

RECORD OF RESOLUTIONS

Resolution No. 22-2022

Passed: June 28, 2022

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE WEST CARROLLTON SCHOOL DISTRICT FOR THE STAFFING OF A SCHOOL RESOURCE OFFICERS POSITION AT THE WEST CARROLLTON HIGH SCHOOL.

WHEREAS, The City, through its Police department and the School District desire to establish and delineate a School Resource Officer (SRO) program at the West Carrollton High School for the 2022-2023 School Year, and;

WHEREAS, In consideration for establishing said program, the City will provide the services of a full-time police officer, trained as specified by ORC Section 3313.951, and;

WHEREAS, The School District agrees to reimburse the City for the costs of all hours worked by the SRO including the hourly wage paid and cost of fringe benefits provided by the City to the designated SRO.

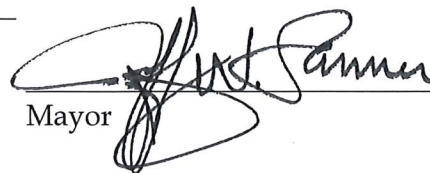
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WEST CARROLLTON, OHIO, THAT:

Section 1: The City Manager is hereby authorized to sign the attached School Resource Officer Memorandum of Understanding marked as exhibit A and attached to this resolution.

Section 2: The City Manager or designee is further authorized to do any and all things necessary to ensure compliance with this resolution and the terms and conditions outlined within the SRO MOU.

Section 3: This resolution shall be in full force and effect from and after its date of passage.

Passed: June 28, 2022


Mayor

Attest: 
Clerk of Council

Effective Date: June 28, 2022

Exhibit "A"

SCHOOL RESOURCE OFFICER MEMORANDUM OF UNDERSTANDING

THIS SCHOOL RESOURCE OFFICER MEMORANDUM OF UNDERSTANDING (hereinafter "SRO MOU") is made and entered into by and between the City of West Carrollton, an Ohio municipal corporation (hereinafter "City"), and approved on _____, 2022, and the Board of Education of the West Carrollton City School District, a political subdivision of the State of Ohio (hereinafter "School District"), and approved on _____, 2022.

WITNESSETH:

WHEREAS, the City, through its Police Department (hereinafter "Police Department"), and the School District desire to establish and delineate an SRO Program in accordance with the terms of this SRO MOU; and

WHEREAS, the School District and the City desire to set forth in this SRO MOU the specific terms and conditions of the services to be performed and provided pursuant to the SRO Program.

NOW, THEREFORE, the parties agree as follows:

1. Purpose and Goals. The SRO Program is a joint cooperative effort between the Police Department and the School District to provide law enforcement information and advice to students, staff and parents, to provide a positive law enforcement presence in the school community, to build positive relationships between law enforcement, students, and school staff, to reduce incidents of school violence, to assist in creating and maintaining a safe, secure and positive learning environment for students and staff, to respond to criminal acts which may occur in the school environment, and to reduce the number of youths formally referred to the juvenile justice system.
2. Term of MOU. This MOU shall commence on July 1, 2022 and terminate on July 31, 2023, subject to renewal by mutual agreement of the parties.
3. Services to be Performed by the Police Department. The Police Department will supply to the School District one (1) Full time sworn West Carrollton police officer to be the SRO, appropriately equipped as determined by the Police Department, to perform the duties of a sworn police officer at West Carrollton High School in accordance with the provisions of the Ohio Revised Code and operation manuals of the West Carrollton Police Department.
4. Payment for Services to be Performed by the Police Department. The School District will reimburse the City for the cost of all hours worked by the SRO under this MOU, including the hourly wage paid to the SRO and the cost of fringe benefits provided by the City to the SRO. The School District will use funds from the Grant as described in the Performance Contract, attached hereto as Exhibit A, to reimburse the City for the first Fifty Thousand and 00/100 Dollars (\$50,000.00) of wages and fringe benefits. The School District acknowledges the salary and fringe benefits for the SRO will exceed that amount. The School District will furnish the City with an accounting of the hours worked by the SRO each bi-weekly pay period during the term of this MOU, and the City will invoice the School District for said costs on a four (4) week cycle. The parties recognize that the cost of the

hourly wage and fringe benefits may increase during the term of this MOU due to collective bargaining.

5. Responsibilities of the City.

- A. The City will remain the employer of the SRO for all purposes. The City shall be solely responsible for worker's compensation coverage for the SRO while performing duties pursuant to this MOU. The right to manage and control the SRO assigned to the School District hereunder shall be exclusively that of the Chief of Police and carried out in accordance with established policies and procedures of the Police Department. The Police Department will be responsible for evaluating the work performance of the SRO, and upon request, the School District will provide input regarding the performance of the SRO's duties under this MOU. The SRO shall in no way be considered as an agent or employee of the School District. The SRO shall not be subject to the direction or control of any School District official or administrator, except that the SRO will be expected to comply with the established rules and regulations of the School District to the extent the same does not interfere with the SRO's police duties.
- B. The Police Department will provide and maintain a standard patrol vehicle for the SRO to use in the performance of the duties under this MOU and shall maintain automobile insurance on said vehicle. The Police Department will also be responsible for the cost of gasoline, oil, replacement tires and other maintenance and/or repair expenses associated with the operation of such vehicle.
- C. The Police Department will be responsible for providing the SRO with mandatory training and testing to maintain Ohio law enforcement certification. Such training will be scheduled so that it causes the least interference possible with the duties of the SRO hereunder.

6. Responsibilities of the School District.

- A. The School District's Superintendent will set the schedule of the SRO, subject to approval of the Chief of Police, and generally will conform to the days and hours that school is in session, and also attendance at school events, including meetings, sporting events or other functions deemed appropriate by the Superintendent. The SRO will not be regularly assigned lunch room, hall, bus, or other monitoring duties. If there is an emergency or an unusual temporary situation, the SRO may be assigned to assist high school administrators until the problem is solved.
- B. The SRO shall meet the background and training requirements as specified by ORC Section 3313.951, including an understanding of child and adolescent development. In addition, it is recommended that SROs receive additional training each year on topics such as trending school-based law enforcement topics, child development, adolescent psychology, trauma, conflict resolution, mental health and addiction, children with disabilities, juvenile and education law and policy, PBIS, and cultural competence. The District will reimburse the City for the cost of any and all

training to the SRO that is related to the SRO position, including but not limited to the training required under ORC Section 3313.951.

- C. The School District will provide the SRO with a private, secure office and equipment, including a desk, telephone, filing space, and access to a computer that can be password protected, as necessary to perform the duties under this SRO MOU.
 - D. The SRO is not a school disciplinarian and violations of the student code of conduct, School District policy or other School District regulations that are not criminal matters should be handled by School District administration and/or faculty, not by SROs. The School District recognizes that a student's violation of the High School's student conduct code is separate and independent from a violation of municipal or state law. The School District will conduct independent inquiries regarding school discipline matters and should not rely solely on information gathered by the SRO. The SRO may be requested to give testimony at student disciplinary hearings. School District administrators may request that the SRO attend expulsion hearings to provide security for School District personnel and preserve the peace, when indications are such that the student or other attendees may react in a threatening or physical manner. The SRO will obtain approval from the Chief of Police prior to attending expulsion hearings. School District discipline is the responsibility of the appropriate School District administrator and clear guidelines on SRO involvement should be developed and distributed to School District staff. The SRO will report violations of the student code of conduct, School District policy, or School District regulations through the proper channels to be handled by School District administration. It is the responsibility of the SRO to become familiar with the Student Handbook and/or Student Code of Conduct, but it is not the responsibility of the SRO to enforce the rules in these documents. School District administration will have final decision-making authority regarding all matters of School District discipline.
7. Duties of the SRO. The Duties of the SRO assigned to the School District shall be determined by the Chief of Police and may include, but not necessarily be limited to, the following:
- A. Patrol school property or assigned areas on foot or by operating a vehicle or bicycle to promote a safety presence within the school building and on school property.
 - B. Prevent or discover commission of crimes, search for suspicious activity or situations, apprehend criminals, and enforce motor vehicle operation and parking regulations on school property.
 - C. Act as a liaison between students, parents, school administration and the Police Department.

- D. Meet directly with school administrators and/or staff members to discuss activities or problems within the school and respond to requests from school officials.
- E. Assist school administrators in searches of person(s), property or vehicles and/or conduct lawful searches of his/her own. Specifically, the SRO will not be involved in searches conducted by School District personnel unless a criminal act is involved or unless School District personnel require the assistance of the SRO because of exigent circumstances, such as the need for safety or to prevent flight.
- F. Attend after-school functions as requested by school administrators, such as sporting events, concerts, plays, dances, parades, etc.
- G. Act as a direct line of communication between the Police Department and school administrators concerning acts of or threats of violence to students, school building or faculty.
- H. Provide programs to the school community of an educational nature concerning issues on such topics as drug use and abuse, violence prevention, safety and security as well as other topics that may be requested or are deemed to be relevant.
- I. Cooperate with and abide by school policies and procedures, to the extent they do not conflict with the Police Department's General Orders.
- J. Confer with school administrators to develop plans and strategies to prevent and/or minimize dangerous situations on or near school property or involving students at school-related activities.
- K. Advise and update school administrators in as timely a manner as possible when an investigation or arrest is taking place at the school.
- L. Defer to school administrators when disruptions are caused by students with disabilities.
- M. Investigate all criminal offenses on school property, to include notifications to pertinent parties (parent/legal guardian, school officials, police administration, social service agencies, etc.).
- N. Prepare and review all necessary reports and records; perform other administrative duties as required.
- O. Prepare criminal, traffic and civil cases and testify in court when necessary.
- P. Interview complainants, witnesses, suspects and prisoners to obtain information about crimes.
- Q. Secure found, confiscated, and evidentiary property, safeguarding the property to either return to the owner or present as evidence in a court of law.

- R. Enforce federal, state and local laws, statutes and ordinances.
 - S. Participate in special events when necessary.
 - T. Develop policing objectives and problem-solving practices within the school.
 - U. Coordinate crisis planning and updating of school crisis plans. The SRO shall consult with local law enforcement officials and first responders when assisting the School District's administrators in the development of the comprehensive Emergency Management Plan.
 - V. Attend West Carrollton Board of Education and other meetings as directed by the Chief of Police.
 - W. Respond to complaints from students, school staff, parents or other citizens.
8. Transporting Students. The SRO will not transport students in the City-provided vehicle, except:
- A. When the student is a victim of a crime, under arrest, or some other emergency circumstances exist; or
 - B. When a student is suspended and sent home from school pursuant to school disciplinary action, if the student's parent/guardian has refused or is unable to pick up the child within a reasonable time period and the student is disruptive/disorderly and the student's continued presence on school grounds is a threat to the safety and welfare of other students and school personnel.

If circumstances require the SRO to transport a student, a high school administrator will designate a school employee of the same gender as the student to accompany the SRO in the vehicle.

The SRO shall not transport a student in his/her personal vehicle.

The SRO shall notify a school administrator before removing a student from school property.

9. Access to Education Records.
- A. School officials shall allow the SRO to inspect and copy any public records maintained by the school to the extent allowed by law. In addition, SROs can have access to information designated by the School District as "directory information" about students, such as yearbooks.
 - B. To the extent allowed by applicable law, the School District shall identify the SRO as a "school official" in the annual FERPA notice of rights given to parents and eligible students subsequent to the execution of this MOU. The SRO is acting as a school official with a legitimate educational interest in student personally identifiable

information ("PII") when 1) the information is necessary to perform services pursuant to this MOU that would otherwise be performed by School District employees; 2) the SRO is under the School District's direct control in the use and maintenance of the records; and 3) the SRO will only use PII for the use for which it was provided and may not redisclose the PII without consent. The City acknowledges that, under the terms of this paragraph, the SROs may be receiving PII. The City agrees that it shall not, and shall ensure that the SRO does not, access, use or disseminate or otherwise redisclose any student information deemed personally identifiable, as defined in the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, 34 C.F.R. Part 99) and Ohio R.C. §3319.321, in violation of the terms of those laws or other law applicable to the School District with respect to such information. The parties shall ensure that the SRO who is provided with access to personally identifiable student information will be trained in FERPA requirements and his/her duties to handle such information in compliance with those requirements. Information obtained from these databases and other education record information are protected, not subject to public record requests or release and therefore shall not become a public record by means of police reporting.

- C. When not acting as a school official with a legitimate educational interest, the SRO may not inspect and/or copy confidential student education records except in emergency situations to protect the health and safety of the student or other individuals. In that event, school officials may disclose to the SRO that information needed to respond to the emergency situation, taking into consideration (1) the seriousness of the threat to someone's health or safety; (2) the need for the information to meet the emergency situation; and (3) the extent to which time is of the essence.
- D. If confidential student information is needed, but no emergency situation exists, the information may be released only upon the issuance of a search warrant or subpoena to produce the records.

10. Insurance.

- A. The City shall maintain in full force and effect during the term of this SRO MOU a commercial general liability insurance policy with coverage in an amount of not less than one million dollars (\$1,000,000) per occurrence or claim and three million dollars (\$3,000,000) in the annual aggregate for claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the City or its employees, officers, or agents. The City hereby grants a waiver of any right to subrogation which any insurer of the City may acquire against the School District by virtue of the payment of any loss under such insurance. The City agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from its insurer(s).
- B. The School District shall maintain in full force and effect during the term of this SRO MOU a commercial general liability insurance policy with coverage in an

amount of not less than one million dollars (\$1,000,000) per occurrence or claim and three million dollars (\$3,000,000) in the annual aggregate for any claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the School District or its employees, officers, or agents. The School District hereby grants a waiver of any right to subrogation which any insurer of the School District may acquire against the City by virtue of the payment of any loss under such insurance. The School District agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the School District has received a waiver of subrogation endorsement from its insurer(s).

11. Termination. This SRO MOU may be terminated without cause by either party upon 180 days' prior written notice.
12. Applicable Law. This SRO MOU shall be governed, construed and enforced under Ohio law.
13. Notices. Notices under this SRO MOU shall be in writing and may be delivered in person or by email. If hand-delivered, the notice shall be effective upon delivery. If by email, the notice shall be effective when sent.

If to the City:

Brad Townsend, City Manager
300 East Central Avenue
West Carrollton, OH 45449
937/847-4633
btownsend@westcarrollton.org

If to the School District:

Dr. Andrea Townsend, Superintendent
430 East Pease Avenue
West Carrollton, OH 45449
937/859-5121, Ext. 1118
atownsend@wcsd.k12.oh.us

IN WITNESS WHEREOF, the parties have caused duplicate originals of this SRO MOU to be executed by their duly authorized officers.

BOARD OF EDUCATION OF THE
WEST CARROLLTON CITY SCHOOL DISTRICT

By _____ Date _____
Leslie Miller, President

By _____ Date _____
Ryan Slone, Treasurer

CITY OF WEST CARROLLTON

By _____ Date _____
Brad Townsend, City Manager

By _____ Date _____
Douglas M. Woodard, Chief of Police

PERFORMANCE CONTRACT

This Performance Contract (the "Agreement") is entered into on June 9, 2022 between the Montgomery County Governing Board of Education ("MCESC") and the City of West Carrollton ("Contractor"), residing or located at

<u>300 Central Avenue</u>	<u>West Carrollton</u>	<u>OH</u>	<u>45449</u>
Street Address	City	State	Zip

Contractor: Are you incorporated? ☐ Yes ☐ No

_____ or 31-6001092
Social Security Number **Federal Employee Identification Number**

Services to be Provided are Specified in the Statement of Work, if Applicable, and Further Include:

School Resource Officer Services for the West Carrollton School District per Attached Agreement for the 2022-2023 school year

Location(s) of Performance or Delivery: West Carrollton School District

Term of Service or Expected Date of Completion: 2022-2023 School Year

Compensation: In consideration of and subject to Contractor's satisfactory performance of the Services pursuant to this Agreement, including its Terms and Conditions, and any Statement of Work, MCESC agrees to pay Contractor the amount of Fifty Thousand Dollars (Not to Exceed) (\$ 50,000.00) within thirty (30) days after completion of the Services.

Acceptance of this contract (or agreement of authorization) is evidence of compliance with Title VI-VII of the 1964 Civil Rights Act and Section 504 of the Rehabilitation Act which prohibits discrimination because of race, color, national origin, handicap, age, sex, religion, and political affiliation in any facet of your operation except where such discrimination is a bona fide, documented business necessity.

Contractor Signature

Superintendent,
Montgomery County Educational Service Center

Printed Name of Signatory

Treasurer, Montgomery
Montgomery County Educational Service Center

Superintendent Signature

OFFICE USE ONLY

Month of payment: _____

Account: _____

9923358v3

Terms and Conditions

1. **Services and Deliverables.** The Contractor shall act as an independent contractor to MCESC and shall perform Services required by this Agreement, which may include the creation and delivery of specific works pertaining to the Services (the "Deliverables"). MCESC shall provide Contractor with direction as to the results sought to be accomplished by MCESC, but shall leave to the general discretion of the Contractor the means and methods by which to accomplish the desired objectives, subject to the terms of this Agreement.

2. **Independent Contractor; Non-Exclusivity.** It is expressly understood that this Agreement does not constitute an employment agreement, that the Contractor is retained by MCESC solely as an independent contractor and not an employee, and that the Contractor shall be afforded the opportunity to engage in any other employment or activities, except activities which are in violation of this Agreement. The Parties agree that the Contractor is not entitled to, and MCESC will not provide Contractor with any employment benefits, including but not limited to health insurance benefits, workers compensation benefits, paid leaves, or any other employee benefit. Contractor is responsible for the payment of all required taxes relating to the performance of services under the Performance Contract, whether federal, state, or local in nature, including, but not limited to, income taxes, social security taxes, unemployment compensation taxes, workers' compensation taxes and any other fees, charges, licenses, or other payments required by law. Contractor has no authority to enter into contracts or agreements on behalf of MCESC.

3. **Intellectual Property.** "Intellectual Property" means any form of intangible exclusive right recognized under U.S. law or the laws of another country, including patents, trademarks, service marks, trade dress, copyrights, rights in data and databases, trade secrets, know-how, other confidential information, or any other intellectual property rights, whether registered or unregistered, as well as any other proprietary information for which the holder derives a benefit, whether pecuniary or otherwise. With regard to all such forms of Intellectual Property, the parties agree to the following to the extent relevant to Contractor's particular Services and Deliverables (not all subdivisions may apply to this particular Performance Agreement):

(a.) **Pre-existing Intellectual Property.** Contractor shall retain ownership in all Intellectual Property created prior to this Agreement ("Pre-existing Intellectual Property"), whether or not same becomes included in a Deliverable. Contractor hereby grants an irrevocable, world-wide, perpetual, and royalty-free license to MCESC to use, sell, offer to sell, sub-license, copy, distribute, publically display, and create derivative works from Contractor's Pre-existing Intellectual Property, if any, which is necessary or beneficial to MCESC's full use, enjoyment, and ownership of the Services and the Deliverables.

(b.) **General Knowledge and Skill.** Nothing in this Agreement shall foreclose Contractor from using and employing Contractor's general and acknowledged skills and expertise for purposes other than the Services in so far as same does not infringe a right exclusively conveyed to MCESC with respect to the Services under this Agreement.

(c.) **Attribution. Moral Rights.** MCESC agrees to provide attribution to Contractor for Contractor's contribution of Pre-existing Intellectual Property and Contractor's individual persona for use in connection with the Services and Contractor grants MCESC the irrevocable, world-wide, perpetual, and royalty-free right to use its name(s), trademark(s), and service mark(s) for the purpose of attribution. Contractor waives any further moral rights recognized in any country.

(d.) **Right of Publicity.** Contractor grants its irrevocable, world-wide, perpetual, and royalty-free consent to MCESC to use Contractor's individual persona, including Contractor's name and names by which Contractor is known as well as Contractor's voice, signature, photograph, image, likeness, and distinctive appearance, for

MCESC's commercial purposes specifically related to the Services or Deliverables. Contractor represents and warrants that Contractor owns more than fifty percent (50%) of Contractor's individual right of publicity. Contractor reserves all other rights of publicity.

(e.) Overall Ownership of New Works. It is the parties' intention that during and upon completion of Contractor's performance under this Agreement, MCESC shall own and have (as between MCESC and Contractor) the exclusive right to use, sell, offer to sell, sub-license, copy, distribute, publically display, and create derivative works from the Deliverables. All Services provided, and any products or works developed, by Contractor, including Deliverables, hereunder shall be considered a "work made for hire" and the sole property of MCESC, whether or not MCESC seeks patent, copyright, or other protection therefor. For the avoidance of doubt, MCESC shall have the exclusive right to develop and create derivative videos, programs, songs, literary works, products, and merchandise from the Deliverables.

(f.) Assignment of New Works. During and after the time Contractor performs Services or develops any products or works, including Deliverables, hereunder, Contractor shall assign (and does hereby assign) to MCESC such right, title and interest to such works, products, and Deliverables developed through the performance of the Services as is necessary for MCESC to have sole ownership of same. During and after the time Contractor performs Services or develops products, works, or Deliverables hereunder, Contractor shall execute and deliver promptly to MCESC any written instruments and do any other acts as may be necessary in the opinion of MCESC to obtain and maintain exclusive ownership in said products, works, and Deliverables.

(g.) Trademarks. As between Contractor and MCESC, Contractor agrees that the names, images, and symbols that may be developed for the Services or Deliverables as an indication of source shall be owned exclusively by MCESC and Contractor shall not challenge the validity of or make unauthorized use of same.

4. Contractor's Representation and Warranty. Contractor represents, warrants, and covenants to MCESC that all of the following are true:

(a.) Contractor has, and throughout the Term and any additional periods during which Contractor does or is required to perform, will have the unconditional and irrevocable right, power and authority, including all permits and licenses required to provide the Services and Deliverables and grant and perform all rights and licenses to MCESC. Contractor has not, and will not during the Term, sign or agree to any contract with a third party inconsistent with Contractor's obligations under this Agreement.

(b.) The Services and Deliverables provided by Contractor under this Agreement do not and will not infringe, misappropriate or otherwise violate any third party rights in Intellectual Property.

(c.) There is no settled, pending, or threatened claim, suit, action or proceeding ("Action"), and Contractor has not received any written, oral or other notice of any Action (including in the form of any offer to obtain a license): (i) alleging that any access to or use of the Services or Deliverables do or would infringe, misappropriate or otherwise violate any Intellectual Property right of any third party; (ii) challenging Contractor's ownership of, or right to use or license, any software or other materials used or required to be used in connection with the sale, performance or receipt of the Services or Deliverables, or alleging any adverse right, title or interest with respect thereto; or (iii) that, if decided unfavorably to Contractor, would reasonably be expected to have an actual or potential adverse effect on its ability to provide the Services or Deliverables or its other obligations under this Agreement, and it has no knowledge of any factual, legal or other reasonable basis for any such litigation, claim or proceeding.

(d.) The Services and Deliverables will be provided through the use of reasonable care, consistent with similar contractors in the industry.

(e.) Contractor has never been convicted of a felony or any misdemeanor involving, in any way, theft, fraud, bribery, dishonesty, assault, or any crime of moral turpitude.

(f.) The Services and Deliverables will conform to and perform in accordance with the specifications and all requirements of this Agreement and any future addendum or order in which the Parties may mutually agree.

(g.) Contractor will provide all Services and Deliverables in a timely, professional and workmanlike manner with a level of care, skill, practice and judgment consistent with best industry standards and practices for similar Services and Deliverables, using personnel with the requisite skill, experience and qualifications, and will devote adequate resources to meet Contractor's obligations under this Agreement.

(h.) Contractor will perform all work and Services under this Agreement in accordance with applicable standards of the profession and in accordance with and any and all applicable federal, state, and local laws, rules and regulations applicable to the Services. Contractor has any and all necessary licenses, permits, registrations, authorizations, and permissions to perform the Services and will continue to maintain all of the foregoing, as necessary, during the term of this Agreement.

5. Indemnification. Contractor shall indemnify, defend, and hold harmless MCEC and its directors, officers, and employees from and against any claims, actions, proceedings, demands, liabilities, damages, judgments, assessments, losses and costs, including attorneys' fees and expenses, arising out of or in connection with Contractor's breach of its representations and warranties provided in Section 4 of this Agreement, the Services and Deliverables rendered by Contractor, Contractor's employees, if any, and Contractor's agents under this Agreement, or any other cost or liability of MCEC arising out of or in connection with Contractor's breach of this Agreement or false representation therein. This covenant shall survive the termination of this Agreement.

6. Time of the Essence. Contractor acknowledges and agrees that time is of the essence with respect to its obligations under this Agreement and that prompt and timely performance of all such obligations, including all timetables and other requirements of this Agreement and each Statement of Work, is strictly required.

7. Term; Termination. This Agreement shall begin as of the date in which the Agreement is fully executed by both parties and shall terminate on the earlier of the completion of performance of the Services or the date specified in the Performance Contract for the completion of performance. Notwithstanding the foregoing, MCEC may terminate this Agreement upon notice to Contractor if: (i) Contractor is in breach of a duty set forth in this Agreement; (ii) Contractor is in breach of any warranty set forth in this Agreement; (iii) Contractor fails to satisfactorily perform the Services or to do so in a timely fashion; or (iv) MCEC's reasonable determination that Contractor poses a threat to the safety of any person, MCEC's property, or MCEC's reputation and goodwill.

8. Notice. Any notice to be given to a party hereunder shall be given by: (a) personal delivery; (b) electronic mail; (c) overnight delivery by FedEx or other overnight carrier to the address designated by such party on the signature page of this Agreement; or (d) regular United States mail to such party at the address designated by that party on the signature page of this Agreement. Any notice shall be deemed given upon the earlier of: the date of delivery to the party or the date of overnighting or mailing the notice.

9. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any litigation or legal determination made under this Agreement shall be initiated and concluded in the state or federal courts located in Montgomery County, Ohio.

10. Entire Agreement. This Agreement constitutes the complete and exclusive statement of the rights and obligations between the parties and supersedes all proposals, oral or written, and any other communications between the parties relating to the subject matter of this Agreement. Neither party is justified in relying on such proposals or communications, as they are deemed to have been merged into this final Agreement.

11. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided that due to the nature of the personal services being provided by the Contractor, the Contractor shall not assign her rights and responsibilities hereunder without the prior written approval of the MCESC.

12. Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.