

St. Clairsville, Ohio

January 24, 2018

The Board of Commissioners of Belmont County, Ohio, met this day in regular session. Present: J. P. Dutton and Josh Meyer, Commissioners and Jayne Long, Clerk of the Board. Absent: Mark A. Thomas, Commissioner

**MEETINGS ARE NOW BEING RECORDED**  
**ALL DISCUSSIONS ARE SUMMARIZED. FOR COMPLETE PROCEEDINGS**  
**PLEASE SEE CORRESPONDING CD FOR THIS MEETING DAY.**

**IN THE MATTER OF APPROVING RECAPITULATION**  
**OF VOUCHERS FOR THE VARIOUS FUNDS**

Motion made by Mr. Dutton, seconded by Mr. Meyer to approve and sign all bills that have been certified in the Auditor's office and considered by the Board. It is hereby ordered that the County Auditor issue his warrant on the County Treasurer in payment of the bills allowed:

**IN THE TOTAL AMOUNT OF \$1,116,006.80**

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF TRANSFERS BETWEEN FUND**

Motion made by Mr. Dutton, seconded by Mr. Meyer to approve the following transfers between funds as follows:

**T10 WATER AND SEWER GUARANTEE DEPOSIT AND OTHER VARIOUS FUNDS/BCSSD**

FROM	TO	AMOUNT
E-3711-T010-T04.074 Transfers Out	R-3702-P005-P15.574 Transfers In	\$2,536.62
E-3711-T010-T04.074 Transfers Out	R-3705-P053-P08.574 Transfers In	\$692.61

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF ADDITIONAL APPROPRIATIONS**

Motion made by Mr. Dutton, seconded by Mr. Meyer to make the following additional appropriations, in accordance with the Official Certificate of Estimated Resources as approved by the Budget Commission, under the following dates:

**\*\*JANUARY 3, 2018\*\***

**G50 LODGING EXCISE TAX**

E-1910-G050-G01.000	Convention & Visitors Bureau	\$187,000.00
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**S79 CERTIFICATE OF TITLE ADMIN/CLERK OF COURTS**

E-6010-S079-S01.002	Salaries	\$175,000.00
E-6010-S079-S03.010	Supplies	\$20,000.00
E-6010-S079-S06.003	PERS	\$50,000.00
E-6010-S079-S07.006	Hospitalization	\$100,000.00
E-6010-S079-S08.005	Medicare	\$5,000.00
E-6010-S079-S10.074	Transfers Out	\$30,000.00
E-6010-S079-S12.000	Travel	\$5,000.00

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF TRANSFERS WITHIN FUND**

Motion made by Mr. Dutton, seconded by Mr. Meyer to approve the following transfers within fund for the following funds:

**S89 COMMON PLEAS COURT/GENERAL SPECIAL PROJECTS**

FROM	TO	AMOUNT
E-1572-S089-S01.000 Other Expenses	E-1572-S089-S02.000 Guardian Ad Litem	\$15,000.00

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF APPROVING**  
**THEN AND NOW CERTIFICATE/AUDITOR’S**

Motion made by Mr. Dutton, seconded by Mr. Meyer to execute payment of Then and Now Certification dated \_\_January 24, 2018, presented by the County Auditor pursuant to O.R.C. 5705.41(d) 1, and authorizing the drawing of warrant(s) in payment of amounts due upon contract to order.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF GRANTING PERMISSION**  
**FOR COUNTY EMPLOYEES TO TRAVEL**

Motion made by Mr. Dutton, seconded by Mr. Meyer granting permission for county employees to travel as follows:

**COMMON PLEAS**-Noah Atkinson to Cadiz, OH, on January 24, 2018 to attend the Bridges Out of Poverty Training.  
**DJFS**-Vince Gianangeli to attend the East Central Ohio Directors’ Association Meetings and General Session meetings throughout the year. Estimated expenses: \$2,253.86. Jon Purtiman to Columbus, OH, on March 15-16, 2018 to attend the Ohio Coalition for Adult Protective Services meeting. Estimated expenses: \$182.00. William Marinacci to Sugarcreek, OH, on June 20-22, 2018 to attend the Foster Parent conference. Estimated expenses: \$484.30.  
**SENIORS**-Kay Driscoll to Wheeling, WV, on February 6, 2018 for a senior outing to Wheeling Fish Market. Daisy Braun to Steubenville, OH, on February 7, 2018 for a senior outing to Carriage House of Steubenville. Sue Hines to Wheeling WV, on February 13, 2018 for a senior outing to Wheeling Down’s and Abbey’s Restaurant. County vehicles will be used for travel.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF APPROVING MINUTES OF REGULAR BOARD OF COMMISSIONERS MEETING**

Motion made by Mr. Dutton, seconded by Mr. Meyer to approve the minutes of the Belmont County Board of Commissioners regular meeting of January 17, 2018.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

Mr. Dutton made the following announcement:  
The Mental Health and Recovery Board is seeking applications to fill one position on that Board. Interested parties should contact Jayn Devny at the Mental Health and Recovery Board’s office to request an application at 740-695-9998.

**IN THE MATTER OF REJECTING BID FROM ADDUS HOMECARE FOR HOMEMAKER AND PERSONAL CARE SERVICES FOR SSOBC**

Motion made by Mr. Dutton, seconded by Mr. Meyer to reject the bid from Addus Homecare for Homemaker and Personal Care Services for Senior Services of Belmont County due to the original bid guaranty not being submitted by the deadline indicated in the Invitation to Bid.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF AWARDING BID FOR HOMEMAKER AND PERSONAL CARE SERVICES FOR SSOBC**

Motion made by Mr. Dutton, seconded by Mr. Meyer to award the bid for Homemaker and Personal Care Services for Senior Services of Belmont County to the following vendors:

Just Right Homecare, Inc. in the amount of \$17.50 per hour  
Advanced Home Health, Inc. in the amount of \$17.50 per hour  
Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF APPROVING THE COBRA ADMINISTRATIVE SERVICES AGREEMENT WITH THE HEALTH PLAN (TPA)**

Motion made by Mr. Meyer, seconded by Mr. Dutton to approve and authorize Commission President J. P. Dutton to sign the Cobra Administrative Services Agreement with The Health Plan (TPA) for eligible employees of Belmont County and their dependents for a period of one year commencing January 1, 2018.

## COBRA ADMINISTRATIVE SERVICES AGREEMENT

### RECITALS

This Agreement is entered into as of January 1, 2018 between Belmont County Commission and THE HEALTH PLAN (TPA).

A. Employer has adopted and sponsors a contract with The Health Plan (Plan), which is a group health plan within the meaning of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and the Internal Revenue Code of 1986, as amended (the Code), for eligible employees of the Employer and their dependents.

B. The Plan is required to offer continuation of coverages to certain individuals pursuant to the provisions of §490B of the Code and Part 6, Subtitle B, Title I of ERISA (collectively referred to herein as COBRA).

C. Employer is the Plan's Named Fiduciary and Plan Administrator within the meaning of ERISA and the Code, and under COBRA, the Plan's Plan Administrator has the responsibility for the administration of COBRA as it applies to the Plan.

D. Employer desires to obtain, and TPA desires to provide, COBRA administrative services to assist the Employer in satisfying its COBRA administration responsibilities in the Employer's capacity as the Plan's Plan Administrator.

E. If TPA is considered a business associate under HIPAA with regard to the Plan, there is a separate agreement between the Plan and the TPA (as business associate) to document compliance with HIPAA's privacy, security, and electronic data interchange (EDI) requirements (Business Associate Contract).

In consideration of the mutual promises set forth in this Agreement, the Employer and TPA agree as follows.

## ARTICLE I: INTRODUCTION

### 1.1 Agreement Effective Date and Term

This Agreement is effective January 1, 2018 ("Effective Date"). The initial term of the Agreement will be the initial 12-month period commencing on the Effective Date; thereafter, this Agreement will renew automatically for successive periods of 12 months under the same terms and conditions unless this Agreement is terminated in accordance with the provisions of Section 7.4.

### 1.2 Scope of Services

Subject to the terms and conditions of this Agreement, for the term of this Agreement, TPA shall provide to Employer, and Employer shall purchase from TPA, the services as set forth in this Agreement and any Exhibits and Appendices attached hereto. Services to be provided under the Agreement are set forth in Article III. TPA will comply with the specifications and requirements established in the Agreement. Employer has sole and final authority to control and manage operations of the Plan. TPA is and shall remain, for the entirety of this Agreement, an independent contractor with respect to the services being performed hereunder and shall not for any purpose be deemed an employee of Employer. TPA and Employer shall not be deemed partners, engaged in a joint venture or governed by any legal relationship other than that of independent contractors. TPA provides administrative services only as contemplated by this Agreement and does not assume any financial risk or obligation with respect to claims for benefits payable by Employer under the Plan. Nothing herein shall be deemed to constitute TPA as a party to the Plan or to confer upon TPA any authority or control respecting management of the Plan, or responsibility for the terms or validity of the Plan, unless otherwise agreed to as set forth in official Plan documents.

Nothing in this Agreement shall be deemed to impose upon TPA any obligation to any employee of Employer or any person who is participating in the Plan.

### **1.3 Definitions**

"2% COBRA Administration Fee" and "50% COBRA Administration Fee" mean the difference between the "applicable premium" within the meaning of COBRA and the premium amount the Plan may charge for Continuation Coverage (102% of the applicable premium or 150% of the applicable premium in the case of an extension based on the disability of a Qualified Beneficiary).

"Business Associate Contract" means the separate business associate agreement (within the meaning of HIPAA) between the Plan and TPA to document compliance with HIPAA's privacy, security, and electronic data interchange requirements.

"COBRA" means the group health plan continuation coverage provisions of section 4980B of the Code and Part 6, Subtitle B, Title I of ERISA.

"Code" means the Internal Revenue Code of 1986, as amended, and the regulations thereunder.

"Continuation Coverage" means the continued coverages under the Plan following a Qualifying Event provided to a Qualified Beneficiary as required by COBRA.

"Continuation Coverage Period" means the period commencing on the date of a Qualifying Event and continuing for the maximum period specified in COBRA.

"Employer" means **Belmont County Commission**.

"ERISA" means the Employee Retirement Security Act of 1974, as amended, and the regulations thereunder.

"HIPAA" means the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996, as amended, and the regulations thereunder.

"Litigation" means any litigation or other proceeding, including but not limited to any judicial or administrative proceeding, involving a dispute arising under COBRA or this Agreement, or an audit, investigation, or proceeding by the Internal Revenue Service or the United States Department of Labor involving directly or indirectly the duties or responsibilities of the Employer, the Plan Administrator, or the TPA.

"Plan" means group health plan offered through The Health Plan.

"Plan Administrator" means the Plan's administrator as defined in ERISA §3(16)(A). For the Plan, the Plan Administrator is the Employer.

"Protected Health Information" or "PHI" has the meaning assigned to such term under HIPAA.

"Qualified Beneficiary" means any individual specified in COBRA who is eligible to elect Continuation Coverage. In addition, solely to the extent the Employer elects on Exhibit B, "Qualified Beneficiary" also includes dependents of an employee whom the Employer treats as a "spouse" under the Plan (for example, domestic partners).

"Qualifying Event" means a qualifying event within the meaning of COBRA (generally, an event upon which a Qualified Beneficiary must be given the opportunity to elect Continuation Coverage as specified in COBRA).

"TPA" means THE HEALTH PLAN.

## **ARTICLE II: EMPLOYER OBLIGATIONS**

### **2.1 Information to Be Furnished to TPA**

During the term of this Agreement, Employer will furnish TPA with the information necessary to provide COBRA administrative services, including, but not limited to:

(a) The names of all Qualified Beneficiaries eligible to elect Continuation Coverage, as well as the COBRA Qualifying Event date and the type of event

(i.e., termination of employment), employee census information (including the coverage that the employee had at the time of the Qualifying Event), and dependent information for all dependents covered under the employee's Plan at the time of the Qualifying Event. Employer shall notify BAC in writing within thirty (30) days of its knowledge that a Qualifying Event has occurred.

(b) Mailing addresses and any other information necessary to enable TPA to perform the administrative services under this Agreement;

(c) Information concerning any violations of COBRA known to Employer immediately upon acquiring such information.

(d) PHI will be subject to the privacy and security rules under HIPAA and the separate Business Associate Contract, to the extent applicable.

All information required under this Section 2.1 will be provided in such format and at such intervals as is reasonably required by, and acceptable to, Employer and TPA.

## **2.2 Provision of Names of Those Authorized to Act**

Employer will provide TPA with the names of individuals authorized to act for the Employer in connection with this Agreement.

## **2.3 Collection of Due and Unpaid Premiums**

Employer will be solely responsible for collection of due and unpaid premiums owed by Qualified Beneficiaries to whom Continuation Coverage was provided and who did not remit premiums for such Continuation Coverage. All efforts to collect such amounts will be the sole responsibility of Employer.

## **2.4 Review of TPA Reports and Rosters**

Employer must review its copies of the eligibility reports (reports summarizing eligibility data) TPA provides, and the roster of participants who elect Continuation Coverage that TPA provides Employer as and when Employer

receives them. Employer must advise TPA by notice of any errors or discrepancies of which Employer is, or reasonably should be, aware in the eligibility reports or rosters. If Employer fails to notify TPA of such errors or discrepancies within 14 days after Employer receives the eligibility report or rosters, TPA shall have no liability for such errors or discrepancies.

### **ARTICLE III: TPA RESPONSIBILITIES**

#### **3.1 TPA Services**

TPA's sole responsibilities to Employer shall be limited to those described in this Agreement and any Appendices attached hereto. As of the Effective Date, TPA will do the following:

- (a) Determine whether a Qualifying Event has occurred.
- (b) Determine who is eligible to receive Continuation Coverage.
- (c) Determine when required COBRA notices must be furnished and provide all required COBRA notices to Qualified Beneficiaries. These include the election notice, notice of unavailability, and notice of termination within the meaning of COBRA.
- (d) If the Employer so elects on Exhibit B, mail a COBRA "general notice" to each covered employee and spouse who becomes covered by the Plan, upon the Employer's notice to TPA (which must include the name and address of each covered employee and covered spouse), within 10 days after the TPA receives the Employer's notice.
- (e) Receive all required COBRA notices from employees, spouses, dependents, and Qualified Beneficiaries.
- (f) Determine the date by when COBRA elections must be made and provide Qualified Beneficiaries all necessary election forms.
- (g) Receive and process duly executed COBRA election forms received from Qualified Beneficiaries.



(h) Determine whether a COBRA Continuation Coverage election is valid.

(i) Determine the duration of Continuation Coverage and whether an event has occurred that permits termination of Continuation Coverage before its maximum coverage period (including any required extension) expires.

(j) Design, print, and send monthly reminder statements to Qualified Beneficiaries who have elected Continuation Coverage stating the amount of the monthly premium for Continuation Coverage.

(k) If the Plan provides conversion rights, notify Qualified Beneficiaries within 90 days preceding the termination of the COBRA Continuation Coverage Period of the right to convert to an individual health insurance policy upon the expiration of the COBRA Continuation Coverage Period.

(l) If the premium paid for a Qualified Beneficiary's Continuation Coverage is less than the full current amount due, administer the partial payment consistent with COBRA and Treas. Reg. §54.4980B-8, Q/A-5(d).

(m) To the extent applicable, comply with the terms of the separate Business Associate Contract.

TPA is not responsible for any obligation of Employer under COBRA that arises from Employer's status as "plan sponsor" or "employer" within the meaning of ERISA.

### **3.2 Premiums and Grace Periods**

TPA will determine the cost to the Plan for Continuation Coverage and establish the premium to be charged to Qualified Beneficiaries. TPA will also establish the length of the grace period within which a Qualified Beneficiary may pay premiums for Continuation Coverage without the loss of such coverage.

### **3.3 Maintenance of Roster of Qualified Beneficiaries**

TPA will establish, maintain, and update a roster containing the names of all participants who elect Continuation Coverage under the Plan and provide such roster to Employer on a monthly basis.

### **3.4 Deposit of Premium Payment**

Upon receipt of premium payments from Qualified Beneficiaries for Continuation Coverage, TPA will deposit such amounts in TPA's bank account. Such funds will then be dispersed to the Employer in accordance with the terms of the official documents governing the Plan and the administration of the Plan.

## **ARTICLE IV: INDEMNIFICATION PROVISIONS**

### **4.1 Indemnification by Employer**

Employer agrees to indemnify and hold harmless TPA from and against any and all claims, suits, actions, liability, losses, damages, fees, costs, charges, expenses, judgments, and settlements that TPA sustains as a result of any act or omission of Employer in connection with this Agreement.

Employer will not be obligated to indemnify TPA if it is determined that a judgment, determination, or settlement in litigation was paid as a result of an act or omission by TPA that was:

- (a) criminal or fraudulent;
- (b) an intentional disregard of TPA's obligation under this Agreement; or
- (c) grossly negligent.

Notwithstanding the foregoing, Employer will indemnify and hold TPA harmless to the extent Employer concurred in, instructed, directed, or caused such acts or omissions by TPA.

#### **4.2 Indemnification by TPA**

TPA agrees to indemnify and hold harmless Employer from and against any and all claims, suits, actions, liability, losses, damages, fees, costs, charges, expenses, judgments, and settlements that Employer sustains as a result of any act or omission of TPA in connection with the performance of services under this Agreement. TPA shall have no duty or obligation to defend against any legal action or proceeding brought to recover a claim for Plan benefits or any causes of action for expenses or liabilities incident to the Plan.

TPA will not be obligated to indemnify Employer if it is determined that a judgment, determination, or settlement in litigation was paid as a result of an act or omission by Employer which was:

- (a) criminal or fraudulent;
- (b) an intentional disregard of Employer's obligation under this Agreement; or
- (c) grossly negligent.

Notwithstanding the foregoing, TPA will indemnify and hold Employer harmless to the extent TPA concurred in, instructed, directed, or caused such acts or omissions by Employer.

#### **4.3 Survival of Provision**

The provisions of this Article will survive the termination of this Agreement.

### **ARTICLE V: GENERAL PROVISIONS**

#### **5.1 Employer's Exclusive Responsibility for Operation of Plan**

For purposes of this Agreement, Employer has the sole and exclusive authority and responsibility for the Plan, its provision of benefits, and its operation. TPA is empowered to act solely as agent for, and on behalf of, the Employer and only as expressly stated in this Agreement. Employer shall retain final authority

and has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed, all work to be performed by TPA.

## **5.2 TPA as Independent Contractor**

TPA agrees to perform the services specified in Article III. It is expressly understood that TPA is solely an independent contractor and not a Plan fiduciary or Plan Administrator of the Plan. TPA and Employer agree that Employer shall at all times be considered the Plan fiduciary and Plan Administrator of the Plan.

## **5.3 Non-Discretionary Duties; Additional Duties**

TPA and Employer agree that, to the fullest extent permitted by applicable law, the duties to be performed under this Agreement by TPA are non-discretionary duties. TPA and Employer may agree to additional duties in writing as may be specified in an amendment to this Agreement, including amendment to any of the Appendices from time to time. With respect to any such additional duties, TPA and Employer agree that, to the fullest extent permitted by applicable law, any such additional duties shall be non-discretionary duties.

## **5.4 Liability for Benefits**

The payment of benefits is the obligation of Employer. In the event that benefits become payable, even though a Qualified Beneficiary who elected Continuation Coverage (or any other individual to whom benefits have been provided under the Plan) has not paid premiums for such coverage, TPA will have no liability for payment of such benefits.

## **5.5 Employment of Counsel and Resolution of Litigation**

In the event of Litigation, Employer and TPA each:

- (a) Reserve the right to select and retain counsel to protect its interests;

- (b) Will notify the other Party concerning the existence of such Litigation promptly upon learning of such Litigation;
- (c) Will cooperate fully by providing the other Party with all relevant and unprivileged information and documents within its possession or control; and
- (d) Will reasonably assist the other Party in preparation for Litigation and in the defense of Litigation.

#### **5.6 Amendment**

Employer may at any time request additions, alterations, deductions, or deviations (hereinafter "Change") to the Services provided hereunder. No such Change will be made to the Services unless made pursuant to a written amendment mutually agreed upon by the parties.

#### **5.7 Records**

(a) Maintenance of Records. TPA will maintain separate records with respect to the services specified herein for seven calendar years following any year in which it performs services hereunder or, if longer, such period as provided under ERISA or other applicable law.

(b) Inspection of Records. TPA will permit Employer to inspect, examine, and copy records during normal business hours and upon reasonable notice from Employer.

(c) Audit. Upon not less than 14 days' notice to TPA, Employer, at Employer's expense, may conduct a thorough audit of TPA's records related to TPA's COBRA administration services under this Agreement. Employer may audit no more often than once in any 12-month period. Employer may audit only records relating to transactions that occurred not more than 24 months before the date of Employer's notice to TPA.

**5.8 Choice of Law**

This Agreement and the obligations of Employer and TPA will be governed and construed in accordance with the laws of the State of West Virginia unless preempted by federal law.

**5.9 Assignment**

TPA may assign or transfer this Agreement and any appendices, attachments or amendments issued hereunder in connection with the sale of its assets, stock, or securities or in connection with any change of control.

**ARTICLE VI: SERVICE FEES**

**6.1 Initial Case Setup Fee**

An initial case setup fee specified in Exhibit A, attached hereto and made a part hereof, will become payable to TPA at the time this Agreement is executed.

**6.2 Service Fee**

A service fee specified in Exhibit A will be paid by Employer to TPA. TPA reserves the right to increase or modify the service fee at any time upon 60 days' notice to Employer (subject to Employer's right in Section 7.4(a) to object to the increase or modification and terminate this Agreement). The service fee will be paid regardless of whether a Qualified Beneficiary electing Continuation Coverage pays the premiums for such coverage for the period billed or the month enrolled in such coverage.

**6.3 Additional Fees**

Charges for additional services requested by Employer not included in the Agreement will be agreed upon prior to the performance of such service by TPA.

**6.4 When Fees Are Payable**

TPA's COBRA Administrative Service fees are included in The Health Plan's invoice transmitted to Employer on or about the 20th day of each month for the following month's coverage and administrative services.

**6.5 COBRA Administration Fee**

TPA will retain the 2% COBRA Administration Fee paid by the Qualified Beneficiary and the 50% COBRA Administration Fee (after the initial 18-month continuation period has expired) payable during a period of disability extension.

**6.6 No Waiver**

The Employer's or TPA's failure to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder will not be construed as a waiver of such term, condition, right, or privilege in the future.

**ARTICLE VII: MISCELLANEOUS**

**7.1 Notices**

All notices, certificates, or other communications hereunder will be sufficiently given and will be deemed given when mailed by certified or registered mail, postage prepaid, with proper address as indicated. TPA and Employer may, by written notice given by each to the other, designate any address or addresses to which notices or other communications to them will be sent when required as contemplated by this Agreement. Until otherwise provided by Employer and TPA, all notices, certificates, and communications to each of them will be addressed as follows:

To Employer: Belmont County Commission

101 W. Main Street

St. Clairsville, OH 43950

Attn: Cheryl Zeno

To TPA: **THE HEALTH PLAN**

**1110 Main Street**

**Wheeling, WV 26003**

**Attn: Commercial Sales**

## **7.2 Severability**

The invalidity or unenforceability of any provision of this Agreement will not affect the other provisions of this Agreement, and this Agreement will be construed in all respects as if such invalid or unenforceable provision were omitted.

## **7.3 Survival of Obligations**

The parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, will survive the termination or expiration of this Agreement.

## **7.4 Termination of Agreement**

- (a) This Agreement will terminate upon the first to occur of the following:
  - (1) The expiration of 30 days after written notice has been given by Employer or TPA to the other that Employer or TPA has breached any material obligation under this Agreement;



- (2) The date specified in a written notice given by TPA to Employer of TPA's termination of this Agreement due to Employer's failure to remit to TPA charges for services;
- (3) The expiration of 90 days after written notice has been given by Employer or TPA to the other that either Employer or TPA desires to terminate this Agreement; and
- (4) The expiration of 30 days after written notice has been given by Employer to TPA that Employer objects to TPA's increase in or modification to the service fee, provided that Employer provides its notice to TPA within 30 days after Employer receives TPA's notice of the increase or modification under Section 6.2.

(b) In the event of termination of this Agreement, TPA will, unless Employer and TPA otherwise agree:

- (1) Complete the processing of all amounts received by TPA as premiums payable by those who have elected Continuation Coverage prior to the termination;
- (2) Release to Employer in any reasonably usable format agreed to by the Parties, all necessary records and files relating to billings, and in-force records that have been developed and maintained by TPA pursuant to this Agreement; and
- (3) Deliver to Employer all unused materials, equipment, and specifications that were furnished by Employer.

Employer will fulfill all lawful obligations with respect to policies affected by the written agreement, regardless of any dispute between the Employer and TPA.

(c) If TPA performs any services pursuant to this Agreement following its termination including but not limited to services described in this Section 7.4, TPA will be entitled to its fees or other charges on the same basis as if the Agreement has continued in effect for the period during which such services were performed.


TPA will transmit an invoice to Employer for services rendered following termination of this Agreement, and this invoice will be payable upon receipt.

7.5 Entire Agreement

This Agreement is entire and complete as to all of its terms and supersedes all previous agreements, promises, proposals and representations, whether oral or written. It may be executed in duplicate counterparts, each of which may be considered as original and fully enforceable. Except as otherwise provided in Article VII, no termination, revocation, waiver, modification, or amendment of this Agreement will be binding unless agreed to in writing and signed by Employer and TPA.

IN WITNESS WHEREOF, Employer and TPA have caused this Agreement to be executed by their duly authorized representatives as of the day and year set forth above.  
Dated this 31st day of December, 2017.

Belmont County Commission as Employer and THE HEALTH PLAN as TPA

By:   
Title: Commissioner  
  
By:   
Title: Vice President, Commercial Products

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Dutton	Yes
Mr. Thomas	Absent

IN THE MATTER OF APPROVING THE AMENDMENT TO  
BELMONT COUNTY JUVENILE COURT’S OHIO DEPT. OF YOUTH  
SERVICES GRANT AGREEMENT & FUNDING APPLICATION FY2018

Motion made by Mr. Meyer, seconded by Mr. Dutton to approve and authorize Commission President J. P. Dutton to sign the amendment to Belmont County Juvenile Court’s Ohio Department of Youth Services Grant Agreement and Funding Application for FY2018 to reduce the total program cost to \$221,092.94, a reduction of \$2,732.54.  
Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Dutton	Yes
Mr. Thomas	Absent

January 24, 2018

**IN THE MATTER OF APPROVING THE ENGAGEMENT LETTER  
WITH BRICKER & ECKLER, LLP FOR PROFESSIONAL SERVICES  
IN CONNECTION WITH RENOVATIONS TO THE HEALTH PLAN BUILDING**

Motion made by Mr. Dutton, seconded by Mr. Meyer to approve and sign the Engagement Letter with Bricker & Eckler, LLP for professional services in connection with the renovations to the Health Plan Building to transform them into County offices and Court Facilities.

January 17, 2018

**VIA E-MAIL** ([jaynelong@co.belmont.oh.us](mailto:jaynelong@co.belmont.oh.us))

Belmont County Commissioners  
Attention: Jayne Long  
100 W. Main Street  
St. Clairsville, Ohio 43950  
Re: Engagement Letter  
Commissioners:

We are pleased that Bricker & Eckler LLP (the "Firm") has been asked to serve as your counsel in connection with the renovations to the Health Plan Building to transform them into County offices and Court Facilities (the "Matter"). The principal purpose of this letter is to set forth the nature of our engagement and the terms and conditions of our representation. We understand that the Board of County Commissioners for Belmont County, Ohio (the "County") is our client for purposes of this engagement, and not any individual commissioners, officers, or employees of the County. However, while we will be representing the County, we will be looking to you and others designated by you as our primary contacts.

This engagement is limited to the Matter described above. However, to the extent we both agree that additional legal services will be provided and a new engagement letter is not executed, the terms of this letter will apply to the additional services.

You agree to cooperate fully with us on this Matter and to fully and accurately disclose to us all facts, circumstances, and documents that may be relevant to the Matter or that we may otherwise request. During the course of this project, we may express opinions or beliefs concerning the Matter, various courses of action and the outcome that might be anticipated. Any such statement is intended to be an expression of opinion only, based on information available to us at the time, and should not be construed by you as a promise or guarantee.

Either of us may terminate the engagement at any time, subject on our part to the applicable rules of professional responsibility. Unless previously terminated, or unless we agree to perform additional work for the County, our representation of the County will terminate upon completion of the Matter and submission of a final statement for our services. After completion of the Matter, changes may occur in laws, regulations, or case law that could affect your future rights or liabilities.

Unless you engage us and we agree to provide additional services, the Firm has no continuing obligation to advise you with respect to future legal developments.

In undertaking any representation of a client, we perform a formal conflicts check within our office. Based on our initial conversation with you and our formal conflicts check, we have found no apparent conflicts with respect to representation of the County in this Matter. However, if at any time during our representation we become aware of a conflict or determine that the representation of the County would conflict with our previous representation or relationship with other clients, we will discuss it with you.

Additionally, we require assurance that our representation of the County in this Matter will not later be raised as an actual or potential conflict of interest in any future matter in which we may be representing other parties and not representing the County. This means that, by retaining us as your legal counsel for this Matter, you are waiving the right to disqualify the Firm from acting as counsel for other parties in any other matter which may be adverse to or otherwise involve or affect the County's rights or interests, but for which we have not agreed to represent the County. This prospective waiver will not apply in any matter adverse to the County if, as a direct result of representation of the County in this Matter, we have obtained proprietary or otherwise confidential information that, if known to the other party, could be used in the matter adverse to the County to the material disadvantage of the County.

In addition to the legal work the Firm provides to our clients, certain attorneys associated with the Firm also provide government relations services to various trade associations and other clients of the Firm who have engaged us to perform such services ("Government Relations Services"). The Government Relations Services may include, but are not limited to, advocating certain positions on behalf of a client before the Ohio General Assembly and before various federal, state, and local legislative or regulatory bodies or officials. Such services may include, but are not limited to, seeking the enactment, repeal, or amendment of various laws, regulations, or ordinances. In connection with the Government Relations Services we provide, we may be engaged to advocate a position on issues that are adverse to the County's interests.

By executing this engagement letter, the County is acknowledging that it has not retained the Firm to provide Government Relations Services, and our work for the County in this Matter will not disqualify the Firm from providing Government Relations Services to other clients, even when the interests of the client for whom we are providing Government Relations Services are adverse to the County's interests. To the extent such Government Relations Services present an actual or prospective legal conflict of interest, by executing this engagement letter the County is agreeing to waive the right to disqualify the Firm from providing Government Relations Services to other clients.

We render our statements on a monthly basis, and statements are due and payable upon receipt. The monthly statements will include a description of the out-of-pocket disbursements which were incurred in the performance of our services on your behalf. These out-of-pocket disbursements which your organization will be responsible for paying include long distance telephone charges, telecopy charges, filing fees, copying charges, delivery fees, travel expenses, and similar costs.

Jack Rosati will be the attorney primarily responsible for handling the Matter and will serve as the contact attorneys for you in connection with the Matter. We also may use other attorneys and paralegals within the Firm for work on the Matter and any subsequent matters from time to time as necessary and appropriate. All attorneys work will be performed at a blended rate of \$350 per hour.

If the terms of this representation are agreeable to the County, please sign one copy of this letter and return it to me via fax or e-mail. Upon receipt of the signed engagement letter, we will commence work on the Matter.

On behalf of the Firm, we again express our appreciation that you have retained us as your counsel.

Very truly yours,  
BRICKER & ECKLER LLP  
By: Jack Rosati, Jr. /s/  
Jack Rosati, Jr., Partner

BOARD OF COUNTY COMMISSIONERS FOR  
BELMONT COUNTY, OHIO  
By: J. P. Dutton /s/

Title: Commissioner  
By: Josh Meyer /s/

Title: Commissioner  
By: \_\_\_\_\_

Title: Commissioner  
Date: 1-24-18

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF AMENDING MOTION OF JANUARY 17, 2018  
AS FOLLOWS WITH CHANGES IN BOLD PRINT FOR WSOS  
COMMUNITY ACTION COMMISSION, INC. CONTRACT AMENDMENT/SSD**

Move to amend the motion of January 17, 2018, as follows with the changes in **bold** print:

Motion made by Mr. Dutton, seconded by Mr. Meyer to approve and sign the amendment to the contract dated March 15, 2017, between WSOS Community Action Commission, Inc. and the Belmont County Sanitary Sewer District for the Water System Upgrade Project revising the Scope of Services to reflect the new section of water line replacement and proposed new treatment plant alternatives to be located at the previously reviewed site for an increase ***in Deliverable #1 to \$10,500.00, (an increase of \$2500.00)*** based upon the recommendation of Kelly Porter, Sanitary Sewer District Director. *Note: This will be paid from the N-84 fund.*

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF APPROVING THE PURCHASE OF VEHICLES FOR BELMONT COUNTY WATER AND SEWER DISTRICT**

Motion made by Mr. Dutton, seconded by Mr. Meyer to approve the purchase of vehicles through the State of Ohio Cooperative Purchasing Contract for the Belmont County Water & Sewer District based upon the recommendation of Director Kelly Porter. The vehicles will be purchased with Water & Sewer District Revenue Funds as follows:

- Three (3) 2018 GMC Ram 1500 pick-up trucks \$24,820.00 each
- One (1) 2018 Ford Fusion 18,406.00
- Total cost \$92,866.00

*Note: Two (2) trucks will replace older vehicles that will be placed in the county auction and one (1) is for additional staff. The Ford Fusion is an addition and will be used by office staff conducting daily business.*

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF APPROVING THE LEGAL SERVICES AGREEMENT WITH ATTORNEY ADAM L. MYSER FOR PROVISION OF LEGAL SERVICES RELATING TO THE USDA LOAN/GRANT FUNDING/SANITARY SEWER**

Motion made by Mr. Dutton, seconded by Mr. Meyer to approve and sign the Legal Services Agreement between the Belmont County Board of Commissioners and Attorney Adam L. Myser in an initial amount not to exceed \$30,000.00 for the provision of legal services necessary for the financing, construction and continuing operation of the Belmont County Sanitary Sewer system as may be requested as it relates to the USDA loan/grant funding; any additional compensation would require the approval of the Board of Commissioners.

UNITED STATES DEPARTMENT OF AGRICULTURE  
Rural Utilities Service  
**LEGAL SERVICES AGREEMENT**  
**(EXISTING ENTITY)**

This agreement made this ~~19~~<sup>24</sup>th day of January, 2018  
between Belmont County, Board of Commissioners, Belmont County, Ohio,  
(Name of organization)

hereinafter referred to as "Owners," and Adam L. Myser  
attorney at law, of Myser & Davies, 320 Howard Street, Bridgeport, Ohio 43912, hereinafter referred to as "Attorney":

WHEREAS, Owners are a  
public water district  
public sewer district  
public service district  
not for profit corporation  
☒ body politic  
municipal corporation  
other \_\_\_\_\_  
(official designation)

In Belmont County, State of Ohio  
under the provisions of ORC §301.22  
(cite statute(s) under which applicant is organized)

and:  
WHEREAS, the Attorney agrees to perform all customary legal services necessary to the financing, construction, and continuing operation of the system as may be requested;  
WITNESSETH:

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

**SECTION A - LEGAL SERVICES**

That the Attorney will perform such services as are necessary to accomplish the above recited objectives including, but not limited to, the following:

1. Furnish advice and assistance to the governing body of the Owner in connection with (a) the notice for and conduct of meetings; (b) the preparation of minutes of meetings; (c) the preparation and enactment of such resolutions as may be necessary in connection with the authorization, financing, construction, and initial operation of the system; (d) the preparation of such affidavits, publication notices, ballots, reports, certifications, and other instruments and advice as may be needed in the conduct of such bond elections as may be necessary; (e) the preparation and completion of such bonds or other obligations as may be necessary to finance the system; (f) the completion and execution of documents for obtaining a loan made or insured or a grant made by the United States of America, acting through the Rural Utilities Service, U. S. Department of Agriculture; (g) entering into construction contracts; (h) preparation and adoption of By-Laws, Rules and Regulations, and rate schedules; (i) such other corporate action as may be necessary in connection with the financing, construction, and initial operation of the system.
2. Review of construction contracts, bid-letting procedure, and surety and contractual bonds in connection therewith.
3. Preparation, negotiation, or review of contract with another entity to provide source of water supply or sewage treatment when necessary.
4. Preparation, where necessary, and review of deeds, easements and other rights-of-way documents, and other instruments for sites for source of water supply, pumping stations, treatment plants, and other facilities necessary to the system and to provide continuous rights-of-way therefore; rendering title opinions with reference thereto; and providing for the recordation thereof.
5. Obtain necessary permits and certificates from county and municipal bodies, from State regulatory agencies, and from other public or private sources with respect to the approval of the system, the construction and operation thereof, pipeline crossings, and the like.
6. Cooperate with the engineer employed by Owners in connection with preparation of tract sheets, easements, and other necessary title documents, construction contracts, water supply contracts, health permits, crossing permits, and other instruments.
7. When applicable, secure assistance of and cooperate with recognized bond counsel in the preparation of the documents necessary for the financing aspects of the system. The attorney shall pay all bond counsel in perfecting the financing aspects, e.g., assessment procedures and completion of documents. Where bond counsel is retained, the Attorney will not be responsible for the preparation and approval of those documents pertaining to the issuance of the Owner's obligations.
8. Other:  
\_\_\_\_\_

SECTION B- COMPENSATION

1. Owners will pay to the Attorney for professional services rendered in accordance herewith, fees as follows:  
A sum of \$150/hour for services provided

Said fees to be payable in the following manner and at the following times:  
Within 30 days upon receipt of billing statement

Attorney:  
Adam L. Myser /s/  
Adam L. Myser, Attorney at Law – Myser & Davies

Owners:  
J. P. Dutton /s/  
J. P. Dutton, President, Belmont County  
Board of Commissioners  
Josh Meyer /s/  
Josh Meyer, Vice-President, Belmont County  
Board of Commissioners  
Mark A. Thomas, Member, Belmont County  
Board of Commissioners

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

IN THE MATTER OF ENTERING INTO AN OIL & GAS  
LEASE WITH ASCENT RESOURCES – UTICA, LLC

Motion made by Mr. Dutton, seconded by Mr. Meyer to enter into an Oil and Gas Lease by and between the Belmont County Commissioners and Ascent Resources - Utica, LLC, effective January 24, 2018, in the amount of \$5,000 per net leasehold acre for 3.405333 acres, Parcel Number 60-00083.018, located in Colerain Township, for a five-year term, 20% royalty. Total Payment Amount: \$17,026.67.

PAID-UP  
OIL & GAS LEASE

Lease No. \_\_\_\_\_

This Lease made this 24th day of January, 2018, by and between: **The Belmont County Board of Commissioners, by J.P. Dutton as President, Josh Meyer as Vice President, and Mark A. Thomas as Commissioner**, whose address is 101 West Main Street, St. Clairsville, OH 43950, hereinafter collectively called “Lessor,” and Ascent Resources – Utica, LLC an Oklahoma Limited Liability Company, whose address is P.O. Box 13678, Oklahoma City, OK 73113, hereinafter called "Lessee."

WITNESSETH, that for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and of the mutual covenants and agreements hereinafter set forth, the Lessor and Lessee agree as follows:

LEASING CLAUSE. Lessor hereby leases exclusively to Lessee all the oil and gas (including, but not limited to coal seam gas, coalbed methane gas, coalbed gas, methane gas, gob gas, occluded methane/natural gas and all associated natural gas and other hydrocarbons and non-hydrocarbons contained in, associated with, emitting from, or produced/originating within any formation, gob area, mined-out area, coal seam, and all communicating zones), and their liquid or gaseous constituents, whether hydrocarbon or non-hydrocarbon, underlying the land herein leased, together with such exclusive rights as may be necessary or convenient for Lessee, at its election, to explore for, develop, produce, measure, and market production from the Leasehold, or from other lands, using methods and techniques which are not restricted to current technology, including, without limitation, the right to conduct geophysical and other exploratory tests; to drill, maintain, operate, cease to operate, plug, abandon, and remove wells; to use or install roads over and across the Leasehold for use in development of the Leasehold or other lands, electric power and telephone facilities, water impoundments, and to construct pipelines with appurtenant facilities, including data acquisition, compression and collection facilities for use in the production and transportation of products from the Leasehold or from other lands across the Leasehold, to use oil, gas, and non- domestic water sources, free of cost, to store gas of any kind underground, regardless of the source thereof, including the injecting of gas therein and removing the same therefrom; to protect stored gas; to operate, maintain, repair, and remove material and equipment; to use and occupy the subsurface of the Leasehold for the drilling of a wellbore(s) for use in development of the Leasehold or other lands.

DESCRIPTION. The Leasehold is located in the Township of **Colerain**, in the County of **Belmont**, in the State of **Ohio**, and described as follows:

Township: 6, Range: 3, Section 24, NE ¼: Tax Parcel No.: 60-00083.018, being further described as a portion of County Road 14, known as Farmington Road and found in Plat Cabinet F, Slide 36, Official Records of Belmont County, Ohio, Containing 0.284 acres  
Township: 6, Range: 3, Section 24, NE ¼: Tax Parcel No.: Unknown, Being all that portion of County Road 14 as shown in a plat filed in Plat Cabinet D, Slide 367, Official Records of Belmont County, Ohio, Containing 0.3046 acres  
Township: 6, Range: 3, Section 18, NW ¼: Tax Parcel No.: Unknown, Being all that portion of County Road 14 as shown in a plat filed in Plat Cabinet E, Slide 66, Official Records of Belmont County, Ohio, Containing 0.154207 acres  
Township: 6, Range: 3, Section 18, NW ¼: Tax Parcel No.: Unknown, Being all that portion of County Road 14 as described in a plat filed in Plat Cabinet E, Slide 331, Official Records of Belmont County, Ohio, Containing 0.227 acres  
Township: 6, Range: 3, Section 18, NW ¼: Tax Parcel No.: Unknown, Being all that portion of County Road 14, known as Main Street in the town of Farmington and found in Deed Book F, Page 128, Official Records of Belmont County, Ohio, Containing 1.898526 acres  
Township: 6; Range: 3; Section 24; SE ¼: Tax Parcel No.: 60-00063.012, being further described as that portion of Township Road 544 dedicated in the plat of Hunter’s Ridge Estates, recorded in Cabinet F, Slide 9, Plat Records, Belmont County, Ohio, Containing 0.537 acres

**See attached Exhibit “B” attached hereto and made a part hereof.**

and described for the purposes of this agreement as containing a total of 3.405333 Leasehold acres, whether actually more or less, and including contiguous lands owned by Lessor. It is the intent of the Lessor herein that this lease apply to any portions of roads owned by Lessor in Sections 18 and 24 of Colerain Township, Belmont County, Ohio, including but not limited to the descriptions herein. This Lease also covers and includes, in addition to that above described, all land, if any, contiguous or adjacent to or adjoining the land above described and (a) owned or claimed by Lessor, by limitation, prescription, possession, reversion or unrecorded instrument or (b) as to which Lessor has a preference right of acquisition. Lessor agrees to execute any supplemental instrument requested by Lessee for a more complete or accurate description of said land.

LEASE TERM. This Lease shall remain in force for a primary term of **Five (5) years** from 12:00 A.M. **January 24, 2018** (effective date) to 11:59 P.M. **January 23, 2023** (last day of primary term) and shall continue beyond the primary term as to the entirety of the Leasehold if any of the following is satisfied: (i) operations are conducted on the Leasehold or lands pooled/unitized therewith in search of oil, gas, or their constituents, or (ii) a well deemed by Lessee to be capable of production is located on the Leasehold or lands pooled/unitized therewith, or (iii) oil or gas, or their constituents, are produced from the Leasehold or lands pooled/unitized therewith, or (iv) if the Leasehold or lands pooled/unitized therewith is used for the underground storage of gas, or for the protection of stored gas, or (v) if prescribed payments are made, or (vi) if Lessee's operations are delayed, postponed or interrupted as a result of any coal, stone or other mining or mining related

operation under any existing and effective lease, permit or authorization covering such operations on the leased premises or on other lands affecting the leased premises, such delay will automatically extend the primary or secondary term of this oil and gas lease without additional compensation or performance by Lessee for a period of time equal to any such delay, postponement or interruption.

If there is any dispute concerning the extension of this Lease beyond the primary term by reason of any of the alternative mechanisms specified herein, the payment to the Lessor of the prescribed payments provided below shall be conclusive evidence that the Lease has been extended beyond the primary term.

**EXTENSION OF PRIMARY TERM.** Lessee has the option to extend the primary term of this Lease for one additional term of Five (5) years from the expiration of the primary term of this Lease; said extension to be under the same terms and conditions as contained in this Lease. Lessee may exercise this option to extend this Lease if on or before the expiration date of the primary term of this Lease, Lessee pays or tenders to the Lessor or to the Lessor's credit an amount equal to the initial consideration given for the execution hereof. Exercise of this option is at Lessee's sole discretion and may be invoked by Lessee where no other alternative of the Lease Term clause extends this Lease beyond the primary term.

**NO AUTOMATIC TERMINATION OR FORFEITURE.**

(A) **CONSTRUCTION OF LEASE:** The language of this Lease (including, but not limited to, the Lease Term and Extension of Term clauses) shall never be read as language of special limitation. This Lease shall be construed against termination, forfeiture, cancellation or expiration and in favor of giving effect to the continuation of this Lease where the circumstances exist to maintain this Lease in effect under any of the alternative mechanisms set forth above. In connection therewith, (i) a well shall be deemed to be capable of production if it has the capacity to produce a profit over operating costs, without regard to any capital costs to drill or equip the well, or to deliver the oil or gas to market, and (ii) the Lessee shall be deemed to be conducting operations in search of oil or gas, or their constituents, if the Lessee is engaged in geophysical and other exploratory work including, but not limited to, activities to drill an initial well, to drill a new well, or to rework, stimulate, deepen, sidetrack, frac, plug back in the same or different formation or repair a well or equipment on the Leasehold or any lands pooled/unitized therewith (such activities shall include, but not be limited to, performing any preliminary or preparatory work necessary for drilling, conducting internal technical analysis to initiate and/or further develop a well, obtaining permits and approvals associated therewith and may include reasonable gaps in activities provided that there is a continuum of activities showing a good faith effort to develop a well or that the cessation or interruption of activities was beyond the control of Lessee, including interruptions caused by the acts of third parties over whom Lessee has no control or regulatory delays associated with any approval process required for conducting such activities).

(B) **LIMITATION OF FORFEITURE:** This Lease shall never be subject to a civil action or proceeding to enforce a claim of termination, cancellation, expiration or forfeiture due to any action or inaction by the Lessee, including, but not limited to making any prescribed payments authorized under the terms of this Lease, unless the Lessee has received written notice of Lessor's demand and thereafter fails or refuses to satisfy or provide justification responding to Lessor's demand within 60 days from the receipt of such notice. If Lessee timely responds to Lessor's demand, but in good faith disagrees with Lessor's position and sets forth the reasons therefore, such a response shall be deemed to satisfy this provision, this Lease shall continue in full force and effect and no further damages (or other claims for relief) will accrue in Lessor's favor during the pendency of the dispute, other than claims for payments that may be due under the terms of this Lease.

**PAYMENTS TO LESSOR.** In addition to the bonus paid by Lessee for the execution hereof, Lessee covenants to pay Lessor, proportionate to Lessor's percentage of ownership, as follows:

(A) **DELAY RENTAL:** To pay Lessor as Delay Rental, after the first year, at the rate of five dollars (\$5.00) per net acre per year payable in advance. The parties hereto agree that this is a Paid-Up Lease with no further Delay Rental and/or Delay in Marketing payments due to Lessor during the primary term hereof.

(B) **ROYALTY:** For all oil and gas substances that are produced and sold from the lease premises, Lessor shall receive as its royalty twenty (20%) percent of the sales proceeds actually received by Lessee from the sale of such production, less this same percentage share of all post production costs, as defined below, and less this same percentage share of all production, severance and ad valorem taxes. As used in this provision, post production costs shall mean (i) all losses of produced volumes (whether by use as fuel, line loss, flaring, venting or otherwise) and (ii) all costs actually incurred by Lessee from and after the wellhead to the point of sale, including, without limitation, all gathering, dehydration, compression, treatment, processing, marketing and transportation costs incurred in connection with the sale of such production. For royalty calculation purposes, Lessee shall never be required to adjust the sales proceeds to account for the purchaser's costs or charges downstream from the point of sale. Lessee may withhold Royalty payment until such time as the total withheld exceeds fifty dollars (\$50.00).

(C) **DELAY IN MARKETING:** In the event that Lessee drills a well on the Leasehold or lands pooled/unitized therewith that is awaiting completion (including, without limitation, hydraulic fracture stimulation), or that Lessee deems to be capable of production, but does not market producible gas, oil, or their constituents therefrom and there is no other basis for extending this Lease, Lessee shall pay after the primary term and until such time as marketing is established (or Lessee surrenders the Lease) a Delay in Marketing payment equal in amount and frequency to the annual Delay Rental payment, and this Lease shall remain in full force and effect to the same extent as payment of Royalty.

(D) **SHUT-IN:** In the event that production of oil, gas, or their constituents is interrupted and not marketed for a period of twelve (12) months, and there is no producing well on the Leasehold or lands pooled/unitized therewith, Lessee shall, after the primary term, as Royalty for constructive production, pay a Shut-in Royalty equal in amount and frequency to the annual Delay Rental payment until such time as production is re-established (or lessee surrenders the Lease) and this Lease shall remain in full force and effect. During Shut-in, Lessee shall have the right to rework, stimulate, or deepen any well on the Leasehold or to drill a new well on the Leasehold in an effort to re-establish production, whether from an original producing formation or from a different formation. In the event that the production from the only producing well on the Leasehold is interrupted for a period of less than twelve (12) months, this Lease shall remain in full force and effect without payment of Royalty or Shut-in Royalty.

(E) **DAMAGES:** Lessee will remove unnecessary equipment and materials and reclaim all disturbed lands at the completion of activities, and Lessee agrees to repair any damaged improvements to the land and pay for the loss of growing crops or marketable timber.

(F) **MANNER OF PAYMENT:** Lessee shall make or tender all payments due hereunder by check, payable to Lessor, at Lessor's last known address, and Lessee may withhold any payment pending notification by Lessor of a change in address. Payment may be tendered by mail or any comparable method (e.g., Federal Express), and payment is deemed complete upon mailing or dispatch. Where the due date for any payment specified herein falls on a holiday, Saturday or Sunday, payment tendered (mailed or dispatched) on the next business day is timely.

(G) **CHANGE IN LAND OWNERSHIP:** Lessee shall not be bound by any change in the ownership of the Leasehold until furnished with such documentation as Lessee may reasonably require. Pending the receipt of documentation, Lessee may elect either to continue to make or withhold payments as if such a change had not occurred.

(H) **TITLE:** If Lessee receives evidence that Lessor does not have title to all or any part of the rights herein leased, Lessee may immediately withhold payments that would be otherwise due and payable hereunder to Lessor until the adverse claim is fully resolved. Lessor represents and warrants that there is no existing oil and gas lease which is presently in effect covering the Leasehold.

(I) **LIENS:** Lessee may at its option pay and discharge any past due taxes, mortgages, judgments, or other liens and encumbrances on or against any land or interest included in the Leasehold; and Lessee shall be entitled to recover from the debtor, with legal interest and costs, by deduction from any future payments to Lessor or by any other lawful means. In the event the leased lands are encumbered by a prior mortgage, then, notwithstanding anything contained herein to the contrary, Lessee shall have the right to suspend the payment of any royalties due hereunder, without liability for interest, until such time as Lessor obtains at its own expense a subordination of the mortgage in a form acceptable to Lessee.

(J) **CHARACTERIZATION OF PAYMENTS:** Payments set forth herein are covenants, not special limitations, regardless of the manner in which these payments may be invoked. Any failure on the part of the Lessee to timely or otherwise properly tender payment can never result in an automatic termination, expiration, cancellation, or forfeiture of this Lease. Lessor recognizes and acknowledges that oil and gas lease payments, in the form of rental, bonus and royalty, can vary depending on multiple factors and that this Lease is the product of good faith negotiations. Lessor hereby agrees that the payment terms, as set forth herein, and any bonus payments paid to Lessor constitute full consideration for the Leasehold. Lessor further agrees that such payment terms and bonus payments are final and that Lessor will not seek to amend or modify the lease payments, or seek additional consideration based upon any differing terms which Lessee has or will negotiate with any other lessor/oil and gas owner.



(K) PAYMENT REDUCTIONS: If Lessor owns a lesser interest in the oil or gas than the entire undivided fee simple estate, then the rentals (except for Delay Rental payments as set forth above), royalties, shut-in royalties and other payments hereunder shall be paid to Lessor only in the proportion which Lessor's interest bears to the whole and undivided fee.

UNITIZATION AND POOLING. Lessor grants Lessee the right to pool, unitize, or combine all or parts of the Leasehold with other lands, whether contiguous or not contiguous, leased or unleased, whether owned by Lessee or by others, at a time before or after drilling to create drilling or production units either by contract right or pursuant to governmental authorization. Pooling or unitizing in one or more instances shall not exhaust Lessee's pooling and unitizing rights hereunder, and Lessee is granted the right to change the size, shape, and conditions of operation or payment of any unit created. Lessor agrees to accept and receive out of the production or the revenue realized from the production of such unit, such proportional share of the Royalty from each unit well as the number of Leasehold acres included in the unit bears to the total number of acres in the unit. Otherwise, as to any part of the unit, drilling, operations in preparation for drilling, production, or shut-in production from the unit, or payment of Royalty, Shut- in Royalty, Delay in Marketing payment or Delay Rental attributable to any part of the unit (including non- Leasehold land) shall have the same effect upon the terms of this Lease as if a well were located on, or the subject activity attributable to, the Leasehold. In the event of conflict or inconsistency between the Leasehold acres ascribed to the Lease, and the local property tax assessment calculation of the lands covered by the Lease, or the deeded acreage amount, Lessee may, at its option, rely on the latter as being determinative for the purposes of this paragraph.

OPERATIONS. If at the expiration of the primary term, oil or gas is not being produced on the leased premises or lands pooled or unitized therewith, but Lessee has commenced operations on the leased premises or acreage pooled or unitized therewith in search of oil, gas, or their constituents or has completed a dry hole thereon within one hundred eighty (180) days prior to the end of the primary term, this lease shall remain in force so long as operations on said well, or operations on any additional well, are prosecuted with no cessation of more than one hundred eighty (180) consecutive days or such other time as reasonably necessary so long as Lessee conducts such operations in good faith and with due diligence and, if they result in the production of oil or gas, so long thereafter as oil or gas is produced from the leased premises, or upon lands pooled or unitized therewith. Furthermore, if on or after the expiration of the primary term Lessee should drill a dry hole or holes thereon or, if after the discovery of oil or gas, the production thereof should cease from any cause, this lease shall not terminate if Lessee commences operations on the leased premises or lands pooled or unitized therewith in search of oil, gas, or their constituents within one hundred eighty (180) days from the date of completion of a dry hole or cessation of production or such other time as reasonably necessary so long as Lessee conducts such operations in good faith and with due diligence.

FACILITIES. Lessee shall not drill a well on the Leasehold within 200 feet of any structure located on the Leasehold without Lessor's written consent. Lessor shall not erect any building or structure, or plant any trees within 200 feet of a well or within 25 feet of a pipeline without Lessee's written consent. Lessor shall not improve, modify, degrade, or restrict roads and facilities built by Lessee without Lessee's written consent.

CONVERSION TO STORAGE. Lessee is hereby granted the right to convert the Leasehold or lands pooled/unitized therewith to gas storage. At the time of conversion, Lessee shall pay Lessor's proportionate part for the estimated recoverable gas remaining in any well drilled pursuant to this Lease using methods of calculating gas reserves as are generally accepted by the natural gas industry and, in the event that all wells on the Leasehold and/or lands pooled/unitized therewith have permanently ceased production, Lessor shall be paid a Conversion to Storage payment in an amount equal to Delay Rental for as long thereafter as the Leasehold or lands pooled/unitized therewith is/are used for gas storage or for protection of gas storage; such Conversion to Storage payment shall first become due upon the next ensuing Delay Rental anniversary date. The use of any part of the Leasehold or lands pooled or unitized therewith for the underground storage of gas, or for the protection of stored gas will extend this

Lease beyond the primary term as to all rights granted by this Lease, including but not limited to production rights, regardless of whether the production and storage rights are owned together or separately.

DISPOSAL AND INJECTION WELLS. Lessor hereby grants to Lessee the right to drill wells and/or re- enter existing wells, including necessary location, roadway and pipeline easements and rights of way, on any part of the Leasehold or lands pooled or unitized therewith for the disposal and/or injection into any subsurface strata, other than a potable water strata, of air, gas, brine, completion and production fluids, waste water and any hydrocarbon related substances from any source, including, but not limited to wells on the Leasehold or lands pooled or unitized therewith or from properties and lands outside the Leasehold or lands pooled or unitized therewith, and to conduct all operations as may be required, for so long as necessary and required by Lessee for purposes as herein provided. If, at the expiration of the primary term, Lessee is disposing and/or injecting into any subsurface strata underlying the Leasehold or lands pooled or unitized therewith or conducting operations for such disposal and/or injection and this lease is not being maintained by any other provision contained herein and no other payments are being made to Lessor as prescribed hereunder, Lessee shall pay to Lessor the sum of one thousand dollars (\$1,000.00) per year, proportionately reduced to Lessor's ownership in the Leasehold and surface as it bears to the full and undivided estate, beginning on the next anniversary date of this Lease and said payment and term of this Lease, insofar as to terms and provisions contained herein applicable to disposal and injection wells, shall continue annually thereafter for so long as necessary and required by Lessee for purposes as herein provided and until all disposal and/or injection wells located on the Leasehold or on lands pooled or unitized therewith are plugged and abandoned. Lessor agrees that if required by Lessee, regulatory agency or governmental authority having jurisdiction, Lessor shall enter a separate Disposal and Injection Agreement with Lessee for the purposes as herein provided.

TITLE AND INTERESTS. Lessor hereby warrants generally and agrees to defend title to the Leasehold and covenants that Lessee shall have quiet enjoyment hereunder and shall have benefit of the doctrine of after acquired title. Should any person having title to the Leasehold fail to execute this Lease, the Lease shall nevertheless be binding upon all persons who do execute it as Lessor.

LEASE DEVELOPMENT. There is no implied covenant to drill, prevent drainage, further develop or market production within the primary term or any extension of term of this Lease. There shall be no Leasehold forfeiture, termination, expiration or cancellation for failure to comply with said implied covenants. Provisions herein, including, but not limited to the prescribed payments, constitute full compensation for the privileges herein granted.

COVENANTS. This Lease and its expressed or implied covenants shall not be subject to termination, forfeiture of rights, or damages due to failure to comply with obligations if compliance is effectively prevented by federal, state, or local law, regulation, or decree, or the acts of God and/or third parties over whom Lessee has no control.

RIGHT OF FIRST REFUSAL. If at any time within the primary term of this Lease or any continuation or extension thereof, Lessor receives any bona fide offer, acceptable to Lessor, to grant an additional lease which will take effect upon expiration of this Lease ("Top Lease") covering all or part of the Leasehold, Lessee shall have the continuing option by meeting any such offer to acquire a Top Lease on equivalent terms and conditions. Any offer must be in writing and must set forth the proposed Lessee's name, bonus consideration and royalty consideration to be paid for such Top Lease, and include a copy of the lease form to be utilized reflecting all pertinent and relevant terms and conditions of the Top Lease. Lessee shall have fifteen (15) days after receipt from Lessor of a complete copy of any such offer to advise Lessor in writing of its election to enter into an oil and gas lease with Lessor on equivalent terms and conditions. If Lessee fails to notify Lessor within the aforesaid fifteen (15) day period of its election to meet any such bona fide offer, Lessor shall have the right to accept said offer. Any Top Lease granted by Lessor in violation of this provision shall be null and void.

ARBITRATION. In the event of a disagreement between Lessor and Lessee concerning this Lease or the associated Order of Payment, performance thereunder, or damages caused by Lessee's operations, the resolution of all such disputes shall be determined by arbitration in accordance with the rules of the American Arbitration Association. Arbitration shall be the exclusive remedy and cover all disputes, including but not limited to, the formation, execution, validity and performance of the Lease and Order of Payment. All fees and costs associated with the arbitration shall be borne equally by Lessor and Lessee.

ENTIRE CONTRACT. The entire agreement between Lessor and Lessee is embodied herein and in the associated Order of Payment (if any). No oral warranties, representations, or promises have been made or relied upon by either party as an inducement to or modification of this Lease.

TITLE CURATIVE. Lessor agrees, at no cost to Lessor, to execute consents, affidavits, ratifications, amendments, permits and other instruments as Lessee may request to carry out the purpose of this lease, including without limitation, applications necessary to obtain driveway entrance permits, and approvals of drilling or production units which Lessee may seek to form pursuant to governmental authorization.

SURRENDER. Lessee, at any time, and from time to time, may surrender and cancel this Lease as to all or any part of the Leasehold by recording a Surrender of Lease and thereupon this Lease, and the rights and obligations of the parties hereunder, shall terminate as to the part so surrendered; provided, however, that upon each surrender as to any part of the Leasehold, Lessee shall have reasonable and convenient easements for then existing wells, pipelines, pole lines, roadways and other facilities on the lands surrendered.

SUCCESSORS. All rights, duties, and liabilities herein benefit and bind Lessor and Lessee and their heirs, successors, and assigns.

FORCE MAJEURE. All express or implied covenants of this Lease shall be subject to all applicable laws, rules, regulations and orders. When drilling, reworking, production or other operations hereunder, or Lessee’s fulfillment of its obligations hereunder are prevented or delayed by such laws, rules, regulations or orders, or by inability to obtain necessary permits, equipment, services, material, water, electricity, fuel, access or easements, or by fire, flood, adverse weather conditions, war, sabotage, rebellion, insurrection, riot, strike or labor disputes, other Acts of God, or by inability to obtain a satisfactory market for production or failure of purchasers or carriers to take or transport such production, or by any other cause not reasonably within Lessee’s control, this Lease shall not terminate, in whole or in part, because of such prevention or delay, and, at Lessee’s option, the period of such prevention or delay shall be added to the term hereof. Lessee shall not be liable in damages for breach of any express or implied covenants of this Lease for failure to comply therewith, if compliance is prevented by, or failure is the result of any applicable laws, rules, regulations or orders or operation of force majeure. If this Lease is the subject matter of any lawsuit, arbitration proceeding, or other action, then this Lease shall not expire during the pendency of such lawsuit, arbitration proceeding, or other action, or any appeal thereof, and the period of the lawsuit, arbitration proceeding, or other action, and any appeal thereof, shall be added to the term of this Lease.

SEVERABILITY. This Lease is intended to comply with all applicable laws, rules, regulations, ordinances and governmental orders. If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall survive and continue in full force and effect to the maximum extent allowed by law. If a court of competent jurisdiction holds any provision of this Lease invalid, void, or unenforceable under applicable law, the court shall give the provision the greatest effect possible under the law and modify the provision so as to conform to applicable law if that can be done in a manner which does not frustrate the purpose of this Lease.

COUNTERPARTS. This Lease may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Lease and all of which, when taken together, will be deemed to constitute one and the same agreement.

IN WITNESS WHEREOF, Lessor hereunto sets hand and seal.

**The Belmont County Board of Commissioners**

J. P. Dutton /s/  
**By: J.P. Dutton, President**  
Josh Meyer /s/  
**By: Josh Meyer, Vice President**

APPROVED AS TO FORM:  
David K. Liberati /s/ Assist. PA  
PROSECUTOR

By: Mark A. Thomas, Commissioner  
Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF ACCEPTING RETIREMENT OF  
DAVID MYERS, FULL-TIME HOUSEKEEPING/MAINTENANCE  
FOR BUILDING AND GROUNDS DEPARTMENT**

Motion made by Mr. Dutton, seconded by Mr. Meyer to accept the retirement of David Myers, Full-Time Housekeeping/Maintenance for Belmont County Building and Grounds Department, effective January 31, 2018.  
Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF APPROVING THE SIGNING AND SUBMITTAL OF THE  
COUNTY COMMISSIONER CERTIFICATION FOR THE STATE FY 2018 LEPC  
GRANT APPLICATION ON BEHALF OF BELMONT COUNTY LEPC**

Motion made by Mr. Dutton, seconded by Mr. Meyer to approve the signing and submittal of the County Commissioner Certification for the State Fiscal Year 2018 Grant Application on behalf of the Belmont County Local Emergency Planning Committee.

I, THE UNDERSIGNED, REPRESENT TO THE SERC THAT ALL THE INFORMATION IS TRUE AND ACCURATE. I FURTHER REPRESENT THAT THE MONEY RECEIVED UNDER THIS GRANT PROGRAM WILL BE USED FOR THE ADMINISTRATION, DEVELOPMENT AND IMPLEMENTATION OF THE STATE SARA TITLE III PROGRAM WITHIN THE GUIDELINES MANDATED BY THE LAW AS PROVIDED IN CHAPTER 3750 OF THE REVISED CODE, FOR THE BELMONT COUNTY L.E.P.C.

J. P. Dutton  
Josh Meyer  
Mark A. Thomas

(Print or Type)  
COUNTY COMMISSIONERS’ NAMES

J. P. Dutton /s/  
Josh Meyer /s/

COUNTY COMMISSIONERS’ SIGNATURES  
1/24/18

Date

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF LIQUOR PERMIT FOR  
UNDO’S WEST INC. & PATIO**



Motion made by Mr. Dutton, seconded by Mr. Meyer to advise the Ohio Division of Liquor Control, the Board of Belmont County Commissioners does not request a hearing on the matter of a request for a stock transfer for Liquor Permit Number 9148591 for Undo’s West Inc. & Patio, 51130 National Road, Richland Township, St. Clairsville, Ohio 43950.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**OPEN PUBLIC FORUM**-Frank Papini asked if there was any follow up regarding the situation with the volunteer at the dog pound. Mr. Dutton said not at this time. Mr. Meyer said they are gathering information and will discuss it with the volunteer.

Richard Hord inquired if the Board has determined any options for future use of the former jail. Mr. Dutton said he would love to see it utilized at some point but there is a cost associated with that. They were able to secure grant funds for the exterior work and that will be finished up this spring. He said they are evaluating funding options for the interior. “It is part of Belmont County’s history and if we can find a dual use for it outside of historical purposes and find day to day operating use for it, it would be fantastic,” said Mr. Dutton.

**RECESS**

**IN THE MATTER OF ENTERING  
EXECUTIVE SESSION AT 9:37 A.M.**

Motion made by Mr. Dutton, seconded by Mr. Meyer to enter executive session with Katie Bayness, HR Administrator, pursuant to ORC 121.22(G)(1) Personnel Exception to consider the employment and dismissal of public employees.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**IN THE MATTER OF ADJOURNING  
EXECUTIVE SESSION AT 10:05 A.M.**

Motion made by Mr. Dutton, seconded by Mr. Meyer to exit executive session at 10:05 a.m.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**AS A RESULT OF EXECUTIVE SESSION-**

**IN THE MATTER OF APPROVING THE TERMINATION  
OF MARLA BEAVER, FULL-TIME LPN/JAIL**

Motion made by Mr. Dutton, seconded by Mr. Meyer to approve the termination of Marla Beaver, Full-Time LPN at Belmont County Jail, effective January 24, 2018 and direct her supervisor to notify Ms. Beaver of the same.

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

**10:00 Katie Bayness, HR Administrator**

RE: Annual Public Employment Risk Reduction Program (PERRP) update

Mrs. Bayness gave an overview of updated reporting requirements and will be sending notices of the changes to department heads. Last year the county’s workers’ comp premium was \$312,000, this year’s is projected to be around \$290,000. A refund is expected in April, because the county is part of the Group Retro program. Last year \$63,000 was received; this year’s refund is expected to be similar.

She said our experience rating has been trending down the last few years and is now 19% better than the average in Ohio. She said this is due to the county closely monitoring the workers comp claims and working closely with the TPA and MCO to help with management and making sure employees are getting back to work as soon as they can. They also have close communication with the employees when they are on leave.

**RECESS**

**Reconvened Friday, January 26, 2018 at 12:05 p.m. Present: Commissioners Dutton and Meyer and Jayne Long, Clerk. Absent: Commissioner Thomas**

**NO FURTHER ACTION TAKEN**

**IN THE MATTER OF ADJOURNING  
COMMISSIONERS MEETING**

Motion made by Mr. Dutton, seconded by Mr. Meyer to adjourn the meeting.  
Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Thomas	Absent

Read, approved and signed this 31st day of January, 2018.

Mark A. Thomas /s/

J. P. Dutton /s/

COUNTY COMMISSIONERS

Josh Meyer /s/

We, J. P. Dutton and Jayne Long, President and Clerk respectively of the Board of Commissioners of Belmont County, Ohio, do hereby certify the foregoing minutes of the proceedings of said Board have been read, approved and signed as provided for by Sec. 305.11 of the Revised Code of Ohio.

J. P. Dutton /s/ PRESIDENT

Jayne Long /s/ CLERK