

The Board of Commissioners of Belmont County, Ohio, met this day in regular session. Present: Josh Meyer, Jerry Echemann and J. P. Dutton, Commissioners and Jayne Long, Clerk of the Board.

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

Commissioner Meyer requested a moment of silence in honor of the 18<sup>th</sup> anniversary of 9/11.

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

Motion made by Mr. Meyer, seconded by Mr. Echemann 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 \$1,477,729.61**

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Echemann	Yes
Mr. Dutton	Yes

**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:

**A00 GENERAL FUND**

<b>FROM</b>	<b>TO</b>	<b>AMOUNT</b>
E-0042-A002-J02.003 PERS	E-0042-A002-J00.002 Salary	\$6,000.00
E-0131-A006-A03.002 Jail Salaries	E-0131-A006-A10.000 Transport of Prisoners	\$5,000.00

**S30 OAKVIEW JUVENILE REHABILITATION**

<b>FROM</b>	<b>TO</b>	<b>AMOUNT</b>
E-8010-S030-S51.002 Salaries	E-8010-S030-S40.000 Grant Holding	\$28,000.00
E-8010-S030-S53.000 Medical	E-8010-S030-S40.000 Grant Holding	\$0.59
E-8010-S030-S55.010 Supplies	E-8010-S030-S40.000 Grant Holding	\$145.24
E-8010-S030-S56.000 Motor Vehicles	E-8010-S030-S40.000 Grant Holding	\$75.09
E-8010-S030-S57.000 Travel/St. Dev.	E-8010-S030-S40.000 Grant Holding	\$42.74
E-8010-S030-S58.000 Communications	E-8010-S030-S40.000 Grant Holding	\$121.75
E-8010-S030-S60.000 Maintenance	E-8010-S030-S40.000 Grant Holding	\$198.40
E-8010-S030-S62.000 Printing	E-8010-S030-S40.000 Grant Holding	\$109.02
E-8010-S030-S63.000 General	E-8010-S030-S40.000 Grant Holding	\$77.92
E-8010-S030-S70.005 Medicare	E-8010-S030-S40.000 Grant Holding	\$235.99
E-8010-S030-S70.005 Medicare	E-8010-S030-S40.000 Grant Holding	\$324.63
E-8010-S030-S71.000 Ed/Recreation	E-8010-S030-S40.000 Grant Holding	\$500.00

**S77 COMM-BASED CORRECTIONS ACT GRANT**

<b>FROM</b>	<b>TO</b>	<b>AMOUNT</b>
E-1520-S077-S01.002 Salaries	E-1520-S077-S04.006 Hospitalization	\$142.30

**W80 PROSECUTOR/VICTIM ASSISTANCE PROGRAM**

<b>FROM</b>	<b>TO</b>	<b>AMOUNT</b>
E-1511-W080-P04.000 Other Expenses	E-1511-W080-P02.010 Supplies	\$132.00

**W82 D.R.E.T.A.C/TREASURERS**

<b>FROM</b>	<b>TO</b>	<b>AMOUNT</b>
E-1410-W082-T09.011 Contract Services	E-1410-W082-T02.010 Supplies	\$10,000.00

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Echemann	Yes

**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:

**A00 GENERAL FUND AND N29 CAPITAL PROJECTS-FACILITIES FUND**

<b>FROM</b>	<b>TO</b>	<b>AMOUNT</b>
E-0257-A015-A15.074 Transfers Out	R-9029-N029-N04.574 Transfers In	\$210,626.28

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Echemann	Yes

**IN THE MATTER OF ADDITIONAL APPROPRIATIONS FOR VARIOUS FUNDS/CLOSED CARRY-OVER PURCHASE ORDERS**

Motion made by Mr. Dutton, seconded by Mr. Meyer to make the following additional appropriation, in accordance with the Amended Official Certificate of Estimated Resources as revised by the Budget Commission, under the date of September 11, 2019:

**CARRYOVER PURCHASE ORDERS THAT HAVE BEEN CLOSED AND REQUIRE REAPPROPRIATION**

<u>A00 General Fund</u>		
E-0021-A002-E03.000	Supplies	\$6,152.22

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Echemann	Yes

**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 September 11, 2019 meeting:

**A00 GENERAL FUND**

E-0051-A001-A52.000	Admin Exp-Lodging Excise Tax	\$3,000.00
E-0257-A015-A15.074	Transfers Out	\$210,626.28

**L01 SOIL CONSERVATION/BSWCD**

E-1810-L001-L14.000	Other Expenses	\$100.00
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**M67 ALTERNATIVE SCHOOL/JUVENILE COURT**

E-0400-M067-M01.002	Salaries	\$51,500.00
E-0400-M067-M02.003	PERS	\$5,000.00
E-0400-M067-M03.004	Workers Comp	\$2,000.00
E-0400-M067-M04.005	Medicare	\$1,500.00
E-0400-M067-M05.008	Insurances	\$5,000.00

**N29CAPITAL PROJECTS – FACILITIES**

E-9029-N029-N19.055	Renovations of HP Building	\$210,626.28
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**AUDITORS/VARIOUS FUNDS**

E-9250-O050-O03.000	Issuance Cost	\$6,597.92
E-9255-O054-O03.000	Issuance Cost	\$24,361.56
E-9255-O054-O13.000	Issuance Cost	\$19,793.77

**S33 DISTRICT DETENTION HOME/SARGUS**

E-0910-S033-S33.002	Salaries	\$4,000.00
E-0910-S033-S44.003	OPERS/STRS	\$5,000.00
E-0910-S033-S47.006	Hospitalization	\$5,000.00

**S56 PROBATION SERVICES GRANT**

E-1546-S056-S04.001	Salaries	\$37,500.00
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**OAKVIEW JUVENILE REHABILITATION/VARIOUS FUNDS**

E-8010-S030-S55.010	Supplies	\$200.00
E-8011-S031-S02.000	Food (NSLA/Meal Tickets)	\$46.50
E-8012-S032-S00.000	Activity Fund	\$224.20

Upon roll call the vote was as follows:

Mr. Dutton	Yes
Mr. Meyer	Yes
Mr. Echemann	Yes

**IN THE MATTER OF REQUEST FOR CERTIFICATION OF MONIES BY THE BUDGET COMMISSION**

Motion made by Mr. Meyer, seconded by Mr. Echemann to request the Belmont County Budget Commission certify the following monies. **ADMINISTRATION FEE LODGING TAX/GENERAL FUND-\$3,000.00** deposited into R-0050-A000-A03.500 on September 6, 2019. **CASINO REVENUE Q2-2019/GENERAL FUND-\$210,626.28** deposited into R-0010-A000-A06.500 on 07/31/19. **N29 FUND/CASINO REVENUE Q2-2019-\$210,626.28** transferred from the General Fund to the N29 fund on 09/11/19.

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Echemann	Yes
Mr. Dutton	Yes

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

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

**COURT OF COMMON PLEAS/PROBATE & JUVENILE DIVISION**-Michelle Samaniego to Cleveland, OH, on September 16-19, 2019, to attend and Onbase conference.

**DJFS**-William Marinacci to Columbus, OH, on September 9-10, 2019, to attend the Recertification visit/day care meeting. A county vehicle will be used for travel. Estimated expenses: \$175.40. Sarah Smith, Stephanie Frey & Lisa Davis to Columbus, OH, on October 2-3, 2019, to attend the CCMEP Regional Roundtable meeting. A county vehicle will be used for travel. Estimated expenses: \$552.60. Michael Schlanz to Columbus, OH, on October 3, 2019, to attend the CCMEP Regional Roundtable meeting. A county vehicle will be used for travel. Estimated expenses: \$25.00. Karie Hunkler and Cindy Berry to Columbus, OH, on October 1, 2019, to attend the Performance Incentive training. A county car will be used for travel. Estimated expenses: \$30.00. Nichole Couch to Columbus, OH, on October 7-9, 2019, to attend the Supervisor Core training. A county car will be used for travel. Estimated expenses: \$398.40. Nichole Couch to Columbus, OH, on November 5-7, 2019, to attend the Supervisor Core training. A county car will be used for travel. Estimated expenses: \$398.40. Nichole Couch to Columbus, OH, on December 10-12, 2019, to attend the Supervisor Core training. A county car will be used for travel. Estimated expenses: \$398.40.

**ENGINEER'S DEPT.**-Jonathan Walker to Columbus, OH, on September 23-25, 2019, to attend the 2019 Ohio GIS conference. Estimated expenses: \$950.00.

**RECORDS**-Laura Ellis to Newark, OH, on October 18, 2019, to attend the Ohio County Archivists and Records Managers Association conference. Estimated expenses: \$90.00.

**SENIORS**-Daisy Braun to Wheeling & Wellsburg, WV, on October 17, 2019, for a senior outing to the Ohio County Airport Museum & The Crooked Dock.

**9-1-1 DEPT.**- Jim Delman, Nathan Conaway, Dustin Hudak, Kyle Polanski and Shawn Yost to Dublin, OH, on September 24, 2019, to attend the tactical Dispatch for the Telecommunicator class. Estimated expenses: \$1,564.00.

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Echemann	Yes
Mr. Dutton	Yes

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

Motion made by Mr. Meyer, seconded by Mr. Echemann to approve the minutes of the Belmont County Board of Commissioners regular meeting of September 4, 2019.

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Echemann	Yes
Mr. Dutton	Yes

**IN THE MATTER OF REAPPOINTING JOSH MEYER,BELMONT COUNTY COMMISSIONER TO EASTERN OHIO DEVELOPMENT ALLIANCE (EODA)**

Motion made by Mr. Echemann, seconded by Mr. Dutton to reappoint Josh Meyer, Belmont County Commissioner, to the Eastern Ohio Development Alliance (EODA) board for a two (2) year term effective January 1, 2020 through December 31, 2021.

Upon roll call the vote was as follows:

Mr. Echemann	Yes
Mr. Dutton	Yes

Mr. Meyer Yes

**IN THE MATTER OF ENTERING INTO THE COMMUNICATIONS SYSTEMS AND SERVICES AGREEMENT WITH MOTOROLA SOLUTIONS, INC/911**

Motion made by Mr. Meyer, seconded by Mr. Echemann to enter into the Communications Systems and Services Agreement with Motorola Solutions, Inc., on behalf of Belmont County 9-1-1, in the amount of \$2,270,646.00 for subscriber software, system infrastructure, services and installation of communications equipment, for a two-year term, effective September 11, 2019, to be paid from the 9-1-1 levy fund.

Belmont County  
August 2, 2019

**Communications System and Services Agreement**

Motorola Solutions, Inc. ("Motorola") and Belmont County ("Customer") enter into this "Agreement," pursuant to which Customer will purchase and Motorola will sell the System and Services, as described below. Motorola and Customer may be referred to individually as a "Party" and collectively as the "Parties." For good and valuable consideration, the Parties agree as follows:

**Section 1 ATTACHMENTS**

1.1. EXHIBITS. The Exhibits listed below are exhibits related to the System sale and implementation. These Exhibits are incorporated into and made a part of this Agreement.

- Exhibit A "Motorola Software License Agreement"
- Exhibit B "Payment"
- Exhibit C Technical and Implementation Documents
  - C-1 "System Description" dated 8/2/19
  - C-2 "Pricing Summary & Equipment List" dated 8/2/19
  - C-3 "Implementation Statement of Work" dated 8/2/19
  - C-4 "Acceptance Test Plan" or "ATP" dated 8/2/19
  - C-5 "Performance Schedule" dated 8/2/19
- Exhibit D "System Acceptance Certificate"

1.2. ADDENDUM (ADDENDA). Customer may elect to purchase professional or subscription services in addition to the System and related services. Any such services will be governed by the terms in the main body of the Agreement and an applicable Addendum containing terms specific to such service. Such Addenda will be labeled with the name of the service being purchased.

1.3 ORDER OF PRECEDENCE. In interpreting this Agreement and resolving any ambiguities: 1) the main body of this Agreement takes precedence over the exhibits (unless otherwise specified in an exhibit), and any inconsistency between Exhibits A through D will be resolved in their listed order, and 2) The applicable service Addendum will take precedence over the main body of the Agreement and the Exhibits.

**Section 2 DEFINITIONS**

Capitalized terms used in this Agreement have the following meanings:

- "Acceptance Tests"** means those tests described in the Acceptance Test Plan.
- "Addendum (Addenda)"** is the title of the document(s) containing a specific set of terms and conditions applicable to a particular service or other offering beyond the Communication System and System implementation services. The terms in the Addendum are applicable only to the specific service or offering described therein.
- "Administrative User Credentials"** means an account that has total access over the operating system, files, end user accounts and passwords at either the System level or box level. Customer's personnel with access to the Administrative User Credentials may be referred to as the Administrative User.
- "Beneficial Use"** means when Customer first uses the System or a Subsystem for operational purposes (excluding training or testing).
- "Confidential Information"** means all information consistent with the fulfillment of this Agreement that is (i) disclosed under this Agreement in oral, written, graphic, machine recognizable, and/or sample form, being clearly designated, labeled or marked as confidential or its equivalent or (ii) obtained by examination, testing or analysis of any hardware, software or any component part thereof provided by discloser to recipient. The nature and existence of this Agreement are considered Confidential Information. Confidential Information that is disclosed orally must be identified as confidential at the time of disclosure and confirmed by the discloser by submitting a written document to the recipient within thirty (30) days after such disclosure. The written document must contain a summary of the

Confidential Information disclosed with enough specificity for identification purpose and must be labeled or marked as confidential or its equivalent.

**“Contract Price”** means the price for the System and implementation Services, excluding applicable sales or similar taxes and freight charges. Further, unless otherwise stated in Exhibit B, “Payment” or the pricing pages of the proposal, recurring fees for maintenance, SUA, or subscription services are not included in the Contract Price.

**“Deliverables”** means all written information (such as reports, specifications, designs, plans, drawings, analytics, Solution Data, or other technical or business information) that Motorola prepares for Customer in the performance of the Services and is obligated to provide to Customer under this Agreement. The Deliverables, if any, are more fully described in the Statement of Work.

**“Derivative Proprietary Materials”** means derivatives of the Proprietary Materials that Motorola may from time to time, including during the course of providing the Services, develop and/or use and/or to which Motorola provides Customer access.

**“Effective Date”** means that date upon which the last Party executes this Agreement.

**“Equipment”** means the hardware components of the Solution that Customer purchases from Motorola under this Agreement. Equipment that is part of the System is described in the Equipment List.

**“Feedback”** means comments or information, in oral or written form, given to Motorola by Customer in connection with or relating to Equipment or Services, during the term of this Agreement.

**“Force Majeure”** means an event, circumstance, or act that is beyond a Party’s reasonable control, such as an act of God, an act of the public enemy, an act of a government entity, strikes, other labor disturbances, supplier performance, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, riots, or any other similar cause.

**“Motorola Software”** means software that Motorola or its affiliated companies owns.

**“Non-Motorola Software”** means software that a party other than Motorola or its affiliated companies owns.

**“Open Source Software”** (also called “freeware” or “shareware”) means software with either freely obtainable source code, license for modification, or permission for free distribution.

**“Proprietary Materials”** means certain software tools and/or other technical materials, including, but not limited to, data, modules, components, designs, utilities, subsets, objects, program listings, models, methodologies, programs, systems, analysis frameworks, leading practices and specifications which Motorola has developed prior to, or independently from, the provision of the Services and/or which Motorola licenses from third parties.

**“Proprietary Rights”** means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by Motorola under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by Motorola or another party.

**“Services”** means system implementation, maintenance, support, subscription, or other professional services provided under this Agreement, which may be further described in the applicable Addendum and/or SOW.

**“Software”** (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term “Software” does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.



**“Software License Agreement”** means the Motorola Software License Agreement (Exhibit A).

**“Software Support Policy” (“SwSP”)** means the policy set forth at <http://www.motorolasolutions.com/softwarepolicy> describing the specific technical support that will be provided to Customers under the Warranty Period and during any paid maintenance support period for Motorola Software. This policy may be modified from time to time at Motorola’s discretion.

**“Solution”** means the combination of the System(s) and Services provided by Motorola under this Agreement.

**“Solution Data”** means Customer data that is transformed, altered, processed, aggregated, correlated or operated on by Motorola, its vendors or other data sources and data that has been manipulated or retrieved using Motorola know-how to produce value-added content to data consumers, including customers or citizens which is made available to Customer with the Solution and Services.

**“Specifications”** means the functionality and performance requirements that are described in the Technical and Implementation Documents.

**“SUA” or “SUA II”** means Motorola’s Software Upgrade Agreement program.

**“Subsystem”** means a major part of the System that performs specific functions or operations. Subsystems are described in the Technical and Implementation Documents.

**“System”** means the Equipment, including incidental hardware and materials, Software, and design, installation and implementation services that are combined together into an integrated system; the System(s) is (are) described in the Technical and Implementation Documents.

**“System Acceptance”** means the Acceptance Tests have been successfully completed.

**“System Data”** means data created by, in connection with or in relation to Equipment or the performance of Services under this Agreement.

**“Warranty Period”** for System Hardware, Software, or services related to system implementation means one (1) year from the date of System Acceptance or Beneficial Use, whichever occurs first. Unless otherwise stated in the applicable Addendum, Warranty Period for other Services means ninety (90) days from performance of the Service.

### **Section 3 SCOPE OF AGREEMENT AND TERM**

3.1. **SCOPE OF WORK.** Motorola will provide, install and test the System(s), and perform its other contractual responsibilities to provide the Solution, all in accordance with this Agreement. Customer will perform its contractual responsibilities in accordance with this Agreement.

3.2. **CHANGE ORDERS.** Either Party may request changes within the general scope of this Agreement. If a requested change causes an increase or decrease in the cost or time required to perform this Agreement, the Parties will agree to an equitable adjustment of the Contract Price or applicable subscription fees, Performance Schedule, or both, and will reflect the adjustment in a change order or Addendum. Neither Party is obligated to perform requested changes unless both Parties execute a written change order.

3.3. **TERM.** Unless terminated in accordance with other provisions of this Agreement or extended by mutual agreement of the Parties, the term of this Agreement begins on the Effective Date and continues until the date of Final Project Acceptance or expiration of the Warranty Period, or completion of the Services, whichever occurs last. The term and the effective date of recurring Services will be set forth in the applicable Addendum.

3.4. **ADDITIONAL EQUIPMENT OR SOFTWARE.** For three (3) years after the expiration date of the Agreement, Customer may order additional Equipment or Software, if it is then available. Each purchase order must refer to this Agreement, the expiration date of the Agreement, and must specify the pricing and delivery terms.

The Parties agree that, notwithstanding expiration of the Agreement, the applicable provisions of this Agreement (except for pricing, delivery, passage of title and risk of loss to Equipment, warranty commencement, and payment terms) will govern the purchase and sale of the additional Equipment or Software. Additional or contrary terms in the purchase order will be inapplicable, unless signed by both parties. Title and risk of loss to additional Equipment will pass at shipment, warranty will commence upon delivery, and payment is due within thirty (30) days after the invoice date. Motorola will send Customer an invoice as the additional Equipment is shipped or Software is licensed. Alternatively, Customer may register with and place orders through Motorola Online ("MOL"), and this Agreement will be the "Underlying Agreement" for those MOL transactions rather than the MOL On-Line Terms and Conditions of Sale. MOL registration and other information may be found at <https://businessonline.motorolasolutions.com> and the MOL telephone number is (800) 814-0601.

3.5. **MOTOROLA SOFTWARE.** Any Motorola Software, including subsequent releases, is licensed to Customer solely in accordance with the Software License Agreement. Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.

3.6. **NON-MOTOROLA SOFTWARE.** Any Non-Motorola Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to Motorola the right to sublicense the Non-Motorola Software pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of Licensor's rights and protections under the Software License Agreement. Motorola makes no representations or warranties of any kind regarding Non-Motorola Software. Non-Motorola Software may include Open Source Software.

3.7. **SUBSTITUTIONS.** At no additional cost to Customer, Motorola may substitute any Equipment, Software, or services to be provided by Motorola, if the substitute meets or exceeds the Specifications and is of equivalent or better quality to the Customer. Any substitution will be reflected in a change order.

3.8. **OPTIONAL EQUIPMENT OR SOFTWARE.** This paragraph applies only if a "Priced Options" exhibit is shown in Section 1, or if the parties amend this Agreement to add a Priced Options exhibit. During the term of the option as stated in the Priced Options exhibit (or if no term is stated, then for one (1) year after the Effective Date), Customer has the right and option to purchase the equipment, software, and related services that are described in the Priced Options exhibit. Customer may exercise this option by giving written notice to Seller which must designate what equipment, software, and related services Customer is selecting (including quantities, if applicable). To the extent they apply, the terms and conditions of this Agreement will govern the transaction; however, the parties acknowledge that certain provisions must be agreed upon, and they agree to negotiate those in good faith promptly after Customer delivers the option exercise notice. Examples of provisions that may need to be negotiated are: specific lists of deliverables, statements of work, acceptance test plans, delivery and implementation schedules, payment terms, maintenance and support provisions, additions to or modifications of the Software License Agreement, hosting terms, and modifications to the acceptance and warranty provisions.

#### **Section 4 SERVICES**

4.1. If Customer desires and Motorola agrees to continue Services beyond the Term, Customer's issuance and Motorola's acceptance of a purchase order for Services will serve as an automatic extension of the Agreement for purposes of the continuing Services. Only the terms and conditions applicable to the performance of Services will apply to the extended Agreement.

4.2. During the Warranty Period, in addition to warranty services, Motorola will provide maintenance Services for the Equipment and support for the Motorola Software pursuant to the applicable maintenance and support Statements of Work. Support for the Motorola Software will be in accordance with Motorola's established Software Support Policy. Copies of the SwSP can be found at <http://www.motorolasolutions.com/softwarepolicy> and will be sent by mail, email or fax to Customer upon written request. Maintenance Services and support during the Warranty Period are included in the Contract Price. Unless already included in the Contract Price, if Customer wishes to purchase 1) additional maintenance or software support services during the Warranty Period; or 2) continue or expand maintenance, software support, installation, and/or SUA services after the Warranty Period, Motorola will provide the description of and pricing for such services in a separate proposal document. Unless otherwise agreed



by the parties in writing, the terms and conditions in this Agreement applicable to maintenance, support, installation, and/or SUA Services, will be included in the Maintenance and Support Addendum, SUA Addendum, the applicable Statements of Work, and the proposal, (if applicable). These collective terms will govern the provision of such Services.

To obtain any such additional Services, Customer will issue a purchase order referring to this Agreement and the separate proposal document. Omission of reference to this Agreement in Customer's purchase order will not affect the applicability of this Agreement. Motorola's proposal may include a cover page entitled "Service Agreement" or "Installation Agreement", as applicable, and other attachments. These cover pages and other attachments are incorporated into this Agreement by this reference

4.3. **PROFESSIONAL AND SUBSCRIPTION SERVICES.** If Customer purchases professional or subscription Services as part of the Solution, additional or different terms specific to such Service will be included in the applicable Addendum and will apply to those Services. Customer may purchase additional professional or subscription services by issuing a purchase order referencing this Agreement and Motorola's proposal for such additional services.

4.4. Any information in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer in providing Services under this Agreement or Motorola data viewed, accessed, will remain Motorola's property, will be deemed proprietary, Confidential Information. This Confidential Information will be promptly returned at Motorola's request.

4.5. **TOOLS.** All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of providing Services under this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction. Upon termination of the contract for any reason, Customer shall return to Motorola all equipment delivered to Customer.

4.6. **COVENANT NOT TO EMPLOY.** During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering Services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.

4.7. **CUSTOMER OBLIGATIONS.** If the applicable Statement of Work or Addendum contains assumptions that affect the Services or Deliverables, Customer will verify that they are accurate and complete. Any information that Customer provides to Motorola concerning the Services or Deliverables will be accurate and complete in all material respects. Customer will make timely decisions and obtain any required management approvals that are reasonably necessary for Motorola to perform the Services and its other duties under this Agreement. Unless the Statement of Work states the contrary, Motorola may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions and Customer-provided information, decisions and approvals described in this paragraph.

4.8. **ASSUMPTIONS.** If any assumptions or conditions contained in this Agreement, applicable Addenda or Statements of Work prove to be incorrect or if Customer's obligations are not performed, Motorola's ability to perform under this Agreement may be impacted and changes to the Contract Price, subscription fees, project schedule, Deliverables, or other changes may be necessary.

4.9. **NON-PRECLUSION.** If, as a result of the Services performed under this Agreement, Motorola recommends that Customer purchase products or other services, nothing in this Agreement precludes Motorola from participating



in a future competitive bidding process or otherwise offering or selling the recommended products or other services to Customer. Customer represents that this paragraph does not violate its procurement or other laws, regulations, or policies.

4.10. PROPRIETARY MATERIALS. Customer acknowledges that Motorola may use and/or provide Customer with access to Proprietary Materials and Derivative Proprietary Materials. The Proprietary Materials and the Derivative Proprietary Materials are the sole and exclusive property of Motorola and Motorola retains all right, title and interest in and to the Proprietary Materials and Derivative Proprietary Materials.

4.11. ADDITIONAL SERVICES. Any services performed by Motorola outside the scope of this Agreement at the direction of Customer will be considered to be additional Services which are subject to additional charges. Any agreement to perform additional Services will be reflected in a written and executed change order, Addendum or amendment to this Agreement.

**Section 5 PERFORMANCE SCHEDULE**

The Parties will perform their respective responsibilities in accordance with the Performance Schedule. By executing this Agreement, Customer authorizes Motorola to proceed with contract performance.

**Section 6 CONTRACT PRICE, PAYMENT AND INVOICING**

6.1. Customer affirms that a purchase order or notice to proceed is not required for contract performance or for subsequent years of service, if any, and that sufficient funds have been appropriated in accordance with applicable law. The Customer will pay all invoices as received from Motorola and any changes in scope will be subject to the change order process as described in this Agreement. At the time of execution of this Agreement, the Customer will provide all necessary reference information to include on invoices for payment in accordance with this Agreement.

6.2. CONTRACT PRICE. The Contract Price in U.S. dollars is \$1,884,916. If applicable, a pricing summary is included with the Payment schedule in Exhibit B. Motorola has priced the Services, Software, and Equipment as an integrated System. A change in Software or Equipment quantities, or Services, may affect the overall Contract Price, including discounts if applicable. Fees for professional, SUA, and/or subscription services which are not included in the Contract Price may be listed in Exhibit B, the pricing pages of the proposal, or the applicable Addendum.

6.3. INVOICING AND PAYMENT. Motorola will submit invoices to Customer according to the Payment schedule in Exhibit B. Except for a payment that is due on the Effective Date, Customer will make payments to Motorola within thirty (30) days after the date of each invoice. Customer will make payments when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution. Overdue invoices will bear simple interest at the maximum allowable rate. For reference, the Federal Tax Identification Number for Motorola is 36-1115800.

6.4. FREIGHT, TITLE, AND RISK OF LOSS. Motorola will pre-pay and add all freight charges to the invoices. Title and risk of loss to the Equipment will pass to Customer upon shipment. Title to Software will not pass to Customer at any time. Motorola will pack and ship all Equipment in accordance with good commercial practices.

6.5. INVOICING AND SHIPPING ADDRESSES. Invoices will be sent to the Customer at the following address:  
Name: Belmont County 911 \_\_\_\_\_  
Address: 68331 Bannock Uniontown Rd, St Clairsville, OH 43950 \_\_\_\_\_  
Phone: (740)695-9104 \_\_\_\_\_  
Email: bminder@belmontcounty911.com \_\_\_\_\_

The address which is the ultimate destination where the Equipment will be delivered to Customer  
Name: Belmont County \_\_\_\_\_  
Address: 68331 Bannock Uniontown Rd. St. Clairsville, OH 43950 \_\_\_\_\_



The Equipment will be shipped to the Customer at the following address (insert if this information is known): Name: Bearcom attention Paul Staley / Belmont County \_\_\_\_\_  
Address: 2 22nd St. Suite 101 Wheeling WV 26003  
Phone: 740-381-2889 \_\_\_\_\_

Customer may change this information by giving written notice to Motorola.

#### **Section 7 SITES AND SITE CONDITIONS**

7.1. ACCESS TO SITES. In addition to its responsibilities described elsewhere in this Agreement, Customer will provide a designated project manager; all necessary construction and building permits, zoning variances, licenses, and any other approvals that are necessary to develop or use the sites and mounting locations; and access to the worksites or vehicles identified in the Technical and Implementation Documents as reasonably requested by Motorola so that it may perform its duties in accordance with the Performance Schedule and Statement of Work. If the Statement of Work so indicates, Motorola may assist Customer in the local building permit process.

7.2. SITE CONDITIONS. Customer will ensure that all work sites it provides will be safe, secure, and in compliance with all applicable industry and OSHA standards. To the extent applicable and unless the Statement of Work states to the contrary, Customer will ensure that these work sites have adequate: physical space; air conditioning and other environmental conditions; adequate and appropriate electrical power outlets, distribution, equipment and connections; and adequate telephone or other communication lines (including modem access and adequate interfacing networking capabilities), all for the installation, use and maintenance of the System. Before installing the Equipment or Software at a work site, Motorola may inspect the work site and advise Customer of any apparent deficiencies or non-conformities with the requirements of this Section. This Agreement is predicated upon normal soil conditions as defined by the version of E.I.A. standard RS-222 in effect on the Effective Date.

7.3. SITE ISSUES. If a Party determines that the sites identified in the Technical and Implementation Documents are no longer available or desired, or if subsurface, structural, adverse environmental or latent conditions at any site differ from those indicated in the Technical and Implementation Documents, the Parties will promptly investigate the conditions and will select replacement sites or adjust the installation plans and specifications as necessary. If change in sites or adjustment to the installation plans and specifications causes a change in the cost or time to perform, the Parties will equitably amend the Contract Price, Performance Schedule, or both, by a change order.

#### **Section 8 TRAINING**

Any training to be provided by Motorola to Customer will be described in the applicable Statement of Work. Customer will notify Motorola immediately if a date change for a scheduled training program is required. If Motorola incurs additional costs because Customer reschedules a training program less than thirty (30) days before its scheduled start date, Motorola may recover these additional costs.

#### **Section 9 SYSTEM ACCEPTANCE**

9.1. COMMENCEMENT OF ACCEPTANCE TESTING. Motorola will provide to Customer at least ten (10) days notice before the Acceptance Tests commence. System testing will occur only in accordance with the Acceptance Test Plan.

9.2. SYSTEM ACCEPTANCE. System Acceptance will occur upon successful completion of the Acceptance Tests. Upon System Acceptance, the Parties will memorialize this event by promptly executing a System Acceptance Certificate. If the Acceptance Test Plan includes separate tests for individual Subsystems or phases of the System, acceptance of the individual Subsystem or phase will occur upon the successful completion of the Acceptance Tests for the Subsystem or phase, and the Parties will promptly execute an acceptance certificate for the Subsystem or phase. If Customer believes the System has failed the completed Acceptance Tests, Customer will provide to Motorola a written notice that includes the specific details of the failure. If Customer does not provide

to Motorola a failure notice within thirty (30) days after completion of the Acceptance Tests, System Acceptance will be deemed to have occurred as of the completion of the Acceptance Tests. Minor omissions or variances in the System that do not materially impair the operation of the System as a whole will not postpone System Acceptance or Subsystem acceptance, but will be corrected according to a mutually agreed schedule.

9.3. **BENEFICIAL USE.** Customer acknowledges that Motorola's ability to perform its implementation and testing responsibilities may be impeded if Customer begins using the System before System Acceptance. Therefore, Customer will not commence Beneficial Use before System Acceptance without Motorola's prior written authorization, which will not be unreasonably withheld. Motorola is not responsible for System performance deficiencies that occur during unauthorized Beneficial Use. Upon commencement of Beneficial Use, Customer assumes responsibility for the use and operation of the System.

9.4. **FINAL PROJECT ACCEPTANCE.** Final Project Acceptance will occur after System Acceptance when all deliverables and other work have been completed. When Final Project Acceptance occurs, the parties will promptly memorialize this final event by so indicating on the System Acceptance Certificate.

## **Section 10 REPRESENTATIONS AND WARRANTIES**

10.1. **SYSTEM FUNCTIONALITY.** Motorola represents that the System will perform in accordance with the Specifications in all material respects. Upon System Acceptance or Beneficial Use, whichever occurs first, this System functionality representation is fulfilled. Motorola is not responsible for System performance deficiencies that are caused by ancillary equipment not furnished by Motorola which is attached to or used in connection with the System or for reasons or parties beyond Motorola's control, such as natural causes; the construction of a building that adversely affects the microwave path reliability or radio frequency (RF) coverage; the addition of frequencies at System sites that cause RF interference or intermodulation; or Customer changes to load usage or configuration outside the Specifications.

10.2. **EQUIPMENT WARRANTY.** During the Warranty Period, Motorola warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship. If System Acceptance is delayed beyond six (6) months after shipment of the Equipment by events or causes beyond Motorola's control, this warranty expires eighteen (18) months after the shipment of the Equipment.

10.3. **SOFTWARE WARRANTY.** Except as described in the SwSP and unless otherwise stated in the Software License Agreement, during the Warranty Period, Motorola warrants the Software in accordance with the warranty terms set forth in the Software License Agreement and the provisions of this Section that are applicable to the Software. If System Acceptance is delayed beyond six (6) months after shipment of the Motorola Software by events or causes beyond Motorola's control, this warranty expires eighteen (18) months after the shipment of the Motorola Software. **Nothing in this Warranty provision is intended to conflict or modify the Software Support Policy. In the event of an ambiguity or conflict between the Software Warranty and Software Support Policy, the Software Support Policy governs.**

10.4. **EXCLUSIONS TO EQUIPMENT AND SOFTWARE WARRANTIES.** These warranties do not apply to: (i) defects or damage resulting from: use of the Equipment or Software in other than its normal, customary, and authorized manner; accident, liquids, neglect, or acts of God; testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Motorola; Customer's failure to comply with all applicable industry and OSHA standards; (ii) breakage of or damage to antennas unless caused directly by defects in material or workmanship; (iii) Equipment that has had the serial number removed or made illegible; (iv) batteries (because they carry their own separate limited warranty) or consumables; (v) freight costs to ship Equipment to the repair depot; (vi) scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment; and (vii) normal or customary wear and tear.

10.5. **SERVICE WARRANTY.** During the Warranty Period, Motorola warrants that the Services will be provided in a good and workmanlike manner and will conform in all material respects to the applicable Statement of Work. Services will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. Customer acknowledges that the Deliverables may contain



recommendations, suggestions or advice from Motorola to Customer (collectively, "recommendations"). Motorola makes no warranties concerning those recommendations, and Customer alone accepts responsibility for choosing whether and how to implement the recommendations and the results to be realized from implementing them.

10.6. **WARRANTY CLAIMS.** To assert a warranty claim, Customer must notify Motorola in writing of the claim before the expiration of the Warranty Period. Upon receipt of this notice, Motorola will investigate the warranty claim. If this investigation confirms a valid Equipment or Software warranty claim, Motorola will (at its option and at no additional charge to Customer) repair the defective Equipment or Motorola Software, replace it with the same or equivalent product, or refund the price of the defective Equipment or Motorola Software. These actions will be the full extent of Motorola's liability for the warranty claim. In the event of a valid Services warranty claim, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. If this investigation indicates the warranty claim is not valid, then Motorola may invoice Customer for responding to the claim on a time and materials basis using Motorola's then current labor rates. Repaired or replaced product is warranted for the balance of the original applicable warranty period. All replaced products or parts will become the property of Motorola.

10.7. **ORIGINAL END USER IS COVERED.** These express limited warranties are extended by Motorola to the original user purchasing the System or Services for commercial, industrial, or governmental use only, and are not assignable or transferable.

10.8. **DISCLAIMER OF OTHER WARRANTIES.** THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR THE EQUIPMENT AND MOTOROLA SOFTWARE PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.

#### **Section 11 DELAYS**

11.1. **FORCE MAJEURE.** Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure. A Party that becomes aware of a Force Majeure that will significantly delay performance will notify the other Party promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, the Parties will execute a change order to extend the Performance Schedule or applicable Addenda for a time period that is reasonable under the circumstances.

11.2. **PERFORMANCE SCHEDULE DELAYS CAUSED BY CUSTOMER.** If Customer (including its other contractors) delays the Performance Schedule, it will make the promised payments according to the Payment schedule as if no delay occurred; and the Parties will execute a change order to extend the Performance Schedule and, if requested, compensate Motorola for all reasonable charges incurred because of the delay. Delay charges may include costs incurred by Motorola or its subcontractors for additional freight, warehousing and handling of Equipment; extension of the warranties; travel; suspending and re-mobilizing the work; additional engineering, project management, and standby time calculated at then current rates; and preparing and implementing an alternative implementation plan.

#### **Section 12 DISPUTES**

The Parties will use the following procedure to address any dispute arising under this Agreement (a "Dispute").

12.1. **GOVERNING LAW.** This Agreement will be governed by and construed in accordance with the laws of the State in which the System is installed.

12.2. **NEGOTIATION.** Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute"). The Parties will attempt to resolve the Dispute promptly through good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within ten (10) days from the Notice of Dispute, the

Parties will proceed to mediation.

12.3. **MEDIATION.** The Parties will choose an independent mediator within thirty (30) days of a notice to mediate from either Party ("Notice of Mediation"). Neither Party may unreasonably withhold consent to the selection of a mediator. If the Parties are unable to agree upon a mediator, either Party may request that American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute.

12.4. **LITIGATION, VENUE and JURISDICTION.** If a Dispute remains unresolved for sixty (60) days after receipt of the Notice of Mediation, either Party may then submit the Dispute to a court of competent jurisdiction in the state in which the System is installed. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts in such state over any claim or matter arising under or in connection with this Agreement.

12.5. **CONFIDENTIALITY.** All communications pursuant to subsections 12.2 and 12.3 will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law. The use of these Dispute resolution procedures will not be construed under the doctrines of laches, waiver or estoppel to affect adversely the rights of either Party.

### **Section 13     DEFAULT AND TERMINATION**

13.1. **DEFAULT BY A PARTY.** If either Party fails to perform a material obligation under this Agreement, the other Party may consider the non-performing Party to be in default (unless a Force Majeure causes the failure) and may assert a default claim by giving the non-performing Party a written and detailed notice of default. Except for a default by Customer for failing to pay any amount when due under this Agreement which must be cured immediately, the defaulting Party will have thirty (30) days after receipt of the notice of default to either cure the default or, if the default is not curable within thirty (30) days, provide a written cure plan. The defaulting Party will begin implementing the cure plan immediately after receipt of notice by the other Party that it approves the plan. If Customer is the defaulting Party, Motorola may stop work on the project until it approves the Customer's cure plan.

13.2. **FAILURE TO CURE.** If a defaulting Party fails to cure the default as provided above in Section 13.1, unless otherwise agreed in writing, the non-defaulting Party may terminate any unfulfilled portion of this Agreement. In the event of termination for default, the defaulting Party will promptly return to the non-defaulting Party any of its Confidential Information. If Customer is the non-defaulting Party, terminates this Agreement as permitted by this Section, and completes the System through a third Party, Customer may as its exclusive remedy recover from Motorola reasonable costs incurred to complete the System to a capability not exceeding that specified in this Agreement less the unpaid portion of the Contract Price. Customer will mitigate damages and provide Motorola with detailed invoices substantiating the charges. In the event Customer elects to terminate this Agreement for any reason other than default, Customer shall pay Motorola for the conforming Equipment and/or Software delivered and all services performed.

### **Section 14     INDEMNIFICATION**

14.1. **GENERAL INDEMNITY BY Motorola.** Motorola will indemnify and hold Customer harmless from any and all liability, expense, judgment, suit, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue against Customer to the extent it is caused by the negligence of Motorola, its subcontractors, or their employees or agents, while performing their duties under this Agreement, if Customer gives Motorola prompt, written notice of any claim or suit. Customer will cooperate with Motorola in its defense or settlement of the claim or suit. This Section sets forth the full extent of Motorola's general indemnification of Customer from liabilities that are in any way related to Motorola's performance under this Agreement.

14.2. **INTENTIONALLY LEFT BLANK**

#### 14.3. PATENT AND COPYRIGHT INFRINGEMENT.

14.3.1. Motorola will defend at its expense any suit brought against Customer to the extent it is based on a third-party claim alleging that the Equipment manufactured by Motorola or the Motorola Software ("Motorola Product") directly infringes a United States patent or copyright ("Infringement Claim"). Motorola's duties to defend and indemnify are conditioned upon: Customer promptly notifying Motorola in writing of the Infringement Claim; Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Customer providing to Motorola cooperation and, if requested by Motorola, reasonable assistance in the defense of the Infringement Claim. In addition to Motorola's obligation to defend, and subject to the same conditions, Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Motorola in settlement of an Infringement Claim.

14.3.2 If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Motorola Product; (b) replace or modify the Motorola Product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Motorola Product and grant Customer a credit for the Motorola Product, less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards.

14.3.3 Motorola will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Motorola Product with any software, apparatus or device not furnished by Motorola; (b) the use of ancillary equipment or software not furnished by Motorola and that is attached to or used in connection with the Motorola Product; (c) Motorola Product designed or manufactured in accordance with Customer's designs, specifications, guidelines or instructions, if the alleged infringement would not have occurred without such designs, specifications, guidelines or instructions; (d) a modification of the Motorola Product by a party other than Motorola; (e) use of the Motorola Product in a manner for which the Motorola Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from its indemnity obligation to Customer extend in any way to royalties payable on a per use basis or the Customer's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the infringing Motorola Product.

14.3.4. This Section 14 provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim. Customer has no right to recover and Motorola has no obligation to provide any other or further remedies, whether under another provision of this Agreement or any other legal theory or principle, in connection with an Infringement Claim. In addition, the rights and remedies provided in this Section 14 are subject to and limited by the restrictions set forth in Section 15.

#### Section 15 LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of the Equipment, Software, or implementation and other one-time Services with respect to which losses or damages are claimed. With respect to all subscription or other ongoing Services and unless as otherwise provided under the applicable Addenda, Motorola's total liability will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Services preceding the incident giving rise to the claim. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS, INCONVENIENCE, LOSS OF USE, LOSS TIME, DATA, GOODWILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE**

PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. This limitation of liability provision survives the expiration or termination of the Agreement and applies notwithstanding any contrary provision. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account.

## **Section 16 CONFIDENTIALITY AND PROPRIETARY RIGHTS**

### **16.1. CONFIDENTIAL INFORMATION.**

16.1.1. Each party is a disclosing party ("Discloser") and a receiving party ("Recipient") under this Agreement. All Deliverables will be deemed to be Motorola's Confidential Information. During the term of this Agreement and for a period of three (3) years from the expiration or termination of this Agreement, Recipient will (i) not disclose Confidential Information to any third party; (ii) restrict disclosure of Confidential Information to only those employees (including, but not limited to, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must be directly involved with the Confidential Information for the purpose and who are bound by confidentiality terms substantially similar to those in this Agreement; (iii) not copy, reproduce, reverse engineer, decompile, or disassemble any Confidential Information; (iv) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (v) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Agreement; and (vi) only use the Confidential Information as needed to fulfill this Agreement.

16.1.2. Recipient is not obligated to maintain as confidential, Confidential Information that Recipient can demonstrate by documentation (i) is now available or becomes available to the public without breach of this agreement; (ii) is explicitly approved for release by written authorization of Discloser; (iii) is lawfully obtained from a third party or parties without a duty of confidentiality; (iv) is known to the Recipient prior to such disclosure; or (v) is independently developed by Recipient without the use of any of Discloser's Confidential Information or any breach of this Agreement.

16.1.3. All Confidential Information remains the property of the Discloser and will not be copied or reproduced without the express written permission of the Discloser, except for copies that are absolutely necessary in order to fulfill this Agreement. Within ten (10) days of receipt of Discloser's written request, Recipient will return all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain one (1) archival copy of the Confidential Information that it may use only in case of a dispute concerning this Agreement. No license, express or implied, in the Confidential Information is granted other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. The Discloser warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

16.2. **PRESERVATION OF MOTOROLA'S PROPRIETARY RIGHTS.** Motorola, the third party manufacturer of any Equipment, and the copyright owner of any Non-Motorola Software own and retain all of their respective Proprietary Rights in the Equipment and Software, and nothing in this Agreement is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by Motorola in connection with providing to Customer the Equipment, Software, or related services remain vested exclusively in Motorola, and this Agreement does not grant to Customer any shared development rights of intellectual property. Except as explicitly provided in the Software License Agreement, Motorola does not grant to Customer, either directly or by implication, estoppel, or otherwise, any right, title or interest in Motorola's Proprietary Rights. Customer will not modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, distribute, sublicense, sell or export the Software, or permit or encourage any third party to do so. The preceding sentence does not apply to Open Source Software which is governed by the standard license of the copyright owner.

16.3 **VOLUNTARY DISCLOSURE.** Except as required to fulfill its obligations under this Agreement, Motorola



will have no obligation to provide Customer with access to its Confidential Information and/or proprietary information. Under no circumstances will Motorola be required to provide any data related to cost and pricing.

#### 16.4 DATA AND FEEDBACK.

16.4.1 To the extent permitted by law, Customer owns all right, title and interest in System Data created solely by it or its agents (hereafter, "Customer Data"), and grants to Motorola the right to use, host, cache, store, reproduce, copy, modify, combine, analyze, create derivatives from, communicate, transmit, publish, display, and distribute such Customer Data.

16.4.2 Motorola owns all right, title and interest in data resulting from System Data that is or has been transformed, altered, processed, aggregated, correlated or operated on (hereafter, "Derivative Data").

16.4.3 Any Feedback given by Customer is and will be entirely voluntary and, even if designated as confidential, will not create any confidentiality obligation for Motorola. Motorola will be free to use, reproduce, license or otherwise distribute and exploit the Feedback without any obligation to Customer. Customer acknowledges that Motorola's receipt of the Feedback does not imply or create recognition by Motorola of either the novelty or originality of any idea. The parties further agree that all fixes, modifications and improvements made to Motorola products or services conceived of or made by Motorola that are based, either in whole or in part, on the Feedback are the exclusive property of Motorola and all right, title and interest in and to such fixes, modifications or improvements to the Motorola product or service will vest solely in Motorola.

### Section 17 GENERAL

17.1. TAXES. The Contract Price does not include any excise, sales, lease, use, property, or other taxes, assessments or duties, all of which will be paid by Customer except as exempt by law. If Motorola is required to pay any of these taxes, Motorola will send an invoice to Customer and Customer will pay to Motorola the amount of the taxes (including any interest and penalties) within thirty (30) days after the date of the invoice. Customer will be solely responsible for reporting the Equipment for personal property tax purposes, and Motorola will be solely responsible for reporting taxes on its income or net worth.

17.2. ASSIGNABILITY AND SUBCONTRACTING. Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

17.3. WAIVER. Failure or delay by either Party to exercise a right or power under this Agreement will not be a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the waiving Party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

17.4. SEVERABILITY. If a court of competent jurisdiction renders any part of this Agreement invalid or unenforceable, that part will be severed and the remainder of this Agreement will continue in full force and effect.

17.5. INDEPENDENT CONTRACTORS. Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership or formal business organization of any kind.

17.6. HEADINGS AND SECTION REFERENCES. The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.

17.7. NOTICES. Notices required under this Agreement to be given by one Party to the other must be in writing and either personally delivered or sent to the address provided by the other Party by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as Federal Express, UPS, or DHL), or by facsimile with correct answerback received, and will be effective upon receipt.

17.8. COMPLIANCE WITH APPLICABLE LAWS. Each Party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement or use of the System. Customer will obtain and comply with all Federal Communications Commission ("FCC") licenses and authorizations required for the installation, operation and use of the System before the scheduled installation of the Equipment. Although Motorola might assist Customer in the preparation of its FCC license applications, neither Motorola nor any of its employees is an agent or representative of Customer in FCC or other matters.

17.9 FUTURE REGULATORY REQUIREMENTS. The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or the Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Services.

17.10. AUTHORITY TO EXECUTE AGREEMENT. Each Party represents that it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; the person executing this Agreement on its behalf has the authority to do so; upon execution and delivery of this Agreement by the Parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.

17.11. ADMINISTRATOR LEVEL ACCOUNT ACCESS. If applicable to the type of System purchased by Customer, Motorola will provide Customer with Administrative User Credentials. Customer agrees to only grant access to the Administrative User Credentials to those personnel with the training and experience to correctly use them. Customer is responsible for protecting Administrative User Credentials from disclosure and maintaining Credential validity by, among other things, updating passwords when required. Customer may be asked to provide valid Administrative User Credentials when in contact with Motorola System support personnel. Customer understands that changes made as the Administrative User can significantly impact the performance of the System. Customer agrees that it will be solely responsible for any negative impact on the System or its users by any such changes. System issues occurring as a result of changes made using the Administrative User Credentials may impact Motorola's ability to perform Services or other obligations under the Agreement. In such cases, a revision to the appropriate provisions of the Agreement, including the Statement of Work, may be necessary. To the extent Motorola provides assistance to correct any issues caused by or arising out of the use of or failure to maintain





Administrative User Credentials, Motorola will be entitled to bill Customer and Customer will pay Motorola on a time and materials basis for resolving the issue.

17.12. SURVIVAL OF TERMS. The following provisions will survive the expiration or termination of this Agreement for any reason: Section 3.5 (Motorola Software); Section 3.6 (Non-Motorola Software); if any payment obligations exist, Sections 6.2 and 6.3 (Contract Price and Invoicing and Payment); Subsection 10.8 (Disclaimer of Implied Warranties); Section 12 (Disputes); Section 15 (Limitation of Liability); and Section 16 (Confidentiality and Proprietary Rights); and all of the General provisions in Section 17.

17.13. ENTIRE AGREEMENT. This Agreement, including all Exhibits, constitutes the entire agreement of the Parties regarding the subject matter of the Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and shall have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing, or by electronic signature, including by email. An electronic signature, or a facsimile copy or computer image, such as a PDF or tiff image, of a signature, shall be treated as and shall have the same effect as an original signature. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase or purchase order, acknowledgment or other form will not be considered an amendment or modification of this Agreement, even if a representative of each Party signs that document.

The Parties hereby enter into this Agreement as of the Effective Date.

Motorola Solutions, Inc.  
By: [Signature]  
Name: Robert J. Rummel  
Title: Vice President MSSSI  
Date: 9/6/19

Customer  
By: [Signature]  
Name: Josh Meyer  
Title: Commission President  
Date: 9/11/19

Approved as to Form:  
David R. Liberati  
Assistant Prosecutor

Customer  
By: [Signature]  
Name: Jerry Echemann  
Title: Commission Vice President  
Date: 9.11.19

Customer  
By: [Signature]  
Name: J.P. Dutton  
Title: Commissioner  
Date: 9/11/19

**Exhibit A**

**MOTOROLA SOFTWARE LICENSE AGREEMENT**

This Exhibit A Motorola Software License Agreement ("Agreement") is between Motorola Solutions, Inc., ("Motorola"), and Belmont County ("Licensee").

For good and valuable consideration, the parties agree as follows:

**Section 1 DEFINITIONS**

1.1 "Designated Products" means products provided by Motorola to Licensee with which or for which the Software and Documentation is licensed for use.

1.2 "Documentation" means product and software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).

1.3 "Open Source Software" means software with either freely obtainable source code, license for modification, or permission for free distribution.

1.4 "Open Source Software License" means the terms or conditions under which the Open Source Software is licensed.

1.5 "Primary Agreement" means the agreement to which this exhibit is attached.

1.6 "Security Vulnerability" means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.

1.7 "Software" (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

**Section 2 SCOPE**

Motorola and Licensee enter into this Agreement in connection with Motorola's delivery of certain proprietary software or products containing embedded or pre-loaded proprietary software, or both. This Agreement contains the terms and conditions of the license Motorola is providing to Licensee, and Licensee's use of the proprietary software and affiliated documentation.

**Section 3 GRANT OF LICENSE**

3.1. Subject to the provisions of this Agreement and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under Motorola's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.

3.2. If the Software licensed under this Agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and conditions of this Agreement



and the terms and conditions of the Open Source Software Licenses governing Licensee's use of the Open Source Software, the terms and conditions of the license grant of the applicable Open Source Software Licenses will take precedence over the license grants in this Agreement. If requested by Licensee, Motorola will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this Agreement; and (ii) identify the Open Source Software (or specify where that license may be found).

3.3 TO THE EXTENT, IF ANY, THAT THERE IS A SEPARATE LICENSE AGREEMENT PACKAGED WITH, OR PROVIDED ELECTRONICALLY WITH, A PARTICULAR PRODUCT THAT BECOMES EFFECTIVE ON AN ACT OF ACCEPTANCE BY THE END USER, THEN THAT AGREEMENT SUPERSEDES THE SOFTWARE LICENSE AGREEMENT AS TO THE END USER OF EACH SUCH PRODUCT.

#### **Section 4 LIMITATIONS ON USE**

4.1. Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

4.2. Licensee will not, and will not allow or enable any third party to: (i) reverse engineer, disassemble, peel components, decompile, reprogram or otherwise reduce the Software or any portion to a human perceptible form or otherwise attempt to recreate the source code; (ii) modify, adapt, create derivative works of, or merge the Software; (iii) copy, reproduce, distribute, lend, or lease the Software or Documentation to any third party, grant any sublicense or other rights in the Software or Documentation to any third party, or take any action that would cause the Software or Documentation to be placed in the public domain; (iv) remove, or in any way alter or obscure, any copyright notice or other notice of Motorola's proprietary rights; (v) provide, copy, transmit, disclose, divulge or make the Software or Documentation available to, or permit the use of the Software by any third party or on any machine except as expressly authorized by this Agreement; or (vi) use, or permit the use of, the Software in a manner that would result in the production of a copy of the Software solely by activating a machine containing the Software. Licensee may make one copy of Software to be used solely for archival, back-up, or disaster recovery purposes; *provided* that Licensee may not operate that copy of the Software at the same time as the original Software is being operated. Licensee may make as many copies of the Documentation as it may reasonably require for the internal use of the Software.

4.3. Unless otherwise authorized by Motorola in writing, Licensee will not, and will not enable or allow any third party to: (i) install a licensed copy of the Software on more than one unit of a Designated Product; or (ii) copy onto or transfer Software installed in one unit of a Designated Product onto one other device. Licensee may temporarily transfer Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Licensee provides written notice to Motorola of the temporary transfer and identifies the device on which the Software is transferred. Temporary transfer of the Software to another device must be discontinued when the original Designated Product is returned to operation and the Software must be removed from the other device. Licensee must provide prompt written notice to Motorola at the time temporary transfer is discontinued.

4.4 Licensee will maintain, during the term of this Agreement and for a period of two years thereafter, accurate records relating to this license grant to verify compliance with this Agreement. Motorola or an independent third party ("Auditor") may inspect Licensee's premises, books and records, upon reasonable prior notice to Licensee, during Licensee's normal business hours and subject to Licensee's facility and security regulations. Motorola is responsible for the payment of all expenses and costs of the Auditor. Any information obtained by Motorola and the Auditor will be kept in strict confidence by Motorola and the Auditor and used solely for the purpose of verifying Licensee's compliance with the terms of this Agreement.

#### **Section 5 OWNERSHIP AND TITLE**

Motorola, its licensors, and its suppliers retain all of their proprietary rights in any form in and to the Software and Documentation, including, but not limited to, all rights in patents, patent applications, inventions, copyrights, trademarks, trade secrets, trade names, and other proprietary rights in or relating to the Software and



Documentation (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, emulations to or derivative works from the Software or Documentation, whether made by Motorola or another party, or any improvements that result from Motorola's processes or, provision of information services). No rights are granted to Licensee under this Agreement by implication, estoppel or otherwise, except for those rights which are expressly granted to Licensee in this Agreement. All intellectual property developed, originated, or prepared by Motorola in connection with providing the Software, Designated Products, Documentation or related services, remains vested exclusively in Motorola, and Licensee will not have any shared development or other intellectual property rights.

## **Section 6 LIMITED WARRANTY; DISCLAIMER OF WARRANTY**

6.1. Unless otherwise stated in the Primary Agreement, the commencement date and the term of the Software warranty will be a period of ninety (90) days from Motorola's shipment of the Software (the "Warranty Period"). If Licensee is not in breach of any of its obligations under this Agreement, Motorola warrants that the unmodified Software, when used properly and in accordance with the Documentation and this Agreement, will be free from a reproducible defect that eliminates the functionality or successful operation of a feature critical to the primary functionality or successful operation of the Software. Whether a defect occurs will be determined by Motorola solely with reference to the Documentation. Motorola does not warrant that Licensee's use of the Software or the Designated Products will be uninterrupted, error-free, completely free of Security Vulnerabilities, or that the Software or the Designated Products will meet Licensee's particular requirements. Motorola makes no representations or warranties with respect to any third party software included in the Software. Notwithstanding, any warranty provided by a copyright owner in its standard license terms will flow through to Licensee for third party software provided by Motorola.

6.2 Motorola's sole obligation to Licensee and Licensee's exclusive remedy under this warranty is to use reasonable efforts to remedy any material Software defect covered by this warranty. These efforts will involve either replacing the media or attempting to correct significant, demonstrable program or documentation errors or Security Vulnerabilities. If Motorola cannot correct the defect within a reasonable time, then at Motorola's option, Motorola will replace the defective Software with functionally-equivalent Software, license to Licensee substitute Software which will accomplish the same objective, or terminate the license and refund the Licensee's paid license fee.

6.3. Warranty claims are described in the Primary Agreement.

6.4. The express warranties set forth in this Section 6 are in lieu of, and Motorola disclaims, any and all other warranties (express or implied, oral or written) with respect to the Software or Documentation, including, without limitation, any and all implied warranties of condition, title, non-infringement, merchantability, or fitness for a particular purpose or use by Licensee (whether or not Motorola knows, has reason to know, has been advised, or is otherwise aware of any such purpose or use), whether arising by law, by reason of custom or usage of trade, or by course of dealing. In addition, Motorola disclaims any warranty to any person other than Licensee with respect to the Software or Documentation.

## **Section 7 TRANSFERS**

Licensee will not transfer the Software or Documentation to any third party without Motorola's prior written consent. Motorola's consent may be withheld at its discretion and may be conditioned upon transferee paying all applicable license fees and agreeing to be bound by this Agreement. If the Designated Products are Motorola's radio products and Licensee transfers ownership of the Motorola radio products to a third party, Licensee may assign its right to use the Software (other than CPS and Motorola's FLASHport® software) which is embedded in or furnished for use with the radio products and the related Documentation; *provided* that Licensee transfers all copies of the Software and Documentation to the transferee, and Licensee and the transferee sign a transfer form to be provided by Motorola upon request, obligating the transferee to be bound by this Agreement.

## **Section 8 TERM AND TERMINATION**

8.1 Licensee's right to use the Software and Documentation will begin when the Primary Agreement is signed



by both parties and will continue for the life of the Designated Products with which or for which the Software and Documentation have been provided by Motorola, unless Licensee breaches this Agreement, in which case this Agreement and Licensee's right to use the Software and Documentation may be terminated immediately upon notice by Motorola.

8.2 Within thirty (30) days after termination of this Agreement, Licensee must certify in writing to Motorola that all copies of the Software have been removed or deleted from the Designated Products and that all copies of the Software and Documentation have been returned to Motorola or destroyed by Licensee and are no longer in use by Licensee.

8.3 Licensee acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Software and Documentation and that Licensee's breach of this Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Licensee breaches this Agreement, Motorola may terminate this Agreement and be entitled to all available remedies at law or in equity (including immediate injunctive relief and repossession of all non-embedded Software and associated Documentation unless Licensee is a Federal agency of the United States Government).

#### **Section 9 Commercial Computer Software**

9.1 *This Section 9 only applies to U.S. Government end users.* The Software, Documentation and updates are commercial items as that term is defined at 48 C.F.R. Part 2.101, consisting of "commercial computer software" and "computer software documentation" as such terms are defined in 48 C.F.R. Part 252.227-7014(a)(1) and 48 C.F.R. Part 252.227-7014(a)(5), and used in 48 C.F.R. Part 12.212 and 48 C.F.R. Part 227.7202, as applicable. Consistent with 48 C.F.R. Part 12.212, 48 C.F.R. Part 252.227-7015, 48 C.F.R. Part 227.7202-1 through 227.7202-4, 48 C.F.R. Part 52.227-19, and other relevant sections of the Code of Federal Regulations, as applicable, the Software, Documentation and Updates are distributed and licensed to U.S. Government end users: (i) only as commercial items, and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions contained herein.

9.2 If Licensee is licensing Software for end use by the United States Government or a United States Government agency, Licensee may transfer such Software license, but only if: (i) Licensee transfers all copies of such Software and Documentation to such United States Government entity or interim transferee, and (ii) Licensee has first obtained from the transferee (if applicable) and ultimate end user an enforceable end user license agreement containing restrictions substantially identical to the ones contained in this Agreement. Except as stated in the foregoing, Licensee and any transferee(s) authorized by this subsection 9.2 may not otherwise use or transfer or make available any Motorola software to any third party nor permit any party to do so.

#### **Section 10 CONFIDENTIALITY**

Licensee acknowledges that the Software and Documentation contain Motorola's valuable proprietary and Confidential Information and are Motorola's trade secrets, and that the provisions in the Primary Agreement concerning Confidential Information apply.

#### **Section 11 LIMITATION OF LIABILITY**

The Limitation of Liability provision is described in the Primary Agreement.

#### **Section 12 NOTICES**

Notices are described in the Primary Agreement.

#### **Section 13 GENERAL**

13.1. **COPYRIGHT NOTICES.** The existence of a copyright notice on the Software will not be construed as an admission or presumption of publication of the Software or public disclosure of any trade secrets associated with the Software.

13.2. **COMPLIANCE WITH LAWS.** Licensee acknowledges that the Software is subject to the laws and regulations of the United States and Licensee will comply with all applicable laws and regulations, including export laws and regulations of the United States. Licensee will not, without the prior authorization of Motorola and the appropriate governmental authority of the United States, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any item or technical data or direct or indirect products sold or otherwise furnished to any person within any territory for which the United States Government or any of its agencies at the time of the action, requires an export license or other governmental approval. Violation of this provision is a material breach of this Agreement.

13.3 **FUTURE REGULATORY REQUIREMENTS.** The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or the Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Services.

13.4. **ASSIGNMENTS AND SUBCONTRACTING.** Motorola may assign its rights or subcontract its obligations under this Agreement, or encumber or sell its rights in any Software, without prior notice to or consent of Licensee.

13.5. **GOVERNING LAW.** This Agreement is governed by the laws of the United States to the extent that they apply and otherwise by the internal substantive laws of the State to which the Software is shipped if Licensee is a sovereign government entity, or the internal substantive laws of the State of Illinois if Licensee is not a sovereign government entity. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. In the event that the Uniform Computer Information Transaction Act, any version of this Act, or a substantially similar law (collectively "UCITA") becomes applicable to a party's performance under this Agreement, UCITA does not govern any aspect of this Agreement or any license granted under this Agreement, or any of the parties' rights or obligations under this Agreement. The governing law will be that in effect prior to the applicability of UCITA.

13.6. **THIRD PARTY BENEFICIARIES.** This Agreement is entered into solely for the benefit of Motorola and Licensee. No third party has the right to make any claim or assert any right under this Agreement, and no third party is deemed a beneficiary of this Agreement. Notwithstanding the foregoing, any licensor or supplier of third party software included in the Software will be a direct and intended third party beneficiary of this Agreement.

13.7. **SURVIVAL.** Sections 4, 5, 6.4, 7, 8, 9, 10, 11 and 13 survive the termination of this Agreement.

13.8. **ORDER OF PRECEDENCE.** In the event of inconsistencies between this Exhibit and the Primary Agreement, the parties agree that this Exhibit prevails, only with respect to the specific subject matter of this Exhibit, and not the Primary Agreement or any other exhibit as it applies to any other subject matter.

13.9. **SECURITY.** Motorola uses reasonable means in the design and writing of its own Software and the acquisition of third party Software to limit Security Vulnerabilities. While no software can be guaranteed to be free from Security Vulnerabilities, if a Security Vulnerability is discovered, Motorola will take the steps set forth in Section 6 of this Agreement.



**Exhibit B**

**PAYMENT SCHEDULE – Belmont County, OH**

Except for a payment that is due on the Effective Date, Customer will make payments to Motorola within thirty (30) days after the date of each invoice. Customer will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a U.S. financial institution and in accordance with the following milestones.

**System Upgrade Only:**

**100% of system upgrade contract price due upon contract execution.**

**Channel IP Simulcast Cell Expansion, Subscriber equipment and (removing Flash Installation) And Intelligent Middleware equipment and installation:**

1. 75% of the Contract Price due upon contract execution;
2. 25% of the Contract Price due upon final acceptance.

Motorola shall make partial shipments of equipment and will request payment upon shipment of such equipment. In addition, Motorola shall invoice for installations completed on a site-by-site basis or when professional services are completed, when applicable. The value of the equipment shipped/services performed will be determined by the value shipped/services performed as a percentage of the total milestone value. Unless otherwise specified, contract discounts are based upon all items proposed and overall system package. For invoicing purposes only, discounts will be applied proportionately to the FNE and Subscriber equipment values to total contract price. Overdue invoices will bear simple interest at the maximum allowable rate by state law.

**For Lifecycle Support Plan and Subscription Based Services**

Motorola will invoice Customer annually in advance of each year of the plan.

## MAINTENANCE, SUPPORT AND SUA ADDENDUM

This Addendum to the Communications System and Services Agreement or other previously executed Agreement currently in force, as applicable ("Primary Agreement") provides additional or different terms and conditions to govern the sale of Maintenance, Support and SUA II services. The terms in this Addendum are integral to and incorporated into the Primary Agreement signed by the Parties.

### 1. DEFINITIONS

All capitalized terms not otherwise defined herein shall have the same meaning as defined in the Primary Agreement.

"SUA" or "SUA II" means Motorola's Software Upgrade Agreement program.

### 2. SCOPE

Motorola will provide Maintenance and Support Services and/or SUA Services as further described in the applicable Statement of Work, or attachment to Motorola's proposal for additional services.

### 3. TERMS AND CONDITIONS

The terms of the Primary Agreement combined with the terms of this Addendum will govern the products and services offered pursuant to this Addendum. To the extent there is a conflict between the terms and conditions of the Primary Agreement and the terms and conditions of this Addendum, this Addendum takes precedence.

#### 3.1 MAINTENANCE AND SUPPORT SERVICES

3.1.1 PURCHASE ORDER ACCEPTANCE. Purchase orders for additional, continued, or expanded maintenance and software support, during the Warranty Period or after the Warranty Period, become binding only when accepted in writing by Motorola.

3.1.2 START DATE. The "Start Date" for Maintenance and Support Services will be upon completion of the System Upgrade.

3.1.3 AUTO RENEWAL. Unless the cover page or SOW specifically states a termination date or one Party notifies the other in writing of its intention to discontinue the Services, this Agreement will renew for an additional one (1) year term on every anniversary of the Start Date. At the anniversary date, Motorola may adjust the price of the Services to reflect the renewal rate.

3.1.4 TERMINATION. Written notice of intent to terminate must be provided thirty (30) days or



more prior to the anniversary date. If Motorola provides Services after the termination or expiration of this Addendum, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and Customer agrees to pay for those services on a time and materials basis at Motorola's then effective hourly rates.

3.1.5 EQUIPMENT DEFINITION. For maintenance and support services, Equipment will be defined to mean the hardware specified in the applicable SOW or attachments to the maintenance and support proposal.

3.1.6 ADDITIONAL HARDWARE. If Customer purchases additional hardware from Motorola that becomes part of the System, the additional hardware may be added to this Addendum and will be billed at the applicable rates after the warranty period for that additional equipment expires. Such hardware will be included in the definition of Equipment.

3.1.7 MAINTENANCE. Equipment will be maintained at levels set forth in the manufacturer's product manuals and routine procedures that are prescribed by Motorola will be followed. Motorola parts or parts of equal quality will be used for Equipment maintenance.

3.1.8 EQUIPMENT CONDITION. All Equipment must be in good working order on the Start Date or when additional equipment is added to the Addendum. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment. Customer must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. Customer's obligation to pay maintenance and support fees for this Equipment will terminate at the end of the month in which Motorola receives the written notice. If Equipment cannot, in Motorola's reasonable opinion, be properly or economically maintained for any reason, Motorola may modify the scope of Services related to that Equipment; remove that Equipment from the Agreement; or increase the price to maintain that Equipment.

3.1.9 EQUIPMENT FAILURE. Customer must promptly notify Motorola of any Equipment failure. Motorola will respond to Customer's notification in a manner consistent with the level of Service purchased as indicated in this Addendum and applicable SOW.

3.1.10 INTRINSICALLY SAFE. Customer must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.

3.1.11 EXCLUDED SERVICES.

a) Service excludes the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.

b) Unless specifically included in this Addendum, Service excludes items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes.;



upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.

3.1.12 TIME AND PLACE. Service will be provided at the location specified in this Addendum and/or the SOW. When Motorola performs maintenance, support, or installation at Customer's location, Customer will provide Motorola, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. Waivers of liability from Motorola or its subcontractors will not be imposed as a site access requirement. Customer will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Addendum or applicable SOW, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Addendum or applicable SOW, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services, Customer agrees to reimburse Motorola for those charges and expenses.

3.1.13 CUSTOMER CONTACT. Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable Customer's personnel to maintain contact, as needed, with Motorola.

### 3.2 **SUA SERVICES**

3.2.1 The Software License Agreement included as Exhibit A to the Primary Agreement applies to any Motorola Software provided as part of the SUA transactions.

3.2.2 The term of this Addendum is 2 years, commencing upon completion of the System Upgrade. The SUA Price for the 2 years of services is \$385,730 excluding applicable sales or use taxes but including discounts as more fully set forth in the pricing pages.

3.2.3 The System upgrade will be scheduled during the subscription period and will be performed when Motorola's system upgrade operation resources are available. Because there might be a significant time frame between when this Addendum is executed and when a System upgrade transaction is performed, Motorola may substitute any of the promised Equipment or Software so long as the substitute is equivalent or superior to the initially promised Equipment or Software.

3.2.4 Acceptance of a SUA transaction occurs when the Equipment (if any) and Software are delivered and the SUA services are fully performed; there is no Acceptance Testing with a SUA transaction.



3.2.5 The Warranty Period for any Equipment or Motorola Software provided under a SUA transaction will commence upon shipment and not on System Acceptance or Beneficial Use, and is for a period of ninety (90) days rather than one (1) year. The ninety (90) day warranty for SUA services is set forth in the SUA Statement of Work.

3.2.6 In addition to the description of the SUA services and exclusions provided in the SUA Statement of Work, the following apply:

- a) Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment.
- b) SUA services exclude the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.
- c) Unless specifically included in this Addendum or the SUA Statement of Work, SUA services exclude items that are consumed in the normal operation of the Equipment; accessories; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.
- d) Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available during the performance of the SUA services.

3.2.7 The SUA annualized price is based on the fulfillment of the two year cycle. If Customer terminates this service during a two year cycle, except for Motorola's default, then Customer will be required to pay for the balance of payments owed for the two year cycle if a major system release has been implemented before the point of termination.

3.2.8 INTENTIONALLY OMITTED.

3.2.9 INTENTIONALLY OMITTED.

Belmont County  
August 2, 2019

4. ENTIRE AGREEMENT. This Addendum, any related attachments, and the Primary Agreement, constitutes the entire agreement of the Parties regarding the subject matter of this Addendum and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Addendum may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase or purchase order, acknowledgment or other form will not be considered an amendment or modification of this Addendum, even if a representative of each Party signs that document.

The Parties hereby enter into this Addendum as of the Effective Date.

Motorola Solutions, Inc.  
By: [Signature]  
Name: Robert J. Rummel  
Title: Vice President MSSSI  
Date: 9/6/19

Customer   
By: [Signature]  
Name: JOSH MEYER, JERRY ECHEMANN, J.P. DUTTON  
Title: BELMONT COUNTY COMMISSIONERS  
Date: 9-11-19

System Upgrade, 2 CH Expansion, IMW & ALIAS Group Download

Use or disclosure of this proposal is subject to the restrictions on the cover page.

 Motorola Solutions Confidential Restricted

Contractual Documentation 7-28

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Echemann	Yes
Mr. Dutton	Yes

**IN THE MATTER OF APPROVING THE PURCHASE OF PERFORMANCE OF SERVICES CONTRACT BETWEEN BCDJES AND KATHERINE KING/FAMILY TEAM MEETING**

Motion made by Mr. Meyer, seconded by Mr. Echemann to approve and sign the Purchase of Performance of Services contract between Belmont County Department of Job and Family Services and Katherine King in an amount not to exceed \$13,500.00, effective October 1, 2019 through June 30, 2020, to provide Family Team Meeting services for the Children Services Division.

**BELMONT COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES  
Purchase of the Performance of Services Contract  
Family Team Meeting Facilitator**

Whereas, this contract, entered into on this 11<sup>th</sup> day of September, 2019, by and between the Belmont County Department of Job and Family Services (hereinafter "Purchaser") and Katherine King (hereinafter "Contractor"), is for the purchase of the performance of the following services: Family Team Meeting Facilitation that meets the policies of the Belmont County Department of Job and Family Services and the standards and requirements stated in this agreement.

**I PURPOSE**

The purpose of this contract is to provide Family Team Meeting services to Belmont County Department of Job and Family Services, Children Services Division of Belmont County. Eligible families are those eligible as determined by the Purchaser.

**II PARTIES**

The parties to this agreement are as follows:

- Purchaser:** The Belmont County Department of Job and Family Services  
68145 Hammond Road  
St. Clairsville, OH 43950  
740-695-1075
- Contractor:** Katherine King  
47750 Watson Road  
St. Clairsville, OH 43950

**III CONTRACT PERIOD**

This contract and its terms are effective October 1, 2019 to June 30, 2020.

**IV DEFINITIONS**

The following words, phrases and terms, when used in this contract, are limited to the following definitions:

Allowable Costs

Those costs which are necessary, reasonable, allocable and allowable under applicable Federal, State, and local law for the proper administration and performance of services to customers.

Participants

A participant is an individual who has been determined to be eligible to participate in and who is receiving services through the Children Services Department.

Performance

Performance by the Contractor under this contract is described more thoroughly in Article V, but includes meeting all service, performance reporting and evaluation and monitoring requirements as well as all performance standards stated herein.

Proportional payment

Proportional payment would occur at Purchaser’s choice in the event the Contractor fails to perform as stated in the contract. It would require a formal modification of this contract and would entail a reduction in payment directly proportionate to the degree to which the Contractor has failed to perform. Proportional payment is not the only manner in which this contract can be modified in the event of the Contractor’s breach, and its inclusion in this Article in no manner binds the Purchaser to this remedy in the event of the Contractor’s failure of performance.

Services

Services by the Contractor under this contract include all those outlined in Article V and include all services, performance reporting and evaluation and monitoring responsibilities as well as meeting all performance standards stated herein.

**V SCOPE OF WORK**

Subject to the terms and conditions as set forth in this document and incorporated attachments, the Contractor and Purchaser agree to perform the following services to the level of performance as herein stated:

**A. Contractor Responsibilities**

B. Contractor will facilitate assigned meetings that will be held over the entire period of ongoing services, beginning with a meeting within 30 days of case transfer to ongoing services, and with additional meetings at critical events if deemed appropriate by Agency management staff. Family Team Meetings are to be scheduled at a minimum every ninety (90) days until permanent custody or case closure.

1. Trained facilitators are contractors of the Agency and do not have direct line responsibility for the case.
2. Facilitator cannot have immediate active involvement with the family prior to assignment.
3. Contractor responsibilities include: arranging the meetings, helping assure participants attend and know what to expect, and supporting the family in the meetings and in preparing for them.
4. The Family Team Meeting process includes at least these components: agenda, introduction, information sharing, planning, establishing and maintaining direction, and decision process.
5. Contractor agrees to provide agency with an emergency contact number.
6. Contractor agrees that all records, documents and client records processed by provider under this contract are confidential and shall be handled per applicable guidelines.
7. Contractor agrees that she will not use any information or records created under this contract for any purpose other than to fulfill the contractual duties specified within this contract.
8. Contractor shall meet all service requirements of this contract.
9. Contractor’s failure to perform services as required herein is a breach of this contract, thus triggering Purchaser’s right to terminate, cancel, rescind, and modify this contract as well as Purchaser’s right to remuneration and repayment for any funds paid pursuant to this contract for services not performed as required herein.

B. Contractor shall comply with all performance reporting and monitoring procedures, as stated in this contract. Contractor’s failure to comply with this mandatory reporting and monitoring will be a breach of this contract, thus triggering Purchaser’s right to terminate, cancel, rescind, and modify this contract as well as Purchaser’s right to remuneration and repayment for any funds paid pursuant to this contract for services not performed up to the standards as stated herein.

**C. Purchaser Responsibilities**

1. Purchaser will refer eligible families to the contractor.
2. Purchaser will provide the room and supplies necessary for the Family Team Meetings to occur.
3. Purchaser will monitor Contractor’s activities pursuant to this contract to ensure they are compliant with service requirements, performance standards and reporting and monitoring, as included in this contract.

**D. Performance Standards**

To reach the outcome and purpose stated herein, performance of services under this contract must meet the following standards:

Contractor will schedule and facilitate first Family Team Meeting within 30 days of the initial referral. Subsequent meetings will be held with each family at least every 90 days until the case closes or there is permanent custody.

**E. Performance Reporting**

1. Contractor will complete monthly billing and provide to the Purchaser an itemized invoice for services provided and incorporated into this agreement. These reports are due on the 10<sup>th</sup> of the following month and will include all required information for the entire prior month, from the 1<sup>st</sup> to the last day of that month.
2. Agency agrees to compensate contractor (\$32) thirty-two dollars for each billable hour. Billable hours include: arranging, attending, documenting, travel for required training and ancillary meetings.
3. Agency agrees to reimburse for meals and lodging in accordance with agency’s Travel Allowance policy.
4. Agency agrees to reimburse Contractor mileage per IRS code for travel for attendance at trainings and meetings for the purpose of Family Team Meetings.
5. Monthly bill will be submitted as follows:

Date	Family	Start Time	End Time	Total Hours	X \$32	Total
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6. Upon mutual agreement between the Purchaser and the Contractor, the Contractor may submit fiscal and performance reports that are a different layout than those shown in this agreement as long as the correct, required information is provided. Failure of Contractor to deliver all required performance reports by the time stated in this article will be a breach of this contract, thus subjecting the agreement to termination, cancellation, remuneration, repayment, rescission, and modification, at Purchaser’s discretion.

**F. Evaluation and Monitoring**

Purchaser shall periodically evaluate Contractor’s performance of its duties as expressed in this contract. Periodic evaluation may include but is not limited to both off - and on-site activities including file inspection, program observation, and participant and trainer interviews and focus groups. Purchaser will provide Contractor with notice prior to any evaluation or monitoring activity. Contractor’s compliance with evaluation and monitoring requirements is part of its required performance of this contract. Contractor’s failure to comply with its evaluation and monitoring duties and failure to respond to any monitoring reports will be a breach of this contract, triggering Purchaser’s rights of termination, cancellation, rescission, modification, remuneration and repayment.

**VI AVAILABILITY OF FUNDS**

Payments for performance of services provided pursuant to this agreement are contingent upon the continued availability of funds. In no event shall the amount of reimbursement to Contractor under the terms of this contract exceed **\$13,500**. All financial obligations of Purchaser under this contract are subject to federal and Ohio funding levels consistent with the fiscal year.

**VII ALLOWABLE COSTS**

Purchaser will reimburse only for those costs authorized under applicable federal, Ohio and local laws and policies.

**VIII BILLING, PAYMENT AND COSTS**

Invoices will be submitted each month by the Contractor no later than the 10<sup>th</sup> day of the following month. Failure to submit this information on time may be a breach of this contract. Purchaser will review the invoices for completeness and accuracy before making payments. Accurate and complete invoices are payable within thirty (30) days of receipt or as soon as the Belmont County Auditor processes the payment.

Reasons for denial of payment include but are not limited to: failure to meet service requirements, failure to meet performance standards, failure to meet performance reporting requirements and failure to meet evaluation and monitoring requirements. In the event the Contractor fails to perform as required in this contract, Purchaser may choose to modify this contract so that proportional payment, as defined in Article IV, is made.

The following cost schedule is based upon performing the services herein described.

ACTIVITY	TOTAL COST
Contractor Payments for Facilitation	\$13,125
Travel and Expense	\$375
<b>TOTAL COST:</b>	<b>\$13,500</b>
<b>MAXIMUM PROTECT OHIO AUTHORIZED REIMBURSEMENT AMOUNT:</b>	<b>\$13,500</b>

**IX DUPLICATE BILLING**

Contractor warrants that claims made to Purchaser for payment shall be for performance of actual services rendered to eligible individuals and shall not duplicate claims made by Contractor to other sources of funds, public or private, for the same services. Nothing in this provision shall be interpreted to prohibit use of multiple sources of funds, public or private, to serve participants, as long as each service is not paid for more than once.

**X AUDIT RESPONSIBILITY AND REPAYMENT**

Contractor is responsible for receiving, replying to and complying with any audit exception by federal, State of Ohio, or local audit directly related to the performance of this contract. Audits may be conducting using a “sampling” method. Areas to be reviewed using this method may include but are not limited to months, expenses, total units and billable units. If errors are found, the error rate of the sample will be applied to the entire audit.

Contractor agrees to repay Purchaser the entire amount of any payment received for duplicate or erroneous billings and for false or deceptive claims. When an overpayment is identified it must be repaid within one (1) month. If repayment within one (1) month cannot be made, Contractor will sign a Repayment of Funds Agreement. Furthermore, Purchaser may withhold payment and take any other legal action it deems appropriate for recovering any money erroneously paid under this contract, if evidence exists of less than complete compliance with the provisions of this contract. If checks are withheld pending repayment by Contractor of erroneously paid funds, those checks held more than sixty (60) days will be canceled and will not be re-issued. Purchaser, at its sole discretion, may allow a change in the terms of repayment. Such change will require an amendment to the Repayment of Funds Agreement.

**XI DISPOSITION OF ASSETS**

Assets purchased under this agreement shall be the property of Purchaser and shall be delivered to Purchaser when the term of this contract expires.

**XII WARRANTY**

Contractor warrants that its services shall be performed in a professional and work like manner in accordance with applicable professional standards.

**XIII INSURANCE**

Contractor shall comply with the laws of the State of Ohio with respect to insurance coverage.

**XIV NOTICE**

Notice as required under this agreement shall be sufficient if it is by certified mail, return receipt requested, provided that such notice states that it is a formal notice related to this contract.

**XV AVAILABILITY AND RETENTION OF RECORDS**

In addition to the responsibilities delineated in other articles, Contractor is specifically required to retain and make available to Purchaser all records relating to the performance of services under this contract, including all supporting documentation necessary for audit by Purchaser, the State of Ohio (including but not limited to the Ohio Department of Job and Family Services, the Auditor of the State of Ohio, Inspector General or other duly appointed law enforcement officials) and agencies of the United States Government for at least three (3) years after payment under this agreement. If an audit is initiated during this time period, Contractor shall retain such records until the audit is concluded and all issues are resolved.

**XVI CONFIDENTIALITY**

Contractor agrees to comply with all federal and state laws applicable to Purchaser and its consumers concerning the confidentiality of its consumers. Contractor understands that any access to the identities of such consumers shall only be provided as is necessary for the purpose of performing its responsibilities under this contract. Contractor understands that the use or disclosure of information concerning Purchaser’s consumers for any purpose not directly related to the performance of this contract is prohibited.

**XVII CONFLICT OF INTEREST AND DISCLOSURE**

Nothing in this contract precludes, prevents or restricts Contractor from obtaining and operating under other agreements with parties other than Purchaser, as long as this other work does not interfere with Contractor’s performance of services under this contract. Contractor warrants that at the time of executing this contract, it has no interest in and never shall it acquire any interest, direct or otherwise, in any agreement which will impede its ability to perform as provided in this agreement. Contractor further avers that no financial interest was involved on the part of any of Purchaser’s offices, Board of County Commissioners or other county employees involved in the negotiation of this agreement or the development of its provisions. Furthermore, Contractor has no knowledge of any situation that would be a conflict of interest. It is understood that a conflict of interest occurs when an employee of Purchaser will gain financially or receive personal favors as a result of the signing or implementation of this contract. Contractor will report the discovery of any potential conflict of interest to Purchaser. Should a conflict of interest be discovered during the term of this contract, Purchaser may exercise any of its rights under this contract including termination, cancellation, rescission, remuneration, repayment and modifications. Contractor hereby covenants that it has disclosed any information that it possesses about any business relationship or

financial interest that it has with a county employee, employee's business or any business relationship or financial interest that a County employee has with Contractor or in its business.

**XVIII COMPLIANCE**

Contractor certifies that all who perform services, directly or indirectly, under this contract, including Contractor and all approved subcontractors, shall comply with all federal laws and regulations, including applicable OMB circulars, Ohio laws and regulations, including Ohio Administrative Code rules and all provisions of the BCDJFS's policy in the performance of work under this contract. Contractor accepts full responsibility for payment of any and all unemployment compensation premiums, all income tax deductions, pension deductions, and any and all other taxes or payroll deductions required for the performance of the work required hereunder by Contractor's employees. Contractor shall obtain all necessary approval, licenses or other qualifications necessary to conduct business in the State of Ohio prior to the effective date of this contract or this contract shall be void as of that date.

**XIX RELATIONSHIP**

Nothing in this contract is intended, or shall be interpreted, to constitute a partnership, association or joint venture between Contractor and Purchaser. Contractor will at all times have the status of independent contractor without the right or authority to impose tort, contractual or any other liability on Purchaser, the Belmont County Board of Commissioners and the BCDJFS.

**XX ASSIGNMENTS**

Contractor shall not assign this contract without express, prior, written approval of Purchaser.

**XXI SUBCONTRACTS**

Contractor shall not subcontract the performance of services agreed to in this contract, or any part thereof, without the express, prior, written approval of Purchaser. In the event Purchaser approves of a subcontract of all or part of the performance required herein, Contractor shall remain solely responsible for all performance hereunder, including delivering services, reporting performance and assisting with evaluation and monitoring, as described in this contract. Contractor is solely responsible for making payments to any and all subcontractors for any services they may provide hereunder. Any subcontractors are subject to all terms, conditions and covenants contained in this contract.

**XXII INTEGRATION, MODIFICATION AND AMENDMENT**

This instrument is the entire contract between the parties and no covenants, terms, conditions or obligations exist other than those contained herein. This Contract supersedes all previous communications, representations or writings, including other contracts, written or oral, between the parties.

Any modification or amendment to this contract shall be done in writing executed by all parties to this contract, including any modification involving proportional payment for services performed below the standards stated in this contract.

**XXIII TERMINATION**

This contract may be terminated by either party upon notice in writing delivered upon the other party prior to the effective date of termination. Should Contractor wish to terminate this contract, notice to Purchaser must be delivered thirty (30) days prior to the effective date of the termination. Any funds paid under this contract for services to be performed after the date of termination shall be repaid in accordance with Article X of this agreement.

**XXIV BREACH OF CONTRACT**

Should either party fail to perform as required under this contract, that failure of performance shall be a breach of this contract and will trigger the other party's rights of termination, cancellation, remuneration, repayment, rescission and modification, as defined herein and at the non-breaking party's discretion. Although in the event of breach, the non-breaking party has the right to terminate, cancel, rescind, modify and demand remuneration and/or repayment (as applicable), the non-breaking party is not required to avail itself of any of these rights and may choose to continue the contract, at its discretion.

**XXV WAIVER**

Any waiver of any provision or condition of this contract shall not be construed or deemed to be a waiver of any provision or condition of this contract, nor a waiver of a subsequent breach of the same provision or conditions.

**XXVI INDEMNIFICATION**

Contractor agrees to protect, defend, indemnify and hold free and harmless Purchaser, its officers, employees and agents, the Belmont County Board of County Commissioners and the BCDJFS against any and all losses, penalties, damages, settlements, costs or liabilities or every kind arising out of or in connection with any acts or omissions, negligent or otherwise, of Contractor, its officers, agents, employees and independent contractors.

Contractor shall pay all damages, costs and expenses of Purchaser, its officers, agents and employees, the Belmont County Board of Commissioners and the Workforce Investment Area 16 Workforce Investment Board.

**XXVII GOVERNING LAW AND FORUM**

This contract and any modifications and amendments thereto shall be governed by, and construed under, the laws of the State of Ohio. Any legal action brought pursuant to this contract shall be filed in the courts of Belmont County, Ohio.

**XXVIII SEVERABILITY**

If any term or provision of this contract or its application to any person or circumstance is held to be invalid or unenforceable, the remainder of this contract and its application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term and provision of this contract shall be valid and enforced to the fullest extent permitted by law.

**XXIX NON-DISCRIMINATION**

Contractor certifies it is an equal opportunity employer and shall remain in compliance with federal and Ohio civil rights and non-discrimination laws and regulations including but not limited to Titles VI and VII of the Civil Rights Act of 1964 as amended, Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967, and as supplemented in the Department of Labor regulations (41 CFR Chapter 60), the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act of 1975, the Age Discrimination Employment Act as amended and Ohio Civil Rights Laws.

During performance of this contract, Contractor will not discriminate against any employee, contract worker or applicant for employment on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief or place of birth. Contractor shall take affirmative action to ensure that during employment all employees and contract workers are treated without regard to race, color, religion, sex, sexual orientation, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief or place of birth. Such action shall include but not be limited to employment, promotion, demotion, transfer, recruitment, recruitment advertising, layoff termination, rates of pay or other forms of compensation and selection for training including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices stating that Contractor complies with all applicable federal and Ohio non-discrimination laws. Contractor, or any person claiming through Contractor, agrees not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this contract, or in reference to any contractors or subcontractors of Contractor.

**XXX CHILD SUPPORT ENFORCEMENT**

Contractor agrees to cooperate with Purchaser, ODJFS and any other child support enforcement agency in ensuring that Contractor's employees meet child support obligations established under Ohio law. Furthermore, by executing this contract, Contractor certifies present and future compliance with any order for withholding support which is issued pursuant to the Ohio Revised Code.

**XXXI PUBLIC ASSISTANCE WORK PROGRAM CUSTOMERS**

In compliance with the Ohio Revised Code, Contractor agrees not to discriminate against customers of the Ohio Works First Program in either hiring or promoting. Contractor agrees to include this provision in any contract, subcontract, grant or procedure with any other party that will be providing services, directly or indirectly, to Purchasers' Ohio Works First customers.

**XXXII DRUG-FREE WORKPLACE**

Contractor will comply with all applicable state and federal laws regarding a drug-free workplace. Contractor will make a good faith effort to ensure that all employees performing duties or responsibilities under this contract while working will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

**XXXIII COPELAND “ANTI-KICKBACK” ACT**

Contractor will comply with 18 U.S.C. 874 as supplemented in the Department of Labor regulations 29 CFR Part 5.

**XXXIV DAVIS-BACON ACT**

Contractor will comply with 40 U.S.C. 276a to 276a-7 as supplemented by Department of Labor regulations 29 CFR Part 5.

**XXXV CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

Contractor will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 327-330 as supplemented by the Department of Labor regulations 29 CFR Part 5.

**XXXVI PUBLIC RECORDS**

This contract is a matter of public record under the laws of Ohio. Contractor agrees to make copies of this contract promptly available to the requesting party.

**XXXVII CLEAN AIR ACT**

Contractor shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h), section 508 of the Clean Air Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

**XXXVIII ENERGY EFFICIENCY**

Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

**XXXIX COPYRIGHTS AND RIGHTS IN DATA**

Contractor shall comply with all applicable standards, orders or requirements issued under Title 17, U.S.C. (Pub. L. 94-553, title I, Sec. 101, Oct. 19, 1976, 90 Stat. 2544; Pub. L. 101-650, title VII, Sec. 703, Dec. 1, 1990, 104 Stat. 5133.

**XL PATENT RIGHTS**

Contractor shall comply with all applicable standards, orders or requirements issued under Chapter 18 of Title 35, U.S.C. (Pub. L. 95-517, Pub. L. 98-620, 37 CFR part 401), Presidential Memorandum on Government Patent Policy to the Heads of Executive Department and Agencies dated February 18, 1983, and Executive Order 12591.

**XLI PROCUREMENT**

Contractor will follow required procurement policies and laws as applicable and as advised by the Purchaser.

**SIGNATURES**

<u>Vince Gianangeli /s/</u>	9-4-19
<b>Vince Gianangeli, Director</b>	<b>Date</b>
<b>Belmont County Department of Job and Family Services</b>	
<u>J. P. Dutton /s/</u>	9/11/19
<b>J. P. Dutton, Belmont County Commissioner</b>	<b>Date</b>
<u>Josh Meyer /s/</u>	9/11/19
<b>Josh Meyer, Belmont County Commissioner</b>	<b>Date</b>
<u>Jerry Echemann /s/</u>	9/11/19
<b>Jerry Echemann, Belmont County Commissioner</b>	<b>Date</b>
<u>Katherine King /s/</u>	8-30-19
<b>Katherine King</b>	<b>Date</b>
<u>David K. Liberati /s/ Assist P.A.</u>	9-10-19
<b>Approved as to form:</b>	<b>Date</b>
<b>Belmont County Prosecutor</b>	

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Echemann	Yes
Mr. Dutton	Yes

**IN THE MATTER OF APPROVING THE PURCHASE OF PERFORMANCE OF SERVICES CONTRACT BETWEEN BCDJFS AND KATHERINE KING/KINSHIP SUPPORT**

Motion made by Mr. Meyer, seconded by Mr. Echemann to approve and sign the Purchase of Performance of Services contract between Belmont County Department of Job and Family Services and Katherine King in an amount not to exceed \$13,500.00, effective October 1, 2019 through June 30, 2020, to provide Kinship Support Services for the Children Services Division.

**BELMONT COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES  
Purchase of the Performance of Services Contract  
Kinship Support Services**

**Whereas**, this contract, entered into on this 11<sup>th</sup> day of September, 2019, by and between the Belmont County Department of Job and Family Services (hereinafter “Purchaser”) and Katherine King (hereinafter “Contractor”), is for the purchase of the performance of the following services: Kinship Support Services that meet the policies and regulations promulgated there under of the Belmont County Department of Job and Family Services and the standards and requirements stated in this agreement.

**I PURPOSE**

The purpose of this contract is to provide Kinship Home Studies to Belmont County Department of Job and Family Services, Children Services Division of Belmont County. Eligible families are those eligible as determined by the Purchaser.

**II PARTIES**

The parties to this agreement are as follows:

**Purchaser:** The Belmont County Department of Job and Family Services  
68145 Hammond Road  
St. Clairsville, OH 43950  
740-695-1075

**Contractor:** Katherine King  
47750 Watson Road  
St. Clairsville, OH 43950

**III CONTRACT PERIOD**

This contract and its terms will become effective on October 1, 2019. No services shall be provided pursuant to this contract prior to its execution by all parties. The termination date of this contract is June 30, 2020.

**IV DEFINITIONS**

The following words, phrases and terms, when used in this contract, are limited to the following definitions:

Allowable Costs

Those costs which are necessary, reasonable, allocable and allowable under applicable Federal, State, and local law for the proper administration and performance of services to customers.

Participants

A participant is an individual who has been determined to be eligible to participate in and who is receiving services through the Children Services Department.

Performance



Performance by the Contractor under this contract is described more thoroughly in Article V, but includes meeting all service, performance reporting and evaluation and monitoring requirements as well as all performance standards stated herein.

Proportional payment

Proportional payment would occur at Purchaser's choice in the event the Contractor fails to perform as stated in the contract. It would require a formal modification of this contract and would entail a reduction in payment directly proportionate to the degree to which the Contractor has failed to perform. Proportional payment is not the only manner in which this contract can be modified in the event of the Contractor's breach, and its inclusion in this Article in no manner binds the Purchaser to this remedy in the event of the Contractor's failure of performance.

Services

Services by the Contractor under this contract include all those outlined in Article V and include all services, performance reporting and evaluation and monitoring responsibilities as well as meeting all performance standards stated herein.

**V SCOPE OF WORK**

Subject to the terms and conditions as set forth in this document and incorporated attachments, the Contractor and Purchaser agree to perform the following services to the level of performance as herein stated:

**A. Contractor Responsibilities**

Contractor will initiate and complete Kinship home studies as assigned by Program Administrator. Home studies will be completed using format approved by the Agency. Home studies will be completed within 30 days of referral, unless due to circumstances beyond control of Contractor.

Contractor does not have direct line responsibility for the case.

Contractor agrees to provide agency with an emergency contact number.

Contractor agrees that all records, documents and client records processed by provider under this contract are confidential and shall be handled per applicable guidelines.

Contractor agrees that she will not use any information or records created under this contract for any purpose other than to fulfill the contractual duties specified within this contract.

Contractor shall meet all service requirements of this contract.

Contractor's failure to perform services as required herein is a breach of this contract, thus triggering Purchaser's right to terminate, cancel, rescind, and modify this contract as well as Purchaser's right to remuneration and repayment for any funds paid pursuant to this contract for services not performed as required herein.

- D.** Contractor shall comply with all performance reporting and monitoring procedures, as stated in this contract. Contractor's failure to comply with this mandatory reporting and monitoring will be a breach of this contract, thus triggering Purchaser's right to terminate, cancel, rescind, and modify this contract as well as Purchaser's right to remuneration and repayment for any funds paid pursuant to this contract for services not performed up to the standards as stated herein

**Purchaser Responsibilities**

1. Purchaser will refer eligible families to the contractor.

2. Purchaser will monitor Contractor's activities pursuant to this contract to ensure they are compliant with service requirements, performance standards and reporting and monitoring, as included in this contract.

**D. Performance Standards**

To reach the outcome and purpose stated herein, performance of services under this contract must meet the following standards:

Contractor will schedule and complete home studies within 30 days. Contractor will provide documentation of the home study on forms mandated by the state of Ohio.

**E. Performance Reporting**

1. Contractor will complete monthly billing and provide to the Purchaser an itemized invoice for services provided and incorporated into this agreement. These reports are due on the 10<sup>th</sup> of the following month and will include all required information for the entire prior month, from the 1<sup>st</sup> to the last day of that month.
2. Agency agrees to compensate contractor (\$32) thirty-two dollars for each billable hour. Billable hours include: phone and direct contact with Kinship Caregiver, collateral contacts, case review and travel time.
3. Agency agrees to reimburse for meals and lodging in accordance with agency's Travel Allowance policy.
4. Agency agrees to reimburse Contractor the federal reimbursable rate for travel for home visits and for attendance at trainings and meetings for the purpose of Kinship Support Services. Contractor will use agency expense form.
5. Hours billed will not exceed 10 hours per week, or 18 hours on weeks when a training is scheduled.
6. Monthly bill will be submitted as follows:

Date	Family	Start Time	End Time	Total Hours	X \$32	Total

7. Upon mutual agreement between the Purchaser and the Contractor, the Contractor may submit fiscal and performance reports that are a different layout than those shown in this agreement as long as the correct, required information is provided. Failure of Contractor to deliver all required performance reports by the time stated in this article will be a breach of this contract, thus subjecting the agreement to termination, cancellation, remuneration, repayment, rescission, and modification, at Purchaser's discretion.

**F. Evaluation and Monitoring**

Purchaser shall periodically evaluate Contractor's performance of its duties as expressed in this contract. Periodic evaluation may include but is not limited to both off - and on-site activities including file inspection, program observation, and participant and trainer interviews and focus groups. Purchaser will provide Contractor with notice prior to any evaluation or monitoring activity. Contractor's compliance with evaluation and monitoring requirements is part of its required performance of this contract. Contractor's failure to comply with its evaluation and monitoring duties and failure to respond to any monitoring reports will be a breach of this contract, triggering Purchaser's rights of termination, cancellation, rescission, modification, remuneration and repayment.

**VI AVAILABILITY OF FUNDS**

Payments for performance of services provided pursuant to this agreement are contingent upon the continued availability of funds. In no event shall the amount of reimbursement to Contractor under the terms of this contract exceed **\$13,500**.

All financial obligations of Purchaser under this contract are subject to federal and Ohio funding levels consistent with the fiscal year.

**VII ALLOWABLE COSTS**

Purchaser will reimburse only for those costs authorized under applicable federal, Ohio and local laws and policies.

**VIII BILLING, PAYMENT AND COSTS**

Invoices will be submitted each month by the Contractor no later than the 10<sup>th</sup> day of the following month. Failure to submit this information on time may be a breach of this contract. Purchaser will review the invoices for completeness and accuracy before making payments. Accurate and complete invoices are payable within thirty (30) days of receipt or as soon as the Belmont County Auditor processes the payment.

Reasons for denial of payment include but are not limited to: failure to meet service requirements, failure to meet performance standards, failure to meet performance reporting requirements and failure to meet evaluation and monitoring requirements.

In the event the Contractor fails to perform as required in this contract, Purchaser may choose to modify this contract so that proportional payment, as defined in Article IV, is made.

The following cost schedule is based upon performing the services herein described.

ACTIVITY	TOTAL COST

Contractor Payments for Facilitation	\$12,000
Travel and Expense	\$1,500
<b>TOTAL COST:</b>	<b>\$13,500</b>
<b>MAXIMUM PROTECT OHIO AUTHORIZED REIMBURSEMENT AMOUNT:</b>	<b>\$13,500</b>

**IX DUPLICATE BILLING**

Contractor warrants that claims made to Purchaser for payment shall be for performance of actual services rendered to eligible individuals and shall not duplicate claims made by Contractor to other sources of funds, public or private, for the same services. Nothing in this provision shall be interpreted to prohibit use of multiple sources of funds, public or private, to serve participants, as long as each service is not paid for more than once.

**X AUDIT RESPONSIBILITY AND REPAYMENT**

Contractor is responsible for receiving, replying to and complying with any audit exception by federal, State of Ohio, or local audit directly related to the performance of this contract.

Audits may be conducted using a "sampling" method. Areas to be reviewed using this method may include but are not limited to months, expenses, total units and billable units. If errors are found, the error rate of the sample will be applied to the entire audit. Contractor agrees to repay Purchaser the entire amount of any payment received for duplicate or erroneous billings and for false or deceptive claims. When an overpayment is identified it must be repaid within one (1) month.

If repayment within one (1) month cannot be made, Contractor will sign a Repayment of Funds Agreement. Furthermore, Purchaser may withhold payment and take any other legal action it deems appropriate for recovering any money erroneously paid under this contract, if evidence exists of less than complete compliance with the provisions of this contract. If checks are withheld pending repayment by Contractor of erroneously paid funds, those checks held more than sixty (60) days will be canceled and will not be re-issued.

Purchaser, at its sole discretion, may allow a change in the terms of repayment. Such change will require an amendment to the Repayment of Funds Agreement.

**XI DISPOSITION OF ASSETS**

Assets purchased under this agreement shall be the property of Purchaser and shall be delivered to Purchaser when the term of this contract expires.

**XII WARRANTY**

Contractor warrants that its services shall be performed in a professional and work like manner in accordance with applicable professional standards.

**XIII INSURANCE**

Contractor shall comply with the laws of the State of Ohio with respect to insurance coverage.

**XIV NOTICE**

Notice as required under this agreement shall be sufficient if it is by certified mail, return receipt requested, provided that such notice states that it is a formal notice related to this contract.

**XV AVAILABILITY AND RETENTION OF RECORDS**

In addition to the responsibilities delineated in other articles, Contractor is specifically required to retain and make available to Purchaser all records relating to the performance of services under this contract, including all supporting documentation necessary for audit by Purchaser, the State of Ohio (including but not limited to the Ohio Department of Job and Family Services, the Auditor of the State of Ohio, Inspector General or other duly appointed law enforcement officials) and agencies of the United States Government for at least three (3) years after payment under this agreement. If an audit is initiated during this time period, Contractor shall retain such records until the audit is concluded and all issues are resolved.

**XVI CONFIDENTIALITY**

Contractor agrees to comply with all federal and state laws applicable to Purchaser and its consumers concerning the confidentiality of its consumers. Contractor understands that any access to the identities of such consumers shall only be provided as is necessary for the purpose of performing its responsibilities under this contract. Contractor understands that the use or disclosure of information concerning Purchaser's consumers for any purpose not directly related to the performance of this contract is prohibited.

**XVII CONFLICT OF INTEREST AND DISCLOSURE**

Nothing in this contract precludes, prevents or restricts Contractor from obtaining and operating under other agreements with parties other than Purchaser, as long as this other work does not interfere with Contractor's performance of services under this contract. Contractor warrants that at the time of executing this contract, it has no interest in and never shall it acquire any interest, direct or otherwise, in any agreement which will impede its ability to perform as provided in this agreement. Contractor further avers that no financial interest was involved on the part of any of Purchaser's offices, Board of County Commissioners or other county employees involved in the negotiation of this agreement or the development of its provisions. Furthermore, Contractor has no knowledge of any situation that would be a conflict of interest. It is understood that a conflict of interest occurs when an employee of Purchaser will gain financially or receive personal favors as a result of the signing or implementation of this contract.

Contractor will report the discovery of any potential conflict of interest to Purchaser. Should a conflict of interest be discovered during the term of this contract, Purchaser may exercise any of its rights under this contract including termination, cancellation, rescission, remuneration, repayment and modifications.

Contractor hereby covenants that it has disclosed any information that it possesses about any business relationship or financial interest that it has with a county employee, employee's business or any business relationship or financial interest that a County employee has with Contractor or in its business.

**XVIII COMPLIANCE**

Contractor certifies that all who perform services, directly or indirectly, under this contract, including Contractor and all approved subcontractors, shall comply with all federal laws and regulations, including applicable OMB circulars, Ohio laws and regulations, including Ohio Administrative Code rules and all provisions of the BCDJFS's policy in the performance of work under this contract. Contractor accepts full responsibility for payment of any and all unemployment compensation premiums, all income tax deductions, pension deductions, and any and all other taxes or payroll deductions required for the performance of the work required hereunder by Contractor's employees.

Contractor shall obtain all necessary approval, licenses or other qualifications necessary to conduct business in the State of Ohio prior to the effective date of this contract or this contract shall be void as of that date.

**XIX RELATIONSHIP**

Nothing in this contract is intended, or shall be interpreted, to constitute a partnership, association or joint venture between Contractor and Purchaser. Contractor will at all times have the status of independent contractor without the right or authority to impose tort, contractual or any other liability on Purchaser, the Belmont County Board of Commissioners and the BCDJFS.

**XX ASSIGNMENTS**

Contractor shall not assign this contract without express, prior, written approval of Purchaser.

**XXI SUBCONTRACTS**

Contractor shall not subcontract the performance of services agreed to in this contract, or any part thereof, without the express, prior, written approval of Purchaser.

In the event Purchaser approves of a subcontract of all or part of the performance required herein, Contractor shall remain solely responsible for all performance hereunder, including delivering services, reporting performance and assisting with evaluation and

monitoring, as described in this contract. Contractor is solely responsible for making payments to any and all subcontractors for any services they may provide hereunder. Any subcontractors are subject to all terms, conditions and covenants contained in this contract.

**XXII INTEGRATION, MODIFICATION AND AMENDMENT**

This instrument is the entire contract between the parties and no covenants, terms, conditions or obligations exist other than those contained herein. This Contract supersedes all previous communications, representations or writings, including other contracts, written or oral, between the parties.

Any modification or amendment to this contract shall be done in writing executed by all parties to this contract, including any modification involving proportional payment for services performed below the standards stated in this contract.

**XXIII TERMINATION**

This contract may be terminated by either party upon notice in writing delivered upon the other party prior to the effective date of termination. Should Contractor wish to terminate this contract, notice to Purchaser must be delivered thirty (30) days prior to the effective date of the termination. Any funds paid under this contract for services to be performed after the date of termination shall be repaid in accordance with Article X of this agreement.

**XXIV BREACH OF CONTRACT**

Should either party fail to perform as required under this contract, that failure of performance shall be a breach of this contract and will trigger the other party's rights of termination, cancellation, remuneration, repayment, rescission and modification, as defined herein and at the non-breaking party's discretion. Although in the event of breach, the non-breaking party has the right to terminate, cancel, rescind, modify and demand remuneration and/or repayment (as applicable), the non-breaking party is not required to avail itself of any of these rights and may choose to continue the contract, at its discretion.

**XXV WAIVER**

Any waiver of any provision or condition of this contract shall not be construed or deemed to be a waiver of any provision or condition of this contract, nor a waiver of a subsequent breach of the same provision or conditions.

**XXVI INDEMNIFICATION**

Contractor agrees to protect, defend, indemnify and hold free and harmless Purchaser, its officers, employees and agents, the Belmont County Board of County Commissioners and the BCDJFS against any and all losses, penalties, damages, settlements, costs or liabilities of every kind arising out of or in connection with any acts or omissions, negligent or otherwise, of Contractor, its officers, agents, employees and independent contractors.

Contractor shall pay all damages, costs and expenses of Purchaser, its officers, agents and employees, the Belmont County Board of Commissioners and the Workforce Investment Area 16 Workforce Investment Board

**XXVII GOVERNING LAW AND FORUM**

This contract and any modifications and amendments thereto shall be governed by, and construed under, the laws of the State of Ohio. Any legal action brought pursuant to this contract shall be filed in the courts of Belmont County, Ohio.

**XXVIII SEVERABILITY**

If any term or provision of this contract or its application to any person or circumstance is held to be invalid or unenforceable, the remainder of this contract and its application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term and provision of this contract shall be valid and enforced to the fullest extent permitted by law.

**XXIX NON-DISCRIMINATION**

Contractor certifies it is an equal opportunity employer and shall remain in compliance with federal and Ohio civil rights and non-discrimination laws and regulations including but not limited to Titles VI and VII of the Civil Rights Act of 1964 as amended, Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967, and as supplemented in the Department of Labor regulations (41 CFR Chapter 60), the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act of 1975, the Age Discrimination Employment Act as amended and Ohio Civil Rights Laws.

During performance of this contract, Contractor will not discriminate against any employee, contract worker or applicant for employment on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief or place of birth. Contractor shall take affirmative action to ensure that during employment all employees and contract workers are treated without regard to race, color, religion, sex, sexual orientation, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief or place of birth. Such action shall include but not be limited to employment, promotion, demotion, transfer, recruitment, recruitment advertising, layoff termination, rates of pay or other forms of compensation and selection for training including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices stating that Contractor complies with all applicable federal and Ohio non-discrimination laws. Contractor, or any person claiming through Contractor, agrees not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this contract, or in reference to any contractors or subcontractors of Contractor.

**XXX CHILD SUPPORT ENFORCEMENT**

Contractor agrees to cooperate with Purchaser, ODJFS and any other child support enforcement agency in ensuring that Contractor's employees meet child support obligations established under Ohio law. Furthermore, by executing this contract, Contractor certifies present and future compliance with any order for withholding support which is issued pursuant to the Ohio Revised Code.

**XXXI PUBLIC ASSISTANCE WORK PROGRAM CUSTOMERS**

In compliance with the Ohio Revised Code, Contractor agrees not to discriminate against customers of the Ohio Works First Program in either hiring or promoting. Contractor agrees to include this provision in any contract, subcontract, grant or procedure with any other party that will be providing services, directly or indirectly, to Purchasers' Ohio Works First customers.

**XXXII DRUG-FREE WORKPLACE**

Contractor will comply with all applicable state and federal laws regarding a drug-free workplace. Contractor will make a good faith effort to ensure that all employees performing duties or responsibilities under this contract while working will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

**XXXIII COPELAND "ANTI-KICKBACK" ACT**

Contractor will comply with 18 U.S.C. 874 as supplemented in the Department of Labor regulations 29 CFR Part 5.

**XXXIV DAVIS-BACON ACT**

Contractor will comply with 40 U.S.C. 276a to 276a-7 as supplemented by Department of Labor regulations 29 CFR Part 5.

**XXXV CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

Contractor will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 327-330 as supplemented by the Department of Labor regulations 29 CFR Part 5.

**XXXVI PUBLIC RECORDS**

This contract is a matter of public record under the laws of Ohio. Contractor agrees to make copies of this contract promptly available to the requesting party.

**XXXVII CLEAN AIR ACT**

Contractor shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h), section 508 of the Clean Air Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

**XXXVIII ENERGY EFFICIENCY**

Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

**XXXIX COPYRIGHTS AND RIGHTS IN DATA**

Contractor shall comply with all applicable standards, orders or requirements issued under Title 17, U.S.C. (Pub. L. 94-553, title I, Sec. 101, Oct. 19, 1976, 90 Stat. 2544; Pub. L. 101-650, title VII, Sec. 703, Dec. 1, 1990, 104 Stat. 5133.

**XL PATENT RIGHTS**

Contractor shall comply with all applicable standards, orders or requirements issued under Chapter 18 of Title 35, U.S.C. (Pub. L. 95-517, Pub. L. 98-620, 37 CFR part 401), Presidential Memorandum on Government Patent Policy to the Heads of Executive Department and Agencies dated February 18, 1983, and Executive Order 12591.

**XLI PROCUREMENT**

Contractor will follow required procurement policies and laws as applicable and as advised by the Purchaser.

**SIGNATURES**

<u>Vince Gianangeli /s/</u>	9-4-19
<b>Vince Gianangeli, Director</b>	<b>Date</b>
<b>Belmont County Department of Job and Family Services</b>	
<u>J. P. Dutton /s/</u>	9/11/19
<b>J. P. Dutton, Belmont County Commissioner</b>	<b>Date</b>
<u>Josh Meyer /s/</u>	9/11/19
<b>Josh Meyer, Belmont County Commissioner</b>	<b>Date</b>
<u>Jerry Echemann /s/</u>	9/11/19
<b>Jerry Echemann, Belmont County Commissioner</b>	<b>Date</b>
<u>Katherine King /s/</u>	8-30-19
<b>Katherine King</b>	<b>Date</b>
<u>David K. Liberati /s/ Assist P.A.</u>	9-10-19
<b>Approved as to form:</b>	<b>Date</b>
<b>Belmont County Prosecutor</b>	

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Echemann	Yes
Mr. Dutton	Yes

**IN THE MATTER OF ENTERING INTO CONTRACT WITH GEORGE J. IGEL & CO. FOR ENGINEER'S PROJECT 19-4 BEL-CR42-1.60/1.42 (PW#207) SLIDE REPAIR**

Motion made by Mr. Meyer, seconded by Mr. Echemann to enter into contract with George J. Igel & Co., Inc. in the amount of \$297,842.65 for the Belmont County Engineer's Project 19-4 BEL-CR42-1.60/1.42 (PW#207) SLIDE REPAIR (Fulton Hill Road), based upon the recommendation of Belmont County Engineer Terry Lively.

**CONTRACT WITH BELMONT COUNTY COMMISSIONERS**  
**BELMONT COUNTY ENGINEER'S**  
**PROJECT #19-4: BEL-CR42-1.60/1.42 (PW#207) SLIDE REPAIR**

Auditor's Office, Belmont County, Ohio

This contract made and entered into this 11th day of September, 2019 between **GEORGE J. IGEL & CO., INC.**, 2040 Alum Creek Drive, Columbus, Ohio 43207, and Jerry Echemann, Josh Meyer and J.P. Dutton, Commissioners of Belmont County, WITNESSETH that said **GEORGE J. IGEL & CO., INC.** hereby agrees to furnish all labor, materials, equipment, tools, transportation, supplies, and other incidentals and all tasks necessary to repair the roadway slide and pavement damage areas along CR42 (Fulton Hill Road) and all related Work described by the Contract Documents.

All Work for BEL-CR42-1.60/1.42 shall be completed by May 31, 2020. An Interim Completion Date of December 15, 2019 has been set for completion of all Work items except the asphalt base course, asphalt surface course, tack coat and pavement marking items if the asphalt plants have been closed for the 2019 construction season. Both lanes of the roadway shall be open to traffic by the Interim Completion Date.

Contractor and Subcontractor shall pay the prevailing rate of wages as required under Chapter 4115, Ohio Revised Code, and comply with all other bidder specifications.

All Work shall be in accordance with the State of Ohio Department of Transportation Construction and Materials Specifications (CMS), dated January 1, 2019, and shall be under the direction of the County Engineer.

**PROJECT #19-4: BEL-CR42-1.60/1.42 (PW#207) SLIDE REPAIR**

**PROJECT #19-4 TOTAL = \$297,842.65**

And it is further understood and agreed upon by the parties above, that all the materials used shall be of the best kinds usually used for such purposes. That said **GEORGE J. IGEL & CO., INC.** shall cause to be executed a bond to the satisfaction of the Commissioners for the faithful performance of the work, and for the security of the County, against pecuniary loss.

**BELMONT COUNTY COMMISSIONERS**

Josh Meyer /s/  
Jerry Echemann /s/

J. P. Dutton /s/

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Echemann	Yes
Mr. Dutton	Yes

**GEORGE J. IGEL & CO., INC.**

By: David J. Downs /s/  
David J. Downs

*Print/Type Signature*

**IN THE MATTER OF APPROVING THE CONTRACT AND NOTICE TO PROCEED FOR CAST AND BAKER CORPORATION FOR THE VILLAGE OF BRIDGEPORT, PEASE AND PULTNEY TOWNSHIP STREET IMPROVEMENT PROJECT/BELOMAR**

Motion made by Mr. Echemann, seconded by Mr. Dutton to approve and authorize Commission President Josh Meyer to sign the Contract and Notice to Proceed for Cast and Baker Corporation in the amount of \$176,516.50 for the Village of Bridgeport, Pease and Pultney Township Street Improvements Project, a Community Development Block Grant (CDBG) Project, based upon the recommendation of A. C. Wiethe, Belomar Regional Council.

**CONTRACT**

THIS AGREEMENT made this 4th day of September, 2019, by and between Cast & Baker Corporation hereinafter called the "Contractor" and Belmont County Commissioners hereinafter called the "Owner".

WITNESSETH, that the Contractor and the owner for the considerations stated herein mutually agree as follows:

**ARTICLE 1. Statement of Work.**

The Contractor shall furnish all supervision, materials, and perform and complete all work required for the construction of the improvements embraced in the project; namely, Howard Street in the Village of Bridgeport; Farr Road and Maple Heights in Pease Township and Rock Hollow Road in Pultney Township IMPROVEMENT PROJECT <sup>2</sup>, and required supplemental work for the project all in strict accordance with the Contract Documents including all addenda thereto, numbered \_\_\_\_, dated \_\_\_\_\_, and \_\_\_\_ dated all as prepared by Belmont County Engineer acting and in these Contract documents preparation, referred to as the "Engineer".

**ARTICLE 2. The Contract Price.**

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed One hundred seventy-six thousand, five hundred sixteen dollars and fifty cents \*\*\*\*\* (Dollars) subject to additions and deductions as provided in Section 109 hereof.

<sup>1</sup>Choose term most applicable: a corporation organized and existing under the laws of the State of Ohio; a partnership consisting of ; an individual trading as \_\_\_\_\_.

<sup>2</sup>Supply principal items of Contract such as Grading, Paving, Water Mains, Sewers, etc.

**ARTICLE 3. Contract.**

The executed contract documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation for Bids
- d. instructions to Bidders
- e. Signed copy of Bid
- f. General Conditions, Parts I and II
- g. Special Conditions
- h. Technical Specifications
- i. Drawings (as listed in the Schedule of Drawings)

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern, except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed in Two original copies on the day and year first above written.

CONTRACTOR: Cast and Baker Corporation

OWNER: Belmont County Commissioners

\_\_\_\_\_  
 Signature  
Michael Baker  
 Typed/printed name  
President  
 Title

\_\_\_\_\_  
 Signature  
Josh Meyer  
 Typed/printed name  
President  
 Title

**NOTICE TO PROCEED**

To: Cast & Baker Corporation  
2214 Washington Rd.  
Canonsburg, PA 15317

PROJECT Description: furnish all service, labor, material and equipment necessary to perform Street Improvement work on a section of Howard Street in the Village of Bridgeport, Farr Road and Maple Heights in Pease Township and Rock Hollow Road in Pultney Township, all which are located in Belmont County, OH.

You are hereby notified to commence WORK in accordance with the Agreement dated September 11, 2019 on or before September 14, 2019. The date of completion of all WORK is November 1st, 2019.

\_\_\_\_\_  
 Belmont County Commissioners  
 Owner  
 By: Josh Meyer /s/  
 Name: Josh Meyer  
 Title: President

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_ To: \_\_\_\_\_

Upon roll call the vote was as follows:

Mr. Echemann	Yes
Mr. Dutton	Yes
Mr. Meyer	Yes

**IN THE MATTER OF APPROVING THE NOTICE OF AWARD, CONTRACT AND NOTICE TO PROCEED FOR CAST AND BAKER CORPORATION FOR THE VILLAGE OF POWHATAN POINT STREET IMPROVEMENTS PROJECT/BELOMAR**

Motion made by Mr. Echemann, seconded by Mr. Dutton to approve and authorize Commission President Josh Meyer to sign the Notice of Award, Contract and Notice to Proceed for the Village of Powhatan Point Street Improvements Project, a Community Development Block Grant (CDBG) Project, to the low bidder Cast and Baker Corporation, in the amount of \$110,309.50, based upon the recommendation of A. C. Wiethe, Belomar Regional Council.

**NOTICE OF AWARD**

To: Cast & Baker Corporation  
2214 Washington Rd.  
Canonsburg, PA 15317

PROJECT Description: furnish all service, labor, material and equipment necessary to perform Street Improvement work in the Village of Powhatan Point, Belmont County, Ohio

The OWNER has considered the BID submitted by you on July 24, 2019 (BID Date) for the above described WORK in response to its Advertisement for BIDS and Information for BIDDERS.

You are hereby notified that your BID has been accepted for items in the amount of \$ 110,309.50.

You are required by the Information for BIDDERS to execute the Agreement and furnish the required CONTRACTOR'S Contract BOND, if applicable, and Certificates of Insurance within 10 calendar days from the date of this notice to you.

If you fail to execute said Agreement and to furnish said BOND within 10 days from the date of this notice, said OWNER will be entitled to consider all of your rights arising out of the OWNER'S acceptance of your BID as abandoned and as a forfeiture of your BID guaranty subject to the liabilities set forth in Section 153.54 of the Ohio Revised Code. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this 11th day of September, 2019.

\_\_\_\_\_  
 Belmont County Commissioners  
 Owner  
 By: Josh Meyer /s/  
 Name: Josh Meyer  
 Title: President

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE OF AWARD is hereby acknowledged by \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

By: \_\_\_\_\_  
 Name and Title: \_\_\_\_\_

cc: CONTRACTOR'S Surety  
Surety's Agent NOTICE TO PROCEED

**CONTRACT**

THIS AGREEMENT made this 11th day of September, 2019, by and between Cast & Baker Corporation hereinafter called the "Contractor" and Belmont County Commissioners hereinafter called the "Owner".

WITNESSETH, that the Contractor and the owner for the considerations stated herein mutually agree as follows:

**ARTICLE 1. Statement of Work.**

The Contractor shall furnish all supervision, materials, and perform and complete all work required for the construction of the improvements embraced in the project; namely, POWHATAN POINT STREET IMPROVEMENT PROJECT <sup>2</sup>, and required supplemental work for the project all in strict accordance with the Contract Documents including all addenda thereto, numbered 1, dated July 19, 2019, and dated \_\_\_\_\_ all as prepared by CT Consultants acting and in these Contract documents preparation, referred to as the "Engineer".

**ARTICLE 2. The Contract Price.**

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed One Hundred Ten Thousand Three Hundred Nine and 50/100\*\*\*\*\*(Dollars) subject to additions and deductions as provided in Section 109 hereof.

<sup>1</sup>Choose term most applicable: a corporation organized and existing under the laws of the State of Ohio; a partnership consisting of \_\_\_\_\_; an individual trading as \_\_\_\_\_.

<sup>2</sup>Supply principal items of Contract such as Grading, Paving, Water Mains, Sewers, etc.

**ARTICLE 3. Contract.**

The executed contract documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation for Bids
- d. instructions to Bidders
- e. Signed copy of Bid
- f. General Conditions, Parts I and II
- g. Special Conditions
- h. Technical Specifications
- i. Drawings (as listed in the Schedule of Drawings)

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern, except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed in Two original copies on the day and year first above written.

CONTRACTOR: Cast & Baker Corporation

OWNER: Belmont County Commissioners

\_\_\_\_\_  
Signature

Josh Meyer /s/  
Signature

\_\_\_\_\_  
Typed/printed name

Josh Meyer  
Typed/printed name

\_\_\_\_\_  
Title

President  
Title

**NOTICE TO PROCEED**

To: Cast & Baker Corporation  
2214 Washington Rd.  
Canonsburg, PA 15317

PROJECT Description: furnish all service, labor, material and equipment necessary to perform Street Improvement work in Village of Powhatan Point, Belmont County, Ohio

You are hereby notified to commence WORK in accordance with the Agreement dated September 11, 2019 on or before September 21, 2019. The date of completion of all WORK is November 15, 2019.

\_\_\_\_\_  
Belmont County Commissioners  
Owner  
By: Josh Meyer /s/  
Name: Josh Meyer  
Title: President

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Upon roll call the vote was as follows:

Mr. Echemann	Yes
Mr. Dutton	Yes
Mr. Meyer	Yes

**IN THE MATTER OF APPROVING THE PURCHASE OF VEHICLE FOR COMMON PLEAS COURT ADULT PROBATION DEPARTMENT**

Motion made by Mr. Meyer, seconded by Mr. Echemann to approve the purchase of one (1) 2019 Dodge Charger, from Greve Chrysler of Van Wert, OH, for a total cost of \$26,279.60 for the Common Pleas Court Adult Probation Department, through the State of Ohio Cooperative Purchasing Contract to be purchased with the TCAP grant funds, based upon the recommendation of Chief Probation Officer Ed Gorence.

Note: This will be an additional vehicle for use by Probation Officers.

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Echemann	Yes
Mr. Dutton	Yes

**IN THE MATTER OF APPROVING THE PURCHASE OF VEHICLE FOR BELMONT COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES**

Motion made by Mr. Meyer, seconded by Mr. Echemann to approve the purchase of one (1) 2020 Dodge Durango from Thomas Auto Centers for \$26,080.00 for the Belmont County Department of Job and Family Services to be paid for from Public Assistance funding, based upon the recommendation of Mike Waller, Maintenance Repair Supervisor.

Note: This vehicle will replace an older vehicle that was sold in the County Auction and will be used by staff for various transports.

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Echemann	Yes
Mr. Dutton	Yes

**OPEN PUBLIC FORUM**-Dave Jones, Belmont County Fair Board member, gave an update on the Belmont County Fair held last week. He said they spent \$90,000 prior to the fair for entertainment, etc. An estimated 20,000 people were in attendance this year. They had a lot of new events this year that will be back next year. They would like to upgrade lighting and blacktop and are in the process of building an office building for the coming year. They are waiting for state approval on the building plans. He noted they have 155 acres with 13 new buildings. He said the Fair Board appreciates the Board of Commissioners working with them.

**RECESS**

**IN THE MATTER OF ENTERING  
EXECUTIVE SESSION AT 10:17 A. M.**

Motion made by Mr. Meyer, seconded by Mr. Echemann to enter executive session with Katie Bayness, HR Administrator, pursuant to ORC 121.22(G)(1) Personnel Exception to consider the discipline and compensation of public employees and ORC 121.22(G)(4) Collective Bargaining Exception.

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Echemann	Yes
Mr. Dutton	Yes

Commissioner Echemann stepped out.

**IN THE MATTER OF ADJOURNING  
EXECUTIVE SESSION AT 12:01 P.M.**

Motion made by Mr. Meyer, seconded by Mr. Dutton to exit executive session at 12:01 p.m.

Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Dutton	Yes
Mr. Echemann	Absent

Mr. Meyer said as a result of executive session there is no action to be taken at this time.

**RECESS UNTIL 1:00 P.M. BUDGET HEARINGS**

**Reconvened at 1:01 p.m. Present: Commissioners Meyer, Echemann and Dutton, Jayne Long, Clerk, Jaclynn Smolenak and Lisa Vannoy, Assistant Clerks.**

**Budget Hearings**

2020 budget requests were reviewed with each department. Mr. Meyer advised all departments that during the board's budget hearing with the Auditor last week that he is anticipating the same allocation as last year which is approximately \$22.5 million. Tax collections are down slightly at this point. He explained each department will be given their budget amount for the year and the department will be responsible for appropriating it in the line items as necessary. He said this is the procedure that has been in place for the last couple of years.

**TREASURER**-Present: Kathy Kelich, Treasurer. Ms. Kelich said she doesn't anticipate any personnel changes but may have to cut one employee if there are any budget cuts. Mr. Meyer said they will consider all budgets before deciding.

**PORT AUTHORITY**-Present: Larry Merry, Port Authority Director and Sherri Butler, Assistant Executive Director. Mr. Merry said their yearly budget just covers operational costs. An increase in salary for the Asst. Executive Director is included.

**SOIL & WATER**-Present: Hannah Carpenter, Operating Manager; Liza Butler, Wildlife/Forestry Specialist and Fiscal Coordinator; Brooke Sanderson, Captina Watershed Coordinator and Steve Mazgaj, Chairman of Soil & Water Board of Supervisors. An increase was requested for salaries, rent and hospitalization. Their lease expires at the end of this year. They can renew, but don't want to due to some building issues. They have looked at new office spaces to rent at a cost ranging from \$1,500 to \$2,500 per month. Commissioners will talk to Dave Jones about the possibility of Soil & Water relocating to the new administration building the Fair Board is planning to construct.

**ENGINEER**-Present: Terry Lively, County Engineer, Shereza O'Hara, Administrative Assistant & Anthony Atkins, GIS Director. Mr. Lively would like to add the new position of Project Manager to assist with their many projects. This is included in the budget. An increase is requested for the GIS Department for new aerial imagery that is needed to keep the mapping current. They receive no contributions for GIS from other departments at this time. An increase in the conveyance fee from \$3.00 per \$1,000 to \$4.00 per \$1,000 was suggested which would generate an additional \$350,000. This could benefit the GIS Department and take the burden off the General Fund.

**PROSECUTOR**-Present: Dan Fry, Prosecutor. Additional funding is requested to cover PERS shortfall for 2019. He needs a part-time person to keep up with filing due to the increase in cases. Estimated \$15,000-\$20,000 with no benefits.

**CORONER**-Present: Dr. Troy Balgo, Coroner and Tim Skinner, Assistant Coroner. Another assistant is being requested. Dr. Balgo said they have received some grant funding reimbursement from the state due to the opioid crisis, but he is not sure how long it will last. Issues with morgue space was discussed due to the closing of Ohio Valley Medical Center and pending closure of East Ohio Regional Hospital. There are six spaces in coolers at local funeral homes, but their business comes first so it's not guaranteed. Something needs to be in place. Their part-time person resigned a year ago and Dr. Balgo cannot cover for Mr. Skinner due to being on-call as a private physician. Mr. Skinner said they have had over 200 plus cases per year, it used to be 100-125 cases when he started. Dr. Balgo explained this is due to the older population, out of state people with no local physician and the opioid crisis. Mr. Skinner said regarding the coolers, he wants a 4 drawer cooler and a place will be needed to store it. Several possible locations were discussed. A secure area is needed. They are currently paying the funeral homes \$100 per day to store a body. Licking County charges \$1,200 per autopsy. Dayton County is used as a backup and they charge \$1,600 per autopsy.

**RECESS UNTIL 10:00 A.M. BUDGET HEARINGS**

**Reconvened Thursday, September 12, 2019, at 10:02 a.m. Present: Commissioners Meyer, Echemann and Dutton, Jayne Long, Clerk and Jaclynn Smolenak, Assistant Clerks.**

**Department Budget Hearings (cont'd)**

2020 budget requests were reviewed with each department. Mr. Meyer advised all departments that during the board's budget hearing with the Auditor last week that he is anticipating the same allocation as last year which is approximately \$22.5 million. Tax collections are down slightly at this point. He explained each department will be given their budget amount for the year and the department is responsible for appropriating it in the line items as necessary. He said this is the procedure that has been in place for the last couple of years.

**COMMON PLEAS COURT**-Present: Judge Fregiato, Laura Zupko, Court Administrator and Bobby Williams, Administrative Assistant for Magistrate Department. Judge Fregiato presented an amended budget to the Board of Commissioners. He said they will be purchasing a vehicle using the TCAP grant funds for Adult Probation. Another used vehicle will also be purchased from Juvenile Court with grant funds. They will also be paying for necessary software updates needed as Windows 7 operating system can no longer support upgrades. An increase in salaries is requested to cover a \$3,000 raise for each employee. Mr. Williams said there was no money for supplies, equipment, etc. in the appropriations for the Magistrate Department last year, just enough to cover salaries and PERS. They have gotten by this year by using their carryover funds but those are now depleted. There is an increase in travel expenses for the Magistrate due to CLE requirements being increased. A new laptop is also needed for the Magistrate. Judge Fregiato said approximately \$3,000 is needed for the Magistrate Department to finish out the year. Additional funds are needed this year for the pay out of an employee retiring in October.

Amy Basic, Magistrate and Ed Gorence, Chief Adult Probation Officer joined the budget hearing.

Mr. Williams said they would be further in the red if they hadn't had carry over funds from prior year. Judge Fregiato said a new probation officer will be hired with grant funding. Also, another car, gun and phone will be purchased for the probation officer with grant funding.

**PUBLIC DEFENDER**-Present: Frank Pierce, Public Defender; Bob Quirk, Assistant Public Defender; Lisa West, Secretary; Richard Hord and Charlie Bean, Board Members. A shortfall in this year's budget was discussed. An analysis was done by the State Public Defender's office and they recommended two additional attorneys are needed to cover their increased caseload. State reimbursement for indigent defense is increasing to 70% and will offset the cost to the county. Mr. Pierce also asked for some parity with the Prosecutor's office salaries. They are getting quotes to replace outdated computers.

**SSOBC**-Present: Gary Armitage, Executive Director and Cory Clark, Fiscal Officer. Mr. Armitage said they may have to look at expanding their travel base for medical transports due to the closure of local hospitals. Extra drivers would be needed. New center vehicles are needed and computer upgrades due to Windows 7 not being able to be updated. Mr. Armitage suggested hiring four part-time drivers to take advantage of grocery pick-up offered by stores for shut-ins. Mr. Dutton suggested creating a line to set aside funds for capital asset needs for roof, HVAC, etc. Mr. Armitage will discuss how to implement this with the Auditor's office. Mr. Armitage said they use the Board of Developmental Disabilities for maintenance of vehicles, but they could use an in-house mechanic for oil changes, etc. He thinks it would be a cost savings.

Robert DeFrank, Times Leader reporter, joined at 11:40 a.m.

**SHERIFF'S DEPARTMENT**-Present: Sheriff David Lucas and Fiscal Officer Kitty Jo Paboucek. The total budget requested for 2020 is \$6,924,878.86. It includes a request for six new cruisers, 4 Correction Officers (1 per shift), a data entry clerk to participate with the Prosecutor's Maxtrix software system, a Correction Officer for Commissary so that the Deputy in that position can move to Transport Division, costs for outside housing of inmates, increased costs for food and gasoline, medical costs. There is an average of 160 inmates every day in the jail. Sheriff Lucas is waiting for a recommendation from architectural firm of Wachtel & McAnally on a jail expansion.



September 11, 2019

**IN THE MATTER OF ADJOURNING  
COMMISSIONERS MEETING AT 12:48 P.M.**

Motion made by Mr. Meyer, seconded by Mr. Echemann to adjourn the meeting at 12:48 p.m.  
Upon roll call the vote was as follows:

Mr. Meyer	Yes
Mr. Echemann	Yes
Mr. Dutton	Yes

September 11, 2019

Read, approved and signed this 18<sup>th</sup> day of September, 2019.

Josh Meyer /s/ \_\_\_\_\_

J. P. Dutton /s/ \_\_\_\_\_ COUNTY COMMISSIONERS

Jerry Echemann /s/ \_\_\_\_\_

We, Josh Meyer 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.

Josh Meyer /s/ \_\_\_\_\_ PRESIDENT

Jayne Long /s/ \_\_\_\_\_ CLERK