

**RESOLUTION #19-0520-03**

**Authorizing a contract IT service provider**

**WHEREAS**, Liberty Township interviewed IT service providers, and

**WHEREAS**, Staff has expressed their desire to expand and improve the current IT capabilities available to Township staff, and

**WHEREAS**, staff has thoroughly researched and explored alternatives to find an IT provider, which best meets the needs and desires of the Township.

**NOW, THEREFORE BE IT RESOLVED, BY THE LIBERTY TOWNSHIP BOARD OF TRUSTEES, DELAWARE COUNTY** to hereby authorize the attached contract for information technology services with Delaware County IT, 101 N Sandusky Street Delaware, OH 43015. **FURTHER BE IT RESOLVED** to authorize the Township Administrator to sign any and all documents to enter into this annual agreement.

Motion made by Leneghan and seconded by Eichhorn.

**Vote:** yes Mrs. Eichhorn yes Mrs. Leneghan yes Mr. Gemperline

This Resolution shall be in force and become effective immediately upon its execution.

5-20-19

Date

Mike Gemperline, Trustee

CERTIFIED BY:

Nancy Denutte  
Nancy Denutte, Fiscal Officer

Melanie Leneghan  
Melanie Leneghan, Trustee

Shyra Eichhorn  
Shyra Eichhorn, Trustee

## INTERGOVERNMENTAL COOPERATION AGREEMENT

### **Section 1 – Parties to the Agreement**

This Agreement ("Agreement") is made and entered into this 20<sup>th</sup> day of May, 2019 by and between the Delaware County Automatic Data Processing Board and the Delaware County Board of Commissioners, whose address is 101 North Sandusky Street, Delaware, Ohio 43015 (collectively, the "County"), and the Board of Township Trustees of Liberty Township, Delaware County, Ohio, whose address is 101104 Brewster Lane Powell Ohio 43065, Liberty Road, Lewis Center, Ohio 43035 ("Township"), (hereinafter referred to individually as "Party" or collectively as the "Parties").

### **Section 2 – Purpose**

This Agreement is authorized by sections 9.482, 307.846, and 307.15, *et seq.*, of the Revised Code. The Township desires to enter into an agreement with the County that allows Delaware County Information Technology staff to provide Information Technology ("IT") services to the Township, and the County is willing and able to provide such services. This Agreement shall establish the terms and conditions for the support of Township IT services.

### **Section 3 – Division of Responsibilities**

The Township shall pay, as specified below, for IT services provided. The County, via the Delaware County Data Center Administrator, shall administer the services on behalf of the Township, supervise the work of the staff, and advise the Township regarding IT projects. By entering into this Agreement, the Township authorizes the Delaware County Automatic Data Processing Board, its Director and staff to perform any and all actions, which in his/their professional judgment, are necessary to provide the services contemplated under the terms of this Agreement. The specific services to be provided are more fully set forth in Exhibit A, which is attached hereto and, by this reference, fully incorporated herein.

### **Section 4 – Compensation**

The Township agrees to pay to the County a monthly fee of \$250.00 per virtual server and \$12.00 per user account. Township and County agree there are currently three (3) virtual servers and ninety-one (91) user accounts, and the Parties understand that the number of virtual servers and user accounts may increase or decrease.

The Township shall also, for all time exceeding fifteen (15) minutes in length that is spent on an individual service item, reimburse the County for the costs of personnel utilized in providing the service. County and Township acknowledge and agree that costs of personnel (salaries) will change as adjusted. This will be payable at the hourly rates set forth in Exhibit B, which is attached hereto and, by this reference, fully incorporated herein. The County shall submit monthly invoices that include the monthly fee and any reimbursable hourly charges incurred for the previous month. The Township shall pay all invoices within thirty (30) days of receipt thereof.

### **Section 5 – Records**

- 5.1 County and Township acknowledge and agree that Township data received by County in the course of providing the IT services under this Agreement is taken delivery of solely under the authority stated above and only to provide automatic or electronic data processing, data storage services, and/or other IT services to Township.
- 5.2 County and Township acknowledge and agree that this data is not a public record [as defined in R.C. Section 149.011(G)] of the County or any of its offices, agencies, etc., that County is not the keeper or person responsible for any record contained in such data or otherwise responsible for providing inspection or copies of the same and that any records contained within the same shall at all times be considered Township records and not properly the subject of a public records request directed to the County under R.C. Section 149.43.
- 5.3 However, to assist Township in meeting its responsibilities:
  - (a) County will maintain full access by Township to the Township's data stored in its system.
  - (b) If County receives a public records request for Township records contained in such data, it will inform the requester that the information requested is not a public record of the County and that their request will be forwarded to the Township Administrator as the individual responsible for response to requests for Township records. County will then immediately forward the request to the Township Administrator and advise them as to the circumstances of the request and its receipt.

(c) The County will provide technical assistance to the Township, as requested by the Township Administrator, in compiling and delivering Township data responsive to a public records request.

5.4 If the County should ever determine that it is legally compelled by any means (including public records request under R.C. 149.43, deposition, interrogatory, request for documents, subpoena, civil investigative demand, etc.) to disclose Township data received or stored under this Agreement, it must make reasonable efforts to provide Township with prompt notice of such legal requirement prior to disclosure so that Township may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained, County will: (i) furnish only that portion of the data that it is legally required to furnish; and (ii) cooperate with Township in reviewing such material for appropriate redaction prior to disclosure.

5.5 Upon termination or expiration of this Agreement, County will return all Township data to Township and shall not retain copies of all or any portion of it within its system.

5.6 The Parties agree that each shall maintain their respective public records concerning the services provided under this Agreement, pursuant to the laws of the State of Ohio pertaining to public records.

#### **Section 6 – Term**

This Agreement shall take immediate effect upon approval by all Parties hereto and shall continue in full force and effect for one year, whereupon this Agreement shall then automatically renew for successive one (1) year terms, unless either Party gives written notice to the other Party, at least thirty (30) days prior to the expiration of the then-current term, that it does not intend to renew the Agreement at the expiration of the then-current term. This Agreement may only be amended or renewed in writing with the mutual consent and agreement of the Parties. Either County or Township may terminate the Agreement upon providing thirty (30) days written notice to the other Party.

#### **Section 7 – Legal Contingencies**

In the event a change in law, whether by statute, judicial determination, or administrative action, affects this Agreement or the ability of the Parties to enter into, or continue to operate pursuant to, this Agreement, the Parties mutually agree to immediately institute a review of this Agreement. The Parties agree to negotiate in good faith to address any necessary modifications to this Agreement, to the extent permitted by applicable law.

#### **Section 8 – Personnel**

The Parties each agree to maintain control over their respective personnel, and this Agreement shall not be construed to alter the employment relationship each Party has with its respective personnel. Each Party shall be responsible for the compensation, benefits, and liabilities of its respective personnel and hereby agrees to release the other Party from any responsibility therefor. In no event shall County's employees be considered employees of the Township within the meaning or application of any federal, state or local laws or regulations and vice versa.

#### **Section 9 – Equipment and Facilities**

Each Party to this Agreement shall be responsible for providing its own equipment and facilities. In no way shall this Agreement be construed to require the sale or donation of equipment under the ownership and control of either Party of this Agreement.

#### **Section 10 – Insurance and Liability**

Each Party shall, for the life of this Agreement, maintain comprehensive general liability insurance coverage, with minimum limits in the amount of \$1,000,000.00 each occurrence or equivalent and \$2,000,000.00 in the aggregate, and shall cause the other Party to be named as an additional insured on any applicable insurance policies.

The Township acknowledges that there is a risk of disruption of service to its IT equipment and service due to damage to the fiber optic cable and other equipment or system failures beyond the control of the County. As a condition of this Agreement, the Township agrees to release the County from any liability or costs due to such disruption of service. Otherwise, the Parties acknowledge that they are political subdivisions of the State of Ohio and lack the authority to indemnify and therefore, each Party agrees to be responsible for the negligent acts of its employees, agent, and volunteers.

## **Section 11 – Miscellaneous Terms & Conditions**

**11.1 Entire Agreement:** This Agreement shall constitute the entire understanding and agreement between the Parties and shall supersede all prior understandings and agreements relating to the subject matter hereof. This Agreement shall not be assigned.

**11.2 Governing Law and Disputes:** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. The Parties shall make good faith efforts to directly negotiate any disputes arising from this Agreement. If direct negotiations shall fail, the Parties agree to mediate the dispute with a mediator chosen by agreement between the Parties. If mediation shall fail, any and all legal disputes arising from this Agreement may only be filed in and heard before the courts of Delaware County, Ohio.

**11.3 Headings:** The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.

**11.4 Waivers:** No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.

**11.5 Severability:** If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue in full force and effect.

**\*SIGNATURE PAGE TO FOLLOW\***

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement.

**DELAWARE COUNTY BOARD OF COMMISSIONERS**

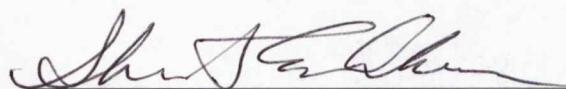
By: \_\_\_\_\_  
Barb Lewis, President \_\_\_\_\_ Date  
Pursuant to Resolution No. 11-137 and \_\_\_\_\_  
Resolution No. 19-\_\_\_\_\_

**DELAWARE COUNTY AUTOMATIC DATA PROCESSING  
BOARD**

By: \_\_\_\_\_ Date  
Print Name: \_\_\_\_\_

**BOARD OF TRUSTEES, LIBERTY TOWNSHIP**

Michael Gemperline, Trustee  
Date

  
Shyra Eichorn, Trustee 5-20-19  
Date

\_\_\_\_\_  
Melanie Leneghan, Trustee Date

**Approved as to form:**

\_\_\_\_\_  
Melissa Schiffel  
Delaware County Prosecuting Attorney

**Auditor's Certification:**

The Delaware County Auditor hereby certifies that the funds required to meet the obligation set forth in this Agreement have been lawfully appropriated for such purpose and are in the county treasury or in the process of collection, free from any other encumbrances. The Delaware County Auditor also certifies that it has confirmed with the State of Ohio Auditor that the CONTRACTOR has no outstanding findings for recovery issued against it by the State of Ohio.

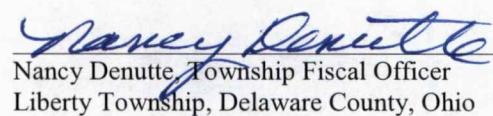
\_\_\_\_\_, 2019

Delaware County Auditor

**Township Fiscal Officer's Certification [RC 5705.41(D)]**

The Township Fiscal Officer of Liberty Township, Delaware County, Ohio hereby certifies that the funds required to meet the obligation set forth in this Agreement with the Board of County Commissioners of Delaware County, Ohio, and Delaware County Automatic Data Processing Board have been lawfully appropriated for such purpose and are in the township treasury or in the process of collection, free from any other encumbrances. The Township Fiscal Officer also certifies that he has confirmed with the State of Ohio Auditor that the Board of County Commissioners of Delaware County, Ohio, and Delaware County Automatic Data Processing Board have no unresolved findings for recovery issued against them by the State of Ohio.

\_\_\_\_\_, 2018

  
Nancy Denutte, Township Fiscal Officer  
Liberty Township, Delaware County, Ohio

## **INTERGOVERNMENTAL COOPERATION AGREEMENT**

### **EXHIBIT A**

Provision by County of general IT services required for Township business including but not limited to:

1. Provision of dedicated file server for Township applications and data files
2. Provision of Township email
3. Provision of antivirus software (Township will pay for annual licenses)
4. Provision of a 400Mb shared Internet connection with the County
5. Provision of support of Extreme switches and access points at each location (Township will pay annual maintenance for equipment)
6. Provision of dedicated desktop support for Township owned equipment and Township users
7. The Township shall seek prior approval of the County Chief Technology Officer for any projects outside of Exhibit A, including but not limited to custom programming, prior to engaging IT staff.
8. Township Administrator shall be the Township's primary contact for all communications and interactions with the Delaware County Automatic Data Processing Board, its director and staff for all specialized technical support and data processing services that are not considered to be routine maintenance or Help Desk support
9. By entering into this agreement, the Township authorizes the Delaware County Automatic Data Processing Board, its Director and staff to perform any and all actions, which in his/their professional judgment, are necessary to provide the services contemplated under the terms of this agreement.
10. By entering into this agreement, the Township agrees to maintain an annual maintenance agreement for Township access points, switches and antivirus software.
11. By entering into this agreement, the Township agrees to comply with any other reasonable security measures recommended by the Delaware County Data Center's Chief Technology Officer.

### **EXHIBIT A**

INTERGOVERNMENTAL COOPERATION AGREEMENT

EXHIBIT B

Name	hourly rate	hours	Total	OPERS	Medicare	Health ins	Wcomp	Total empr cost	Total
			worked	0.14	0.0145		0.01		
Curry Hoffman	31.25	1	\$ 31.25	\$ 4.38	\$ 0.45	\$ 3.78	\$ 0.31	\$ 8.92	\$ 40.17
Nick Hartsock	21.29	1	\$ 21.29	\$ 2.98	\$ 0.31	\$ 3.78	\$ 0.21	\$ 8.90	\$ 24.79
Jason Montgomery	32.08	1	\$ 32.08	\$ 4.49	\$ 0.47	\$ 11.32	\$ 0.32	\$ 16.60	\$ 48.68
Ron Clayton	26.9	1	\$ 26.90	\$ 3.77	\$ 0.39	\$ 11.32	\$ 0.27	\$ 15.75	\$ 42.65
Mike Massaro	23.08	1	\$ 23.08	\$ 3.23	\$ 0.33	\$ 3.78	\$ 0.23	\$ 7.58	\$ 30.66

EXHIBIT B