER RESOLVED** that the completion date for this project is **December 1, 2014**; and,

**BE IT FURTHER RESOLVED** that the County Engineer is hereby authorized to proceed with the necessary legal steps to cause the above set bid opening.

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

Adopted this  
22nd day of  
October, 2013

BOARD OF COUNTY COMMISSIONERS  
AUGLAIZE COUNTY, OHIO

Don Regula, yes  
Don Regula

John N. Bergman, yes  
John N. Bergman

Douglas A. Spencer, yes  
Douglas A. Spencer

✓ cc: County Engineer



**IN THE MATTER OF AUTHORIZING A HOUSING REHABILITATION PROJECT UNDER  
THE C.H.I.P. (OHTF) PROGRAM.**

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The Board of County Commissioners of Auglaize County, Ohio, met in regular session on the 22nd day of October, 2013.

Commissioner Spencer moved the adoption of the following:

**RESOLUTION**

**WHEREAS**, the Board of County Commissioners did receive a \$500,000.00 grant through the State of Ohio's Comprehensive Housing Improvement Program for the acquisition & rehabilitation of housing units within the County; and,

**WHEREAS**, the following project is ready to proceed:

Applicant: Paula Marsh 214 Westway Court, St. Marys Ohio  
Project Cost: \$7,825.00  
Contractor: Heise Construction LLC

**THEREFORE, BE IT RESOLVED** that the Board of County Commissioners does hereby authorize the housing project as noted above.

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

Adopted this 22nd day  
of October, 2013

BOARD OF COUNTY COMMISSIONERS  
AUGLAIZE COUNTY, OHIO

Don Regula . *Yes*  
Don Regula

John N. Bergman *Yes*  
John N. Bergman

Douglas A. Spencer . *Yes*  
Douglas A. Spencer

cc: Gayle Flaczynski - Poggemeyer Design Group  
Michael K. Hensley - Co. Administrator

**IN THE MATTER OF AMENDING THE ANNUAL APPROPRIATION AS REQUESTED BY THE AUGLAIZE COUNTY SHERIFF.**

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The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 22nd day of October, 2013.

Commissioner Spencer moved the adoption of the following:

**RESOLUTION**

**WHEREAS**, under date of January 3, 2013, the Annual Appropriation for Auglaize County was accepted, having been prepared with the 2013 Annual Amended Official Certificate of Estimated Resources which was given to the Board of County Commissioners by the County Auditor; and,

**WHEREAS**, County Auditor Janet Schuler informed the Board that an amendment was made to the Annual Amended Official Certificate of Estimated Revenue for the (918) Arson Registry Fund by \$100.00; and,

**WHEREAS**, Auglaize County Sheriff Allen Solomon requested that the Board amend the 2013 Annual Appropriation to reflect the following increase:

**Increase Arson Registry Fund – 918.0918.531000 (Registration Fees) by \$100.00; and,**

**THEREFORE BE IT RESOLVED** that the Board of County Commissioners of Auglaize County, Ohio, does hereby order the 2013 Annual Appropriation Resolution be amended to show the changes as tabulated above.

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

Adopted this  
22nd day of  
October, 2013

BOARD OF COUNTY COMMISSIONERS  
AUGLAIZE COUNTY, OHIO

Don Regula  
Don Regula

John N. Bergman  
John N. Bergman

Douglas A. Spencer Yes  
Douglas A. Spencer

- ✓ cc: County Auditor - Janet Schuler
- ✓ County Administrator
- ✓ Sheriff

**IN THE MATTER OF AUTHORIZING THE EXECUTION OF THE LOCAL PROGRAM ADMINISTRATION (LPA) GRANT AGREEMENT WITH OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE COUNTY'S INSTALLATION OF 4,600 GUARDRAIL PROJECT.**

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The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 22nd day of October, 2013.

Commissioner Spencer moved the adoption of the following:

**RESOLUTION**

**WHEREAS**, Auglaize County has received a grant agreement from Local Program Administration (LPA) with ODOT, in the amount of \$160,000.00 for the installation of 4,600 lineal feet of new guardrail; and,

**WHEREAS**, County Engineer Doug Reinhart has presented to the Board of County Commissioners a project grant agreement for this 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 and Local Program Administration (LPA) with ODOT for a grant of \$160,000.00 to be used for the County's installation of 4,600 guardrail project; and,

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

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

Adopted this  
22nd day of  
October, 2013

BOARD OF COUNTY COMMISSIONERS  
AUGLAIZE COUNTY, OHIO

Don Regula, yes  
Don Regula

John N. Bergman, yes  
John N. Bergman

Douglas A. Spencer, yes  
Douglas A. Spencer

✓ cc: County Engineer

CFDA 20.205

## LPA 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 Engineer [acting by and through the Auglaize County Commissioners], hereinafter referred to as the LPA, 1014 Blackhoof Street, Wapakoneta, Ohio, 45895-0059.

### 1. PURPOSE

- 1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs.
- 1.2 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 Federal and State laws and regulations with oversight by ODOT.
- 1.3 The AUG CR VAR GR FY 2018 (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.
- 1.4 The purpose of this Agreement is to set forth requirements associated with the Federal 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; and
  - c. National Transportation Act, Title 23, U.S.C.; 23 CFR 635.105.
- 2.2 The LPA shall comply with all applicable Federal and 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 \$160,000 as set forth in Attachment 1. ODOT shall provide to the LPA 100 percent of the eligible costs, up to a maximum of \$200,000 in Federal 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 Federal funds involved.

4.3 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: [www.dot.state.oh.us/drrc/Pages/default.aspx](http://www.dot.state.oh.us/drrc/Pages/default.aspx).)

4.4 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 pre-qualified 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 pre-qualified list is available on the ODOT website at: [www.dot.state.oh.us/DIVISIONS/Engineering/CONSULTANT](http://www.dot.state.oh.us/DIVISIONS/Engineering/CONSULTANT)

4.5 If Federal funds are used for a phase of project development and the LPA executes an agreement with a consultant prior to the receipt of the "Authorization" notification from ODOT, ODOT may terminate this Agreement and cease all Federal funding commitments.

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 Pre-qualified Consultant through a QBS process. The pre-qualified list is available on the ODOT web page at [www.dot.state.oh.us/CONTRACT](http://www.dot.state.oh.us/CONTRACT). If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.

- 5.3 ODOT shall be responsible for the review of all environmental documents and reports, and shall 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 during the construction of the project.
- 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 the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (hereinafter referred to as Uniform Act), any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT.
- 6.2 If existing and newly-acquired right of way is required for this PROJECT, the LPA shall certify that the all right of way has been acquired in conformity with Federal and 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 Pre-qualified Consultant through a QBS 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 pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.
- 6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State 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 all right of way has been cleared of 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 under Titles II and III of the Uniform Act, and,

as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.

- 6.6 In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. 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 Federal 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 and FHWA for approval.
- 6.8 The LPA shall be responsible for any necessary railroad coordination and agreements. The LPA shall comply with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the Ohio Revised Code regarding all activities relating to Railroad-Highway projects.
- 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. Should advertising or work commence prior to the receipt of the "Authorization to Advertise" notification, ODOT shall immediately terminate this Agreement and cease all Federal funding commitments.
- 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 Once the LPA receives Federal authorization to advertise, the LPA may begin advertising activities. Advertisements shall be in accordance with local bidding requirements. Whenever local advertisement requirements differ from Federal advertisement requirements, the Federal requirements shall prevail. The PROJECT shall be advertised for three (3) consecutive weeks. The period between the first legal advertising date and the bid opening date shall be a minimum of twenty-one (21) calendar days. The LPA shall submit to ODOT any addendum to be issued during the advertisement period that changes estimates or materials. ODOT shall review and approve such addendum for project eligibility. All addenda shall be distributed to all potential bidders prior to opening bids and selling the contracts.
- 7.4 The LPA shall incorporate ODOT's LPA Bid Template in its bid documents. The template includes Form FHWA-1273, Required Contract Provisions, a set of contract provisions and proposal notices that are required by regulations promulgated by the FHWA and other Federal agencies, which must be included in all contracts, as well as appropriate subcontracts and purchase orders.
- 7.5 The LPA shall require the contractor to be enrolled in, and in good standing with, the Ohio Bureau of Workers' Compensation 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.
- 7.6 Only pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification 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 pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement. In accordance with FHWA Form 1273 Section VII. and 23 CFR 635.116, the "prime" contractor must perform no less than 30 percent of the total original contract price. The 30 percent prime requirement does not apply to design-build contracts.
- 7.7 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.
- 7.8 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 federal funding commitments.
- 7.9 Before awarding a contract to the selected contractor, the LPA shall verify either that the contractor is not subject to suspension or debarment under the Federal Excluded Parties System List (EPSL). Contractors on the EPSL are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits, pursuant to the provisions of 31 U.S.C. 6101, note, E.O. 12549, E.O. 12689, 48 CFR 9.404, and the FHWA codification of the Common Rule for Nonprocurement suspension and debarment. The EPSL can be viewed on the Federal EPSL website at <https://www.epls.gov/>. If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all federal funding commitments.
- 7.10 The LPA is prohibited from imposing any geographical hiring preference on any bidder in the LPA's bid documents or on any successful contractor in the LPA's award or contract for the construction of the PROJECT.
- 7.11 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 Federal-aid Highway Program operates on a reimbursement basis. 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 Federal/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 requests 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 federal 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 in order to preserve its federal mandate. 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 (the Claim), 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 Title 23 United States Code 116 and 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 public ownership and authority 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 Federally-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 and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it had received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the project, any funds recovered from the performance and payment bond as required under section 7.7 shall be used to offset the Federal dollars reimbursed to FHWA.

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, disability as that term is defined in the American with Disabilities Act, military status (past, present, or future), or genetic information. 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, disability, military status, or genetic information. 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 \$500,000, the LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. To meet this requirement, subcontractors who claim to be DBEs must be certified by ODOT. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

Disadvantaged Business (DBE) Requirement. DBE participation goals (subcontracts, materials, supplies) have been set on this project for those certified as DBEs pursuant to Title 23, U.S.C. section 140(c) and 49 CFR, Part 26, and where applicable qualified to bid with ODOT under Chapter 5525 of the Ohio Revised Code.

#### WAIVER PROCESS FOR DBE GOALS

In the event the Contractor is unable to meet the DBE 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 DBE subcontractors. In the event the Contractor is unable to meet the DBE 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.

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 DBE 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 Federal/State funds.

- 10.4 During the performance of this contract, the LPA, for itself, its assignees and successors in interest (hereinafter referred to as the "LPA") agrees as follows:

(1) **Compliance with Regulations:** The LPA will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter "U.S. DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

In addition, the LPA will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").

(2) **Nondiscrimination:** The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, or disability,

in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

(3) **Solicitations for Contractors or Subcontractors, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor, subcontractor, or supplier will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

(4) **Information and Reports:** The LPA will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or the Federal Highway Administration (hereinafter "FHWA") to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the LPA's noncompliance with the nondiscrimination provisions of this contract, the STATE will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to the LPA under the contract until the LPA complies, and/or
- (b) cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The LPA will include the provisions of paragraphs (1) through (5) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

## 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 and FHWA 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:

Donna Slagle, LPA Coordinator  
Ohio Department of Transportation  
1001 St. Marys Avenue, P.O. Box 969  
Sidney, Ohio 45365-0969

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 2 CFR Part 225 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 *Audit Requirements:* The LPA shall comply with the audit requirements of 49 CFR Part 18.26 which requires non-Federal entities that expend \$500,000.00 or more in a year in Federal awards must have a single or program-specific audit conducted for that year.

- 15.3 *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 and the United States government, 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 FHWA approves the LPA's final Federal voucher for 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 the LPA, ODOT or the United States government may legitimately request from time to time, the contractor agrees to make available for inspection and/or reproduction by the LPA, ODOT or United States government, 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.

- 15.4 *Ohio Ethics Laws:* LPA agrees that if they are 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.
- 15.5 [Conditional] *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.
- 15.6 *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 thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 15.7 *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.
- 15.8 *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. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 15.9 *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.
- 15.10 *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: AUGLAIZE COUNTY  
COMMISSIONERS**

**STATE OF OHIO  
OHIO DEPARTMENT OF TRANSPORTATION**

By: John N Bergman  
Title: Commissioner

By: \_\_\_\_\_  
Jerry Wray  
Director

Date: 10-22-13

Date: \_\_\_\_\_



Attachment 1

PROJECT BUDGET – SOURCES AND USES OF FUNDS

USES	SOURCES	LPA FUNDS			FHWA FUNDS			STATE FUNDS			TOTAL
		Amount	%	SAC	Amount	%	SAC	Amount	%	SAC	
	PRELIMINARY DEVELOPMENT										
	FINAL DESIGN, CONSTRUCTION PLANS & SPECIFICATIONS										
	ACQUISITION OF RIGHT OF WAY & UTILITY RELOCATION										
	PROJECT CONSTRUCTION COSTS				\$153,800	100	4B77				\$153,800
	INSPECTION				\$6,200	100	4B77				\$6,200
	TOTALS				\$160,000						\$160,000

**Attachment 2**

AUG CR VAR GR FY 2018  
COUNTY-ROUTE-SECTION

95140  
PID NUMBER

26100  
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, the Auglaize County Commissioners, request that all payments for the Federal share of the construction costs of this agreement performed by \_\_\_\_\_ be paid directly to \_\_\_\_\_  
(CONTRACTOR'S NAME)  
(CONTRACTOR'S NAME)

Contractor Name:  
Oaks Vendor ID:  
Mailing Address:

\_\_\_\_\_

LPA signature

LPA Name:  
Oaks Vendor ID:  
Mailing Address:

\_\_\_\_\_ Approved, ODOT signature