

COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018

THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY MET IN REGULAR SESSION ON THIS DATE WITH THE FOLLOWING MEMBERS PRESENT:

Present:
Gary Merrell, President
Barb Lewis, Vice President
Jeff Benton, Commissioner

1:30 PM Viewing For Consideration Of The Kingston Township Watershed #2017-2 Drainage Improvement Petition

1
RESOLUTION NO. 18-434

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD APRIL 19, 2018:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on April 19, 2018; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.11 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the electronic record of proceedings at the previous meeting.

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

2
PUBLIC COMMENT

3
ELECTED OFFICIAL COMMENT

4
**RETIREMENT TRIBUTE,
 EMS CAPTAIN TOM SHOVER, 30 YEARS OF SERVICE TO DELAWARE COUNTY**

5
RESOLUTION NO. 18-435

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0420 AND PROCUREMENT CARD PAYMENTS IN BATCH NUMBER PCAPR0420:

It was moved by Mrs. Lewis, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0420 Procurement Card Payments in batch number PCAPR0420 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
CSX Transportation	Flagging cost of Liberty Sawmill Sewer	66711908-5415	\$6,137.03
DATA	JFS Client Transportation	22411601-5355	\$100,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Account</u>	<u>Amount</u>
R1803267	LIBERTY TWP FIRE DEPT	EMS RUNS	10011303 - 5345	\$150,000.00
R1803271	BLUES AUTO SERVICE INC	REPAIR 2011 GMC SIERRA	60111901 - 5370	\$9,814.31

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

6
RESOLUTION NO. 18-436

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

The Adult Court Services Department is requesting that Lorrie Sanderson attend a National Association of Pretrail Services Conference in Fort Worth, Texas from August 19-22, 2018 at the cost of \$1676.40 (fund number 25622303).

The Code Compliance department is requesting that Duane Matlack attend an Association of State Floodplain Managers Annual Conference in Phoenix, Arizona from June 17-21, 2018 at the cost of \$100.00 (fund number 10011301).

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

7

RESOLUTION NO. 18-437

IN THE MATTER OF SETTING DATE, TIME AND PLACE FOR THE FINAL HEARING BY THE COMMISSIONERS FOR THE FANCHER ROAD WATERSHED DRAINAGE IMPROVEMENT PETITION PROJECT:

It was moved by Mrs. Lewis, seconded by Mr. Benton to approve the following:

Whereas, the Board of Commissioners of Delaware County on February 25, 2016, held a public hearing and determined the action is necessary, conducive to the public welfare, and the benefits derived exceed the cost incurred for the reconstruction and improvement of the Fancher Road Watershed Drainage Improvement Petition Project; and

Whereas, at that time the Delaware County Commissioners directed the Delaware County Engineer to proceed with the preparation of plans, reports, and schedules for the completion of the Drainage Improvement project; and

Whereas, the Delaware County Engineer has notified the Commissioners that the plans, reports, and schedules for the construction of The Fancher Road Watershed Drainage Improvement Petition Project are being finalized for their review and consideration;

Therefore be it Resolved, the Board of County Commissioners of The County of Delaware have fixed the **Thursday June 7, 2018, at 10:00A.M.** at the Commissioners Hearing Room 101 North Sandusky Street Delaware, Ohio as the time and place of the final hearing by the Commissioners on the report of the County Engineer.

Vote on Motion Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

8

RESOLUTION NO. 18-438

IN THE MATTER OF CANCELING THE COMMISSIONERS' SESSIONS SCHEDULED FOR THURSDAY JULY 5, 2018 AND MONDAY JULY 16, 2018:

It was moved by Mr. Benton, seconded by Mrs. Lewis to cancel the Commissioners' sessions scheduled for Thursday July 5, 2018 and Monday July 16, 2018.

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Aye

9

RESOLUTION NO. 18-439

IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, MOLLY R. GWIN, REQUESTING ANNEXATION OF 61.614 ACRES OF LAND IN SCIOTO TOWNSHIP TO THE VILLAGE OF OSTRANDER:

It was moved by Mrs. Lewis, seconded by Mr. Benton to acknowledge that on April 17, 2018, the Clerk to the Board of Commissioners received an annexation petition request to annex 61.614 acres from Scioto Township to the Village of Ostrander.

Vote on Motion Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

10

RESOLUTION NO. 18-440

IN THE MATTER OF APPROVING THE FIRST AMENDMENT TO THE LEASE AGREEMENT BY AND BETWEEN THE DELAWARE COUNTY BOARD OF DEVELOPMENTAL DISABILITIES AND THE BOARD OF COUNTY COMMISSIONERS, ON BEHALF OF THE DELAWARE COUNTY SHERIFF'S OFFICE, FOR CERTAIN REAL PROPERTY LOCATED AT 149 EAST

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

ORANGE ROAD, LEWIS CENTER, OHIO 43035:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

Whereas, the Sheriff recommends approval of first amendment to the Lease Agreement by and between the Delaware County Board of Developmental Disabilities and the Board of County Commissioners on behalf of the Delaware County Sheriff's Office for certain real property located at 149 East Orange Road, Lewis Center, Ohio 43035;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the first amendment to the lease agreement by and between the Delaware County Board of Developmental Disabilities and the Board of County Commissioners on behalf of the Delaware County Sheriff's Office for certain real property located at 149 East Orange Road, Lewis Center, Ohio 43035:

First Amendment to the Contract between the Board of County Commissioners, Delaware County, on behalf of the Delaware County Sheriff's Office, and Delaware County Board of Developmental Disabilities, Delaware County, Ohio

The Parties mutually agree to renew the contract providing the LEASE AGREEMENT ("Lease"), approved by Resolution # 15-487, on August 23, 2015.

Amended Terms:

The Parties agree to renew this until April 30, 2021, as is provided under the contract.

Section Two of the original agreement is hereby amended to permit this renewal. This renewal shall be effective upon the date when the final party executes this renewal.

All remaining provisions of the Agreement shall continue in full force and effect unless specifically amended here.

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

11

RESOLUTION NO. 18-441

IN THE MATTER OF APPROVING A CONTRACT AND ADDENDUM BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, THE DELAWARE COUNTY SHERIFF'S OFFICE, AND STANLEY CONVERGENT SECURITY SYSTEMS, INC. FOR INTERCOM UPGRADES AT THE DELAWARE COUNTY JAIL:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

Whereas, the Sheriff and Sheriff's Staff recommend approval of the contract and addendum between the Delaware County Board of Commissioners and Stanley Convergent Security Systems, Inc. for intercom upgrades at the Delaware County Jail;

Now Therefore Be it Resolved, the Delaware County Board of Commissioners approve the contract with Stanley Convergent Security Systems, Inc. for intercom upgrades at the Delaware County Jail:

DELAWARE COUNTY CONTRACT FOR SERVICES

This Contract for Services ("Contract") is entered into this 23rd day of April, 2018 by and between the Delaware County Sheriff's Office ("Sheriff"), whose principal place of business is located at 149 N. Sandusky St., Delaware, Ohio 43015, and Stanley Convergent Security Solutions, Inc. ("Stanley") whose principal place of business is located at 8350 Sunlight Dr., Fishers, IN46037. (Individually "Party," collectively "Parties").

1. Description of Services.

The purpose of this Contract is to provide an intercom system and ongoing service. The Services shall be rendered by the Contractor in accordance with the following documents, by this reference made part of this Agreement:

Stanley Exhibit 1: "Quotation #170371

2. Compensation, Contract Maximum, and Tenn.

In exchange for the Services, Sheriff shall pay Stanley One Hundred Thirty-Five Thousand Nine Hundred Ninety-Five Dollars and Zero Cents (\$135,995.00) for the term of this Contract. It is expressly understood and agreed, unless otherwise agreed in writing by the Parties, that in no event shall the total amount to be paid under this Contract exceed the maximum of One Hundred Thirty-Five Thousand Nine Hundred Ninety-Five Dollars and Zero Cents (\$135,995.00). This contract shall be effective upon the date when the final party executes this contract and continues through January 1, 2019, unless otherwise terminated as provided in this

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

Contract.

3. Taxes.

Delaware County, Ohio is a political subdivision and tax exempt Stanley shall not charge the Sheriff any tax and agrees to be responsible for all tax liability that accrues to Stanley as a result of this Contract and the Services that Stanley provides to the Sheriff pursuant to this Contract. Sheriff shall, upon request, provide Stanley with proof of exemption.

4. Termination.

Upon breach or default of any of the provisions, obligations, or duties embodied in this Agreement, the aggrieved Party shall provide written notice of the breach or default to the breaching or defaulting Party and permit the breaching or defaulting Party to remedy the breach or default within a specified reasonable period of time. If the breach or default is not satisfactorily remedied within the specified time period, this Agreement may, at the election of the aggrieved Party, be immediately terminated. The Parties retain and may, without limitation, exercise any and all available administrative, contractual, equitable or legal remedies.

Termination pursuant to this section shall relieve the Parties of any and all further obligations under this Contract, except that Stanley shall be entitled to receive compensation for any Services satisfactorily performed hereunder through the date specified on the notice as the effective date of termination.

The Parties retain and may, without limitation, exercise any and all available administrative, contractual, equitable or legal remedies.

If the Contract is terminated pursuant to this Section, Stanley shall have no cause of action against Sheriff, and/or Delaware County, Ohio related to such termination except for a cause of action for non-payment for the Services rendered prior to the effective date of termination. In no event will Sheriff, and/or Delaware County, Ohio be obligated to pay for any Services not actually performed by Stanley.

5. Indemnification.

Stanley shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

6. Insurance.

A. General Liability Coverage: Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.

B. Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.

C. Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.

D. Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 10.1 and 10.2. Contractor shall require all of its subcontractors to provide like endorsements.

E. Proof of Insurance: Prior to the commencement of any Services under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of Services under this Agreement.

7. Independent Contractor.

Stanley agrees that it shall act in performance of this Contract as an independent contractor. No agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Contract.

Stanley assumes all responsibility for any and all federal, state, municipal, or other tax liabilities, along with workers compensation, unemployment compensation, contributions to retirement plans, and/or insurance premiums which may accrue and/or become due as a result of compensation received for services and/or deliverables rendered and/or received under or pursuant to this Contract. Stanley and/or its officers, officials, employees, representatives, agents, and/or volunteers are not entitled to any benefits enjoyed by employees of Sheriff or Delaware County.

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

8. Access to Records.

At any time, during regular business hours, with reasonable notice, and as often as Sheriff or other agency or individual authorized by Sheriff may deem necessary, Stanley shall make available to Sheriff and/or individual authorized by Sheriff all books, records, documents, papers, subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. Sheriff and/or individual authorized by Sheriff shall be permitted by the Contractor to inspect, audit, make excerpts, photo static copies, and/or transcripts of any and all such documents relating to all matters covered by this Contract. Stanley acknowledges that Ohio's Public Records laws apply to this agreement and agrees not to assert any claim that would interfere with Sheriff complying with a valid public record's request. Notwithstanding the foregoing, and unless otherwise required by applicable statute, such materials will not include any work of authorship which was fixed in a tangible medium of expression by Stanley prior to the Effective Date, any intellectual property or other proprietary or trade secret information conceived or originated by Stanley prior to the Effective Date, or any discovery, concept, or idea conceived, created, or acquired by Contractor or its officers, employees, agents and the like prior to the Effective Date.

9. Retention of Records.

Stanley shall retain and maintain for a minimum of three (3) years after reimbursement/ compensation for Services rendered under this Contract all books, records, documents, papers, subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. If an audit, litigation, or other action is initiated during the time period of this Contract or the retention period, the Contractor shall retain and maintain such records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever is later.

Provisions Relating to Compliance with State and Federal Law

10. Campaign Finance - Compliance with RC § 3517.13.

Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year 1 or the contract includes, a certification that the individuals named in said sections of the Revised Code are in compliance with the applicable provisions of section 3517.13 of the Revised Code. Stanley therefore, is required to complete the attached certificate/affidavit entitled "Certification/ Affidavit in Compliance With O.R.C. Section 3517.13."

Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the Sheriff from entering, proceeding with, and/or performing the Contract. Such certification is attached to this Contract as Exhibit A and by this reference made a part of this Contract.

11. Certification for Findings for Recovery.

By signature of its representative below, Stanley hereby certifies that it is not subject to any current unresolved findings for recovery pending with or issued by the Ohio Auditor of State.

Pat Hickok
GENERAL MANAGER

12. Independent Contractor Acknowledgement/No Contribution to OPERS.

Sheriff and Delaware County, Ohio (for purposes of this section collectively "County") are public employers as defined in R.C. § 145.01(D). The County has classified STANLEY as an independent contractor or another classification other than public employee. As a result, no contributions will be made to the Ohio Public Employees Retirement System ("OPERS") for or on behalf of Stanley and/or any of its officers, officials, employees, representatives, agents, and/or volunteers for services and/or deliverables rendered and/or received under or pursuant to this Contract. Stanley acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed it of such classification and that no contributions will be made to OPERS. If Stanley is an individual or has less than five (5) employees, Stanley, in support of being so informed and pursuant to R.C. § 145.038, agrees to and shall complete and shall have each of its employees complete an OPERS Independent Contractor Acknowledgement Form ("Form"). The Form is attached hereto as Exhibit B and by this reference is incorporated as a part of this Contract. Sheriff shall retain the completed Form(s) and immediately transmit a copy(ies) of it/them to OPERS.

If Stanley has five (5) or more employees, Stanley, by signature of its representative below, hereby certifies such fact in lieu of completing the Form:

Pat Hickok
GENERAL MANAGER

13. Non-discrimination.

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

Stanley certifies and agrees as follows:

Stanley, all subcontractors, and/or any person acting on behalf of Stanley or any subcontractor shall comply with any and all applicable federal, state, and/or local laws prohibiting discrimination and providing for equal opportunity.

Stanley, all subcontractors, and/or any person acting on behalf of Stanley or any subcontractor shall not in any way or manner discriminate on account of race, color, religion, sex, age, disability, handicap, sexual orientation, gender identity, or military status as defined in R.C. § 4112.01, national origin, or ancestry.

14. Accessibility.

Stanley certifies and agrees as follows:

Stanley, all subcontractors, and/or any person acting on behalf of Stanley or any subcontractor shall make all services/programs provided pursuant to this Contract accessible to the disabled/handicapped.

Stanley, all subcontractors, and/or any person acting on behalf of Stanley or any subcontractor shall comply with any and all applicable federal, state, and/or local laws mandating accessibility and Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), all requirements imposed by the applicable HHS regulations (45 CFR 8i4) and all guidelines and interpretations issued pursuant thereto.

15. Certification Regarding Personal Property Taxes.

By signature of its representative below, Stanley hereby certifies that it is not charged with delinquent personal property taxes on the general list of personal property in Delaware County, Ohio or any other counties containing property in the taxing districts under the jurisdiction of the Auditor of Delaware County, Ohio.

Pat Hickok
GENERAL MANAGER

16. Drug Free Environment.

Stanley agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. Stanley shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

17. Prohibited Interests.

Stanley agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof, as prohibited by Ohio law. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.

Miscellaneous Terms and Conditions

18. No Exclusivity.

Stanley shall not be the exclusive provider of the Services. Sheriff and Board, in their sole discretion, may utilize other contractors to perform/provide the same or similar Services.

19. Entire Agreement.

This Contract (and its Attachments) shall constitute the entire understanding and agreement between the Parties, shall supersede all prior understandings and agreements, whether written or oral, between the Parties relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the Parties.

20. Severability.

The provisions of this Contract are severable and independent, and if any such provision shall be unenforceable in whole or in part, the remaining provisions and any partially enforceable provisions 1 to the extent enforceable, shall nevertheless be binding and enforceable.

21. Governing Law.

This Contract shall be construed in accordance with the laws of the State of Ohio and all legal disputes arising from this Contract shall be filed in and heard before the courts of Delaware County, Ohio.

22. Notice.

Any notice or communication required or permitted under this Contract shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the addresses set forth in the opening paragraph or to such other address as one party may have furnished to the other Parties in writing and shall be made to the addresses listed in the preamble.

23. Waivers.

No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior,

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

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.

24. Assignment and Subcontracting.

The Parties may not assign or transfer this Contract without the prior written consent of the non assigning Parties, which approval shall not be unreasonably withheld. Stanley may not subcontract any portion of this Contract.

25. Headings.

The subject headings of the paragraphs in this Contract are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

26. Force Majeure.

The Parties shall be temporarily excused from performance and shall not be entitled to impose any penalty as a result of any delay in performance caused by reason of war, insurrection, strike, automobile fuel shortage, weather, explosion, act of God, order of Court or other public authority, interruption of payments due under this Contract, or any other cause beyond the reasonable control of the Parties. Such excusal from performance shall continue until such force majeure ceases to exist or the Contract is terminated as provided herein.

27. Competitive Bidding.

Consistent with R.C. § 307.86 and the requirements of such statute, this Contract is not required to be competitively bid. This contract is for supplementary, proprietary equipment available from only a single vendor.

28. Conflicts between Documents.

In the event of a conflict between the provisions of this document and Stanley Exhibit 1, this document will prevail.

29. Drafting, Counterparts, and Signatures,

This Contract shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary. This Contract may be executed in counterparts. Any person executing this Contract in a representative capacity hereby warrants that he/she has authority to sign this Contract or has been duly authorized by his/her principal to execute this Contract on such principal's behalf and is authorized to bind such principal.

**STANLEY CONVERGENT SECURITY SOLUTIONS, INC
CONSTRUCTION CONTRACT ADDENDUM**

This Addendum is attached to and incorporated by reference into that Contract for Services (the "Agreement") between Stanley Convergent Security Solutions, Inc. (hereinafter "Subcontractor" or "SCSS") and Delaware County Sheriff's Office (hereinafter "Owner").

1. Applicability: This Addendum is intended to modify and/or clarify the Agreement as it pertains To the Work 011 the above Project. If a conflict or inconsistency exists between the Agreement and this Addendum, then this Addendum shall prevail. Owner expressly agrees and understands that under no circumstances shall the Agreement or any attachments or modifications hereto bind SCSS to the terms and conditions of any agreement between Owner and any other party that are in any way contrary to this Addendum or which expand SCSS's liability beyond that expressly stated in the Agreement and this Addendum.

2. Indemnification: In no event will SCSS, its employees, agents or representatives be responsible for consequential, incidental or special damages or for the negligence of others.

3. Hazardous Materials: In all cases except when the project involves new construction, Owner represents and warrants that to the best of Owner's knowledge the work site is free of any hazardous materials. As used herein, the term "hazardous materials" shall include but not be limited to asbestos, asbestos containing material, polychlorinated biphenyl ("PCB"), formaldehyde or other potentially toxic or otherwise hazardous material. If any such substance is discovered on the work site, SCSS will not be required to install or service the equipment at such site unless and until Owner certifies the removal or safe containment of such hazardous materials.

4. WARRANTY DISCLAIMER: EXCEPT FOR ANY WARRANTIES AGREED UPON IN THE AGREEMENT SCSS MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

5. If applicable, Owner shall not assess liquidated or delay damages against SCSS unless and until the Owner gives written notification of intent and basis of determination of amounts and degree of responsibility of SCSS and all other Owners. Such written notification must be given within a reasonable period of time after the occurrence for which the Owner seeks to assess damages, not to exceed ten (10) days after the alleged event

COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018

causing the damage. However, liquidated and/or delay damages, taken in the aggregate, shall not exceed 10% of the Agreement price.

Except as expressly set forth in this Addendum, all of the terms and conditions of the Agreement entered into between the parties remain in full force and effect.

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

12

RESOLUTION NO. 18-442

IN THE MATTER OF APPROVING THE FIRST AMENDMENT TO THE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, THE DELAWARE COUNTY SHERIFF, AND PHYSIO-CONTROL, INC. FOR MAINTENANCE FOR AED UNITS THROUGHOUT THE JAIL AND SHERIFF’S OFFICE:

It was moved by Mrs. Lewis, seconded by Mr. Benton to approve the following:

Whereas, the Sheriff recommends approval of the first amendment to the contract between the Delaware County Board of Commissioners, the Delaware County Sheriff and Physio-Control, Inc. for Maintenance for AED Units throughout the Jail and Sheriff’s Office;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the first amendment to the contract between the Delaware County Board of Commissioners, the Delaware County Sheriff and Physio-Control, Inc. for Maintenance for AED Units throughout the Jail and Sheriff’s Office:

First Amendment to the Contract between Delaware County and Physio-Control, Inc.

The Parties mutually agree to renew the contract regarding the contract to provide AED’s and service from Physio-Control, Inc. approved by on December 8, 2014 that was executed by the Delaware County Administrator and periodically renewed since that time.

Amended Terms:

Physio-Control, Inc. agrees to provide 22 AEDs and service them through December 31, 2018, under the terms of the agreement executed under December 8, 2014 and Quote #00103782, dated November 22, 2017. In the event of a conflict between the provisions of these documents, this amendment and the terms of December 8, 2014 contract will prevail. This renewal shall be effective upon the date when the final party executes this renewal.

The Parties agree to amend the maximum price for this contract to \$8,712.00. All remaining provisions of the Agreement shall continue in full force and effect unless specifically amended here.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

13

RESOLUTION NO. 18-443

IN THE MATTER OF DECLARING PERSONAL PROPERTY OBSOLETE, UNFIT, OR NOT NEEDED FOR PUBLIC USE AND THE INTENT OF SELLING SUCH PROPERTY VIA INTERNET AUCTION OR DISPOSAL OF PROPERTY OF NO VALUE:

It was moved by Mr. Benton, seconded by Mrs. Lewis approve the following:

WHEREAS, Delaware County has personal property not needed for public use, obsolete, or unfit for the use for which it was acquired; and

WHEREAS, Ohio Revised Code section 307.12(E) allows, by resolution, the sale of such property by internet auction; and

WHEREAS, the Delaware County Board of Commissioners passed Resolution No. 16-749 on August 1, 2016, declaring its intent to sell such property by internet auction; and

WHEREAS, certain of such property may require a signature to transfer such property from the county to a buyer; and

WHEREAS, certain of such property may receive no bids during the internet auction and can be declared to be of no value;

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners, Delaware County, State of Ohio, that the following property listed below be sold in the manner prescribed in Resolution No. 16-749 and that

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

items receiving no bids be considered of no value and may be discarded or salvaged at the direction of the Director of Facilities. The Director of Facilities is hereby authorized to sign any documents needed to transfer such property on behalf of the Board.

<u>Item/Asset Type</u>	<u>Make</u>	<u>Model</u>	<u>Serial Number/Asset Number</u>
584/SEDAN	FORD	2011 CVPI	2FABP7BV4BX139662
566/SEDAN	FORD	2010 CVPI	2FABP7BVXAX134237
545/SEDAN	FORD	2008 CVPI	2FAFP71V38X154293
540/SEDAN	FORD	2008 CVPI	2FAFP71V58X154294
5/PICKUP	FORD	04 RANGER 3.0L	1FTZR44U64PB51326
904/PICKUP	DODGE	01 RAM 1500	1B7HF16Y41S782913
333/SQUAD	FORD	03 E450 SD	1FDXE45FX3HA45890

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

14

RESOLUTION NO. 18-444

IN THE MATTER OF PURCHASING GROUNDS MAINTENANCE EQUIPMENT FOR USE BY THE FACILITIES DEPARTMENT:

It was moved by Mrs. Lewis, seconded by Mr. Benton to approve the following:

WHEREAS, the Delaware County Director of Facilities recommends the purchase of additional grounds maintenance equipment for use by the Facilities Department; and

WHEREAS, the equipment is available for purchase at discounted pricing through the State of Ohio’s cooperative purchasing program (the “Program”); and

WHEREAS, the Board of County Commissioners (the “Board”) is a member of the Program and wishes to purchase the equipment through the Program; and

WHEREAS, pursuant to section 307.12(G) of the Revised Code, if the Board finds, by resolution, that the county has personal property that is not needed, or is unfit for public use, the Board may offer to sell the property to a firm from which the Board proposes to purchase new property and have the selling price credited to the firm against the purchase price of the new property; and

WHEREAS, JD Equipment, Inc., an approved Program dealer, is currently offering a promotion for trading in used equipment for a credit on the purchase of new equipment; and

WHEREAS, the county has grounds equipment that is not needed, obsolete, or unfit for public use and qualifies for the trade in promotion;

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, STATE OF OHIO:

Section 1. The Board hereby approves the purchase of grounds maintenance equipment from JD Equipment, Inc., a state-approved dealer under the Program, in accordance with and as detailed in Quote Number 16034960, attached hereto and incorporated herein, at a total price of \$19,005.94.

Section 2. The Board hereby finds that the county has 2 John Deere 1420 mowers (serial numbers TC1420G010410 & TC1420G110005) with attachments and 1 John Deere 47in snow blower (serial number M00370X015158) that are not needed, obsolete, or unfit for public use and authorizes sale of the equipment to JD Equipment, Inc., for a total credit to the purchase price of \$18,000.00. This credit is reflected in the total price stated in Section 1.

Section 3. The purchase shall be in accordance with the Program, pursuant to the contract and terms and conditions set forth in Contract # 800276, which are, by this reference, fully incorporated herein and of which the purchase order approved herein shall be made a part.

Section 4. The Board hereby approves a purchase order in the amount of \$19,005.94 to JD Equipment, Inc.

Vote on Motion Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

15

RESOLUTION NO. 18-445

IN THE MATTER OF APPOINTING THEODORE KLECKER AND RE-APPOINTING MINDY YOCUM TO THE DELAWARE COUNTY PUBLIC DEFENDER COMMISSION:

COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, the Delaware County Board of Commissioners (the "Board") is responsible for making appointments from the public to various boards, councils and committees; and

WHEREAS, pursuant to section 120.13 of the Revised Code, the Board shall make two appointments to the Delaware County Public Defender Commission for terms that expire May 8, 2022; and

WHEREAS, Theodore Klecker has applied for appointment to the Delaware County Public Defender Commission and Mindy Yocum has requested re-appointment to the Delaware County Public Defender Commission;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio:

Section 1. Theodore Klecker is hereby appointed and Mindy Yocum is hereby re-appointed to the Delaware County Public Defender Commission for terms that shall commence May 8, 2018 and will end May 8, 2022.

Section 2. The appointments made herein shall take effect on May 8, 2018.

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Aye

16

RESOLUTION NO. 18-446

IN THE MATTER OF AMENDING RESOLUTION NO. 01-1220 APPROVING THE METHOD FOR SELECTION OF THE LIBERTY COMMUNITY INFRASTRUCTURE FINANCING AUTHORITY BOARD OF TRUSTEES TO PROVIDE FLEXIBILITY IN THE DATE FOR THE ANNUAL ELECTION OF TRUSTEES CONSISTENT WITH AMENDMENTS TO SECTION 349.04 OF THE OHIO REVISED CODE SINCE THE ADOPTION OF RESOLUTION NO. 01-1220 ON OCTOBER 18, 2001:

It was moved by Mrs. Lewis, seconded by Mr. Benton to adopt the following Resolution:

WHEREAS, pursuant to Chapter 349 of the Ohio Revised Code, a petition (the "Petition") of Triangle Properties, Inc. (the "Developer") for the establishment of the Liberty Community Infrastructure Financing Authority (the "Authority") and its new community district (the "District") was heretofore filed and accepted by this Board of County Commissioners; and

WHEREAS, pursuant to Resolution No. 00-748, this Board established the Authority and its District pursuant to Chapter 349 of the Ohio Revised Code; and

WHEREAS, pursuant to that Resolution No. 00-748, this Board approved the structure of the Board of Trustees of the Authority wherein seven (7) members were initially selected as provided in the then current version of Section 349.04 of the Revised Code, and this Board appointed three (3) citizen members of that Board of Trustees to represent the interests of present and future residents of the District and one (1) member to serve as a representative of local government, and the Developer appointed three (3) members of that Board of Trustees as representatives of the Developer; and

WHEREAS, this Board pursuant to the then current version of Section 349.04 of the Revised Code adopted its Resolution No. 01-1220 providing a method for the selection of successor members of the Authority's Board of Trustees and provided in its Section 2(d) that elections of Trustees would, as required by the then current version of Section 349.04 of the Revised Code, be held on the first Tuesday after the first Monday in December; and

WHEREAS, Section 349.04 of the Revised Code was amended by Substitute House Bill Number 50 of the 129th Ohio General Assembly, effective March 27, 2013 (the "Act"), to no longer require that elections of Authority Trustees be held on the first Tuesday after the first Monday in December and provide those elections may instead be held at the times and in the manner provided in a resolution of this Board of County Commissioners; and

WHEREAS, consistent with Section 349.04 of the Revised Code as amended by the Act, this Board of County Commissioners desires to provide the Board of Trustees of the Authority with flexibility in the timing for the conduct of its elections;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS, DELAWARE COUNTY, OHIO, THAT:

Section 1. Section 2(d) of Resolution No. 01-1220 is hereby amended to read as follows:

- (d) Elected citizen members of the Board of Trustees shall be elected by a majority of the residents of the District voting at elections held annually at the times and in the manner provided by the Board of Trustees of the Authority. Each citizen member shall be a qualified elector who resides within the District.

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

Section 2. This Board finds and determines that all formal actions of the Board concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board and that all deliberations of this Board and of any committees that resulted in those formal actions were in meetings open to the public in compliance with law.

Section 3. This Resolution shall be in full force and effect immediately upon its adoption.

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

17

**PATRICK BRANDT, DIRECTOR EMERGENCY COMMUNICATIONS
-UPDATE/DISCUSSION 9-1-1**

18

RESOLUTION NO. 18-447

**IN THE MATTER OF APPROVING AN INTERGOVERNMENTAL COOPERATION
AGREEMENT WITH THE VILLAGE OF SUNBURY:**

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

INTERGOVERNMENTAL COOPERATION AGREEMENT

Section 1 – Parties to the Agreement

This Agreement is made and entered into this 23rd day of April, 2018, by and between the Delaware County Board of Commissioners, 101 North Sandusky Street, Delaware, Ohio 43015 (the “County”), and the Village of Sunbury, 9 East Granville Street, Sunbury, Ohio 43074 (the “Village”), (hereinafter referred to individually as “Party” or collectively as the “Parties”).

Section 2 – Purpose

This Agreement is authorized by sections 9.482 and 307.15, *et seq.*, of the Revised Code. In order to effectively and efficiently provide sanitary sewer service to the Parties’ respective constituents and to minimize potential future disputes over sanitary sewer service areas, the Parties hereto have prepared a map depicting the respective sanitary sewer service areas for the County and the Village, which map is attached hereto as Exhibit A and, by this reference, fully incorporated herein. The Parties also desire to establish the appropriate rates and charges for those areas of the Village that will be served by the County and to allocate responsibilities for the collection of rates and charges, the approval of plans, the granting of permits, and the provision of maintenance for the sanitary sewer service facilities contained therein.

Section 3 – Village Sanitary Service Area; Bent Tree Sanitary Service Area

The Parties agree that the Village shall provide sanitary sewer service to the area designated in Exhibit A as “Village Sanitary Service Area,” which the County shall not serve unless the Village consents in writing. The County acknowledges and agrees that annexation is required as a condition of service in this area unless waived in writing by the Village, subject to the following exceptions: (A) single family residences in the Village Sanitary Service Area existing as of the date of this Agreement shall not be required to annex, unless and until the residence transfers ownership and becomes contiguous to the Village; or (B) single family residences in the Village Sanitary Service Area existing as of the date of this Agreement shall not be required to annex if the owner of the property elects to continue paying a non-resident rate, as established by the Village, in lieu of annexation.

The Parties agree that the County shall continue to provide sanitary sewer service to the area designated in Exhibit A as “Bent Tree Sanitary Service Area,” until such time that the Village can provide service for the entire Bent Tree Sanitary Service Area and all lots therein, whereupon the County shall be permitted to decommission the Bent Tree package plant and the Bent Tree Sanitary Service Area shall be considered a part of the Village Sanitary Service Area for purposes of this Agreement. The Parties mutually acknowledge and agree that the County shall not bear any expense of constructing infrastructure necessary to provide service to the Bent Tree Sanitary Service Area, and the Village shall take all lawful and reasonable measures to require that infrastructure constructed to serve properties within the Bent Tree Sanitary Service Area is extended for the purpose of providing service to the Bent Tree Sanitary Service Area and decommission of the Bent Tree package plant. The Village shall not charge tap/connection fees to the existing county customers in the Bent Tree Sanitary Service Area.

Section 4 – County Sanitary Service Area

The Parties agree that the County shall provide sanitary sewer service to the area designated in Exhibit A as “County Sanitary Service Area,” which the Village shall not serve unless the County consents in writing. Available minimum sewer capacity in the County Sanitary Service Area is hereby agreed to be as follows:

- 4.1 The County hereby stipulates and agrees that the existing sanitary sewer system within the County Sanitary Service Area (and downstream thereof) has, and the County shall preserve and guarantee, sufficient capacity to serve Northgate Phase 1 (“Initial Development”), as described within the approved Traffic Impact Study (dated April 20, 2016), to wit, 275,000 s.f. of commercial retail space and 33,000 s.f. of automobile retail space. The County shall construct, or reimburse the Northgate NCA or the Initial Development developer the costs to construct, an extension of the sanitary sewer main south along South

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

Wilson Road to the Village corporation limits. Reimbursement to the Northgate NCA may be in cash or tap fee credits, and reimbursement to the Initial Development developer shall be limited to tap fee credits, in accordance with applicable County policy. The Initial Development developer shall bear all costs of any additional infrastructure necessary to connect to the existing sanitary sewer system and shall pay the County's connection charges in effect at the time of connection without surcharge. The County may require oversizing, subject to reimbursement per County policy.

4.2 The County further stipulates that any additional capacity that presently exists beyond what is required for the Initial Development shall be available on a first-come, first-serve basis to the remainder of the County Sanitary Service Area.

4.3 The County agrees to assure future adequate capacity beyond its existing capacity within its sanitary sewerage systems from and downstream of the County Sanitary Service Area through infrastructure improvement projects to provide 1200 gpd per acre (ADF) total capacity for the entire County Sanitary Service Area by December 31, 2020. The Parties mutually acknowledge and agree that this targeted total capacity is an average for the entire County Sanitary Service Area and that an individual development may have a flow that exceeds the average target without triggering the requirement stated in Section 4.4. The County agrees to design and install infrastructure with points of reasonable access on both the east side of I-71 and the west side of I-71 that will be located both within the County Sanitary Service Area and within the annexed area.

4.4 The parties agree that any person or entity desiring additional capacity that would exceed the targeted total capacity of 1200 gpd per acre (ADF) shall be responsible for the cost of the improvements necessary to secure the additional capacity unless waived by the County in a written agreement or adopted resolution.

Section 5 – Division of Responsibilities

In any area of the County Sanitary Service Area that is within the Village's corporation limits, the following division of responsibilities shall apply:

5.1 The County shall exercise approval authority over sanitary sewer plans and, as relates to sanitary sewer, plats of subdivisions; accept permit applications and grant or deny permits; establish, bill for, and collect tap/capacity fees; perform inspections; and perform maintenance on the sanitary sewer facilities. The tap/capacity fee to be collected shall include any surcharge enacted by the Village, which amount in addition to the established County tap/capacity fee shall be remitted to the Village on a quarterly basis.

5.2 The Village shall establish, bill for, and collect the user rate for each connection, provided that the user rate shall, at a minimum, consist of an amount referred to herein as the "County Rate," being the County's flat user rate then in effect multiplied by the equivalent residential unit ("ERU") as determined by the County at the time of connection. The Village shall total the amount of the County Rate collected for each connection and remit that total amount to the County on a quarterly basis. The Village shall retain any amount of the user rate collected for each connection in excess of the County Rate.

Section 6 – Records

The Parties agree that each shall maintain its respective public records concerning the services provided under this Agreement, pursuant to the laws of the State of Ohio pertaining to public records, and each Party shall make its records available to the other Party for audit purposes.

Section 7 – Term

This Agreement shall take immediate effect upon approval by all Parties hereto and shall continue in full force and effect unless and until amended, terminated, or superseded in writing signed by both Parties.

Section 8 – 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 9 – 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.

Section 10 – 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.

COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018

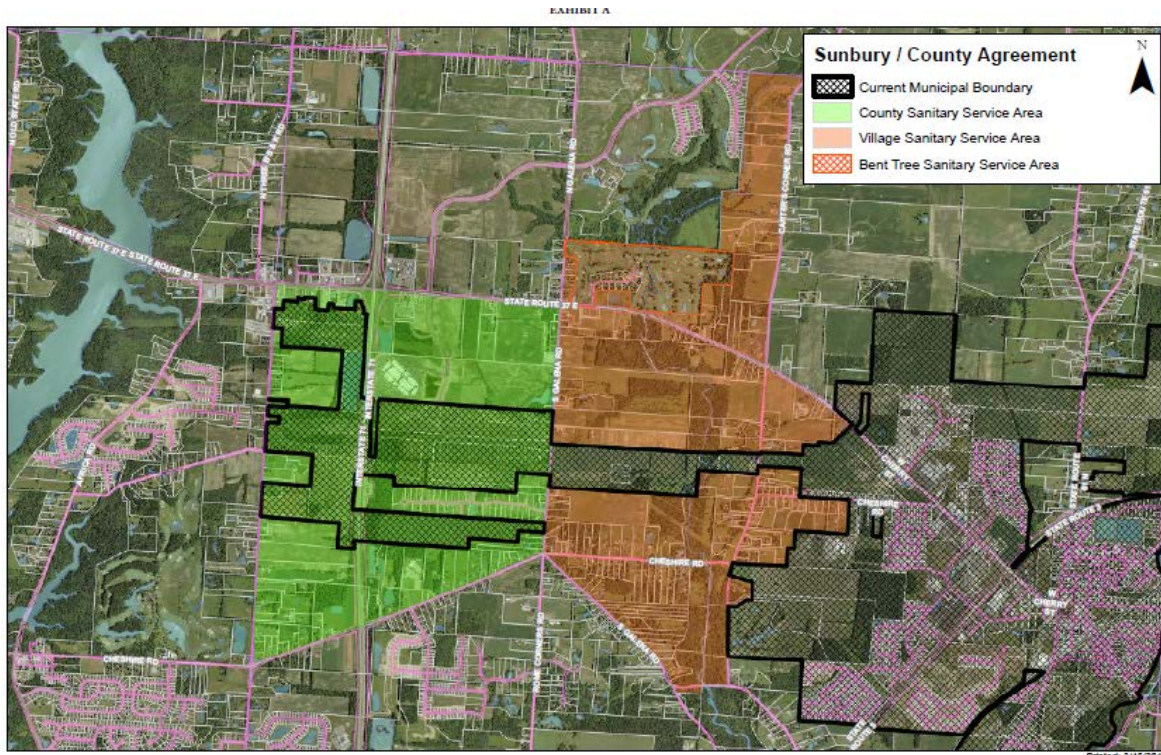
Section 11 – Miscellaneous Terms & Conditions

- 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.

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

EXHIBIT A

[Insert Service Area Map]



Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

19
RESOLUTION NO. 18-448

IN THE MATTER OF APPROVING, AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE, A LIMITED ACCESS EASEMENT AGREEMENT BY AND BETWEEN THE VILLAGE OF SUNBURY, OHIO, THE COUNTY OF DELAWARE, OHIO, AND NORTHGATE LAND

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

COMPANY I, LLC:

It was moved by Mrs. Lewis, seconded by Mr. Benton to approve the following:

WHEREAS, the County Administrator recommends approving a Limited Access Easement Agreement with the Village of Sunbury and Northgate Land Company I, LLC;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves, and authorizes the County Administrator to execute, a the following Limited Access Easement Agreement:

LIMITED ACCESS EASEMENT AGREEMENT

This LIMITED ACCESS EASEMENT AGREEMENT (the “*Agreement*”), made and entered into as of the 23rd day of April, 2018, by and between the VILLAGE OF SUNBURY, OHIO, a municipal corporation duly organized and validly existing under the Constitution and the laws of the State of Ohio (the “*Village*”), the COUNTY OF DELAWARE, OHIO, a county and political subdivision of the State of Ohio (the “*County*”) and NORTHGATE LAND COMPANY I, LLC, an Ohio limited liability company (the “*Developer*” and together with the Village and the County, the “*Parties*”) under the circumstances summarized in the following recitals.

RECITALS:

WHEREAS, the Village has been in negotiations with Northgate Land Company I, LLC (the “*Developer*”) to provide for the development of certain real property located within the Village (which real property is referred to as the “*Development Site*” which Development Site is depicted on **EXHIBIT A** which is attached hereto and incorporated herein by reference); and

WHEREAS, to facilitate the development of the Development Site and other proximately related real property, the Developer has caused the creation of NorthGate NCA I (the “*NCA*”) pursuant to Ohio Revised Code Chapter 349; and

WHEREAS, in order to proceed with the development of the Development Site, the Developer will need to extend South Wilson Road southerly from its current southern terminus which includes a limitation of access that may only be removed by the County’s Board of County Commissioners; and

WHEREAS, South Wilson Road as it currently exists will, upon formal acceptance by the County’s Board of County Commissioners, be owned and maintained by the County and the County reserves the right to determine whether South Wilson Road may be extended southerly; and

WHEREAS, the Parties agree that the southerly extension of South Wilson Road to facilitate the eventual development of the Development Site would result in the creation of new jobs and employment opportunities and improve the economic welfare of the people of the Village and the County; and

WHEREAS, to work jointly to facilitate the development of the Development Site, the Parties have determined to enter into this Agreement to remove the limitation of access and permit South Wilson Road to be extended southerly from its current southern terminus;

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter described, the Parties agree and bind themselves as follows:

Section 1. General. The Parties have been working cooperatively to facilitate the development of the Development Site and hereby acknowledge and agree as follows:

(a) Traffic Impact Study. The Ohio Department of Transportation (“*ODOT*”) approved a Traffic Impact Study dated April 20, 2016 (the “*Traffic Study*”), which among other matters, generally provided that absent any further development of the roadway network in and around the Development Site, the extension of South Wilson Road in a southerly direction from its current southern terminus would be able to accommodate the traffic which would be generated from a development upon the Development Site consisting of a single automobile dealership and 275,000 square feet of retail development. The Parties further acknowledge that in connection with the approval of the proposed single automobile dealership and 275,000 square feet of retail development, the Traffic Study made certain assumptions about existing traffic patterns in and around the development site, including the peak number of trips to and from the Development Site for the peak hour of the adjacent roadway system.

(b) New Interchange. The Parties anticipate that ODOT will cause a new interchange (consisting of Phases A through F and referred to herein as the “*Interchange*”) to be designed and constructed at the location identified in **EXHIBIT B** (which is attached hereto and incorporated herein by reference) to facilitate traffic flow to and from the Development Site.

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

Section 2. County's Agreements. In consideration for and subject to the Village's and the Developer's respective agreements in Sections 3 and 4, the County agrees as follows:

(a) The County hereby removes the limitation of access at the current southern terminus of South Wilson Road and grants a right of access to facilitate the extension of South Wilson Road in a southerly direction.

(b) The County agrees that if it enacts legislation on or before January 1, 2028 to create a tax increment financing area which includes the real property depicted on **EXHIBIT C** (which is attached hereto and incorporated herein by reference), it will commit fifty (50%) percent of the service payments in lieu of taxes which it receives from the creation of that County tax increment financing area to pay the costs, or debt service due on debt issued to pay the costs, of the Interchange (such costs being described in **EXHIBIT B** together with any revisions approved by ODOT and referred to herein as the "*Interchange Costs*"), or any other public infrastructure improvements that the County determines, in its sole discretion, will address traffic concerns in and around the Development Site.

Section 3. Village's Agreements. In consideration for and subject to the County's and the Developer's respective agreements in Sections 2 and 4, the Village agrees as follows:

(a) Development Moratorium. Subject to further agreement by the Parties, the Village agrees that prior to the date on which ODOT awards a construction contract for Phase A of the Interchange, the Village will only permit construction of a single automobile dealership and 275,000 square feet of retail development upon the Development Site; *provided, however*, the County agrees that prior to such date, the Village may permit alternative or additional development on the Development Site if either (i) the proposed development on the Development Site, which is different from what is indicated in the Traffic Study, does not exceed the peak number of trips indicated in the Traffic Study for the peak hour of the adjacent roadway system or (ii) in the event that additional capacity of the adjacent roadway network is available due to changes in the background traffic conditions in the Traffic Study, then the Village shall be permitted to allow development upon the Development Site as long as the level of service and the average seconds of delay do not exceed those listed in the Traffic Study.

The Parties agree that the development moratorium described in this Section 3(a) shall only apply to the Development Site.

(b) Tax Increment Financing.

(i) General. As soon as is reasonably practicable and to the extent permitted by law at the time, the Village will enact legislation to create a tax increment financing area (the "*TIF*") which will include the Development Site.

(ii) Use of TIF Receipts. The Village agrees to use the service payments in lieu of taxes which the Village receives from the TIF (net of any portion thereof withheld as a collection fee by the County or required to be paid to any overlapping school district, with such net amount received by the Village being referred to herein as the "*TIF Receipts*") as follows:

(A) **First**, all of the TIF Receipts shall be committed to pay the Interchange Costs until the earlier of January 1, 2025 or the date on which ODOT makes an official determination that the Interchange will not be constructed.

(B) **Second**, if a financing is consummated on or before January 1, 2025 for the purpose of paying the Interchange Costs, then all of the TIF Receipts will be committed to pay the debt service charges on that financing and any TIF Receipts which are not needed for that purpose shall be available to the Village to pay the costs of any public infrastructure improvements that the Village determines will benefit the Development Site.

(C) **Third**, if a financing as described in subparagraph **Second** has not yet been consummated, and if ODOT makes an official determination on or before January 1, 2025 that the Interchange will not be constructed, then notwithstanding the preceding subparagraphs, all of the TIF Receipts (including those TIF Receipts received prior to the ODOT determination date) will be committed as follows:

(1) Fifty (50%) percent, together with any portion of the amount described in subparagraph (C)(2) which is not remitted to the County, shall be retained by the Village and committed to the financing of any public infrastructure improvements that the Village determines will benefit the Development Site (which may at the Village's election, also include the Interchange Costs), and

(2) Fifty (50%) percent shall be remitted to the County for the purpose of reimbursing the County for the costs of constructing South Wilson Road as it existed on the effective date of this Agreement; *provided* that the aggregate amount which shall be remitted to the County pursuant to this subparagraph (C)(2) and subparagraph (D)(4) shall not exceed \$4,000,000 and those monies remitted will only

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

be used to pay the costs of any public infrastructure improvements that the County determines will facilitate traffic circulation in proximity to the Interchange.

(D) **Fourth**, if neither a financing as described in subparagraph **Second** has been consummated nor has ODOT made an official determination as described in subparagraph **Third** (in either case on or before January 1, 2025), then until the earlier of January 1, 2030 or the date on which ODOT makes an official determination that the Interchange will not be constructed, all of the TIF Receipts (including those TIF Receipts received on or before January 1, 2025) will be committed as follows:

(1) One hundred (100%) percent of the TIF Receipts received on or before January 1, 2025 shall remain committed to pay the Interchange Costs,

(2) Fifty (50%) percent of the TIF Receipts received after January 1, 2025 shall be committed to pay the Interchange Costs,

(3) Twenty-five (25%) percent of the TIF Receipts received after January 1, 2025, together with any portion of the amount described in subparagraph (D)(4) which is not remitted to the County, shall be retained by the Village and committed to the financing of any public infrastructure improvements that the Village determines will benefit the Development Site (which may at the Village's election, also include the Interchange Costs), and

(4) Twenty-five (25%) percent of the TIF Receipts received after January 1, 2025 shall be remitted to the County for the purpose of reimbursing the County for the costs of constructing South Wilson Road as it existed on the effective date of this Agreement; *provided* that the aggregate amount which shall be remitted to the County pursuant to subparagraph (C)(2) and this subparagraph (D)(4) shall not exceed \$4,000,000 and those monies remitted will only be used to pay the costs of any public infrastructure improvements that the County determines will facilitate traffic circulation in proximity to the Interchange.

(E) **Fifth**, if a financing as described in subparagraph **Second** is consummated after January 1, 2025 and on or before January 1, 2030, then:

(1) all of the TIF Receipts described in subparagraphs (D)(1) and (D)(2) will be committed to pay the debt service charges on that financing,

(2) any TIF Receipts described in subparagraphs (D)(1) and (D)(2) which are not needed for that purpose shall be available to the Village to pay the costs of any public infrastructure improvements that the Village determines will benefit the Development Site, and

(3) any TIF Receipts described in subparagraphs (D)(3) and (D)(4) shall continue to be used for the purposes described in those subparagraphs.

(F) **Sixth**, if a financing as described in subparagraph **Fifth** has not yet been consummated, and if ODOT makes an official determination after January 1, 2025 and on or before January 1, 2030 that the Interchange will not be constructed, then notwithstanding the preceding subparagraphs, all of the TIF Receipts (including those TIF Receipts received prior to the ODOT determination date) will be committed in accordance with subparagraphs (C)(1) and (C)(2).

(G) **Seventh**, if neither a financing as described in subparagraph **Fifth** has been consummated nor has ODOT made an official determination as described in subparagraph **Sixth** (in either case after January 1, 2025 and on or before January 1, 2030), all of the TIF Receipts (including those TIF Receipts received on or before January 1, 2030) will be committed in accordance with subparagraphs (C)(1) and (C)(2).

(c) **Community Reinvestment Area**. The Village agrees that it will not approve or grant any tax exemptions pursuant to Ohio Revised Code Sections 3735.61 *et seq.* on real property included within either the Development Site (as depicted on **EXHIBIT A**) or the County's proposed tax increment financing area (as depicted on **EXHIBIT C**) until the earlier of (i) January 1, 2028 or (ii) the date on which ODOT makes an official determination that the Interchange will not be constructed.

Section 4. **Developer's Agreement**. In consideration for and subject to the County's and the Village's respective agreements in Sections 2 and 3, the Developer agrees as follows:

(a) **Affidavit Relating to Real Property**. Within thirty (30) days following the effective date of this Agreement, the Developer shall (i) prepare an affidavit relating to real property (which shall be in a form reasonably acceptable to legal counsel for the County and the Village and referred to herein as the "*Affidavit*")

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

which shall provide notification of the existence of the development moratorium in respect of the Development Site and (ii) such affidavit will be recorded in the office of the County Recorder of the County.

(b) Termination of Development Moratorium. That neither the development moratorium shall be extinguished nor shall the Affidavit be withdrawn until the earlier of (i) the date on which ODOT awards a construction contract for Phase A of the Interchange or (ii) the County and the Village agree in writing to such extinguishment and withdrawal.

Section 5. Sewer Service Areas. The Parties agree to work cooperatively to negotiate an agreement to provide for the provision of sanitary sewer service within the Development Site.

Section 6. Miscellaneous.

(a) Assignment. This Agreement may not be assigned without the prior written consent of all non-assigning Parties.

(b) Binding Effect. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

(c) Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

(d) Day for Performance. Wherever herein there is a day or time period established for performance and such day or the expiration of such time period is a Saturday, Sunday or legal holiday, then such time for performance shall be automatically extended to the next business day.

(e) Effective Date. This Agreement shall become effective on the date set forth in the preamble hereto.

(f) Entire Agreement. This Agreement constitutes the entire Agreement between the Parties on the subject matter hereof and supersedes all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter. This Agreement may not be amended, waived or discharged except in an instrument in writing executed by the Parties.

(g) Events of Default and Remedies. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by any Party hereto, such defaulting Party shall, upon written notice from any non-defaulting Party, proceed immediately to cure or remedy such default or breach, and, in any event, within thirty (30) days after receipt of such notice. In the event such default or breach is of such nature that it cannot be cured or remedied within said thirty (30) day period, then in such event the defaulting Party shall upon written notice from any non-defaulting Party commence its actions to cure or remedy said breach within said thirty (30) day period, and proceed diligently thereafter to cure or remedy said breach. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved non-defaulting Party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the defaulting Party.

(h) Executed Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute but one and the same instrument. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

(i) Extent of Covenants; No Personal Liability. All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the Village or the County other than in his or her official capacity, and neither the members of the legislative bodies of the Village or the County nor any official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the Village and the County contained in this Agreement.

(j) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its principles of conflicts of laws. All claims, counterclaims, disputes and other matters in question between the Village, its agents and employees, and the County, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Delaware County, Ohio.

(k) Legal Authority. The Parties respectively represent and covenant that each is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. The Parties further respectively represent and covenant that this Agreement has, by proper action, been duly authorized, executed and delivered by the Parties and all steps necessary to be taken

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

by the Parties have been taken to constitute this Agreement, and the covenants and agreements of the Parties contemplated herein, as a valid and binding obligation of the Parties, enforceable in accordance with its terms.

(l) Limit on Liability. Notwithstanding any clause or provision of this Agreement to the contrary, in no event shall the Village or the County be liable to each other for punitive, special, consequential, or indirect damages of any type and regardless of whether such damages are claimed under contract, tort (including negligence and strict liability) or any other theory of law.

(m) Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other Party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused. For purposes of this Agreement, notices shall be addressed to:

- | | | |
|-------|-------------------|--|
| (i) | the Village at: | Village of Sunbury, Ohio
9 East Granville Street
Sunbury, Ohio 43074
Attention: Mayor |
| (ii) | the County at: | County of Delaware, Ohio
101 North Sandusky Street
Delaware, Ohio 43015
Attention: County Administrator |
| (iii) | the Developer at: | Northgate Land Company I, LLC
150 East Mound Street, Suite 201
Columbus, Ohio 43215 |

The Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices; certificates, requests or other communications shall be sent.

(n) No Waiver. No right or remedy herein conferred upon or reserved to any Party is intended to be exclusive of any other right or remedy, and each and every right or remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of any event of default hereunder. The failure of any Party to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof. Every right and remedy given by this Agreement to the Parties hereto may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

(o) Recitals. The Parties acknowledge and agree that the facts and circumstances as described in the Recitals hereto are an integral part of this Agreement and as such are incorporated herein by reference.

(p) Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

(q) Survival of Representations and Warranties. All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement.

(r) Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018

EXHIBIT A

DEPICTION OF DEVELOPMENT SITE

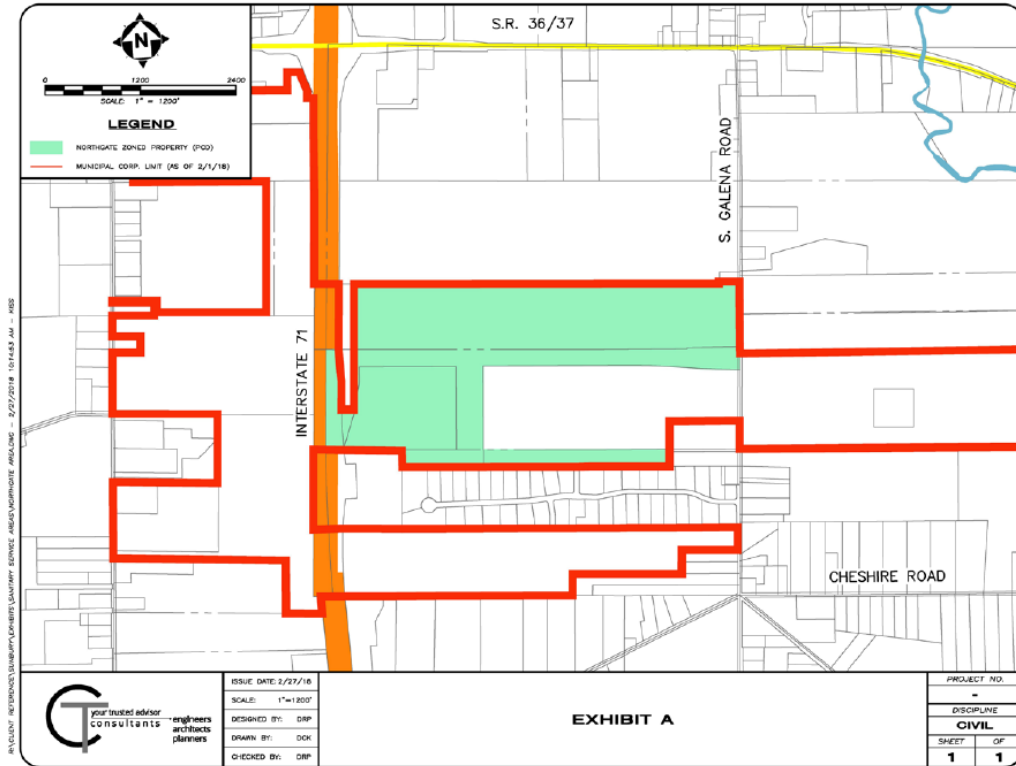
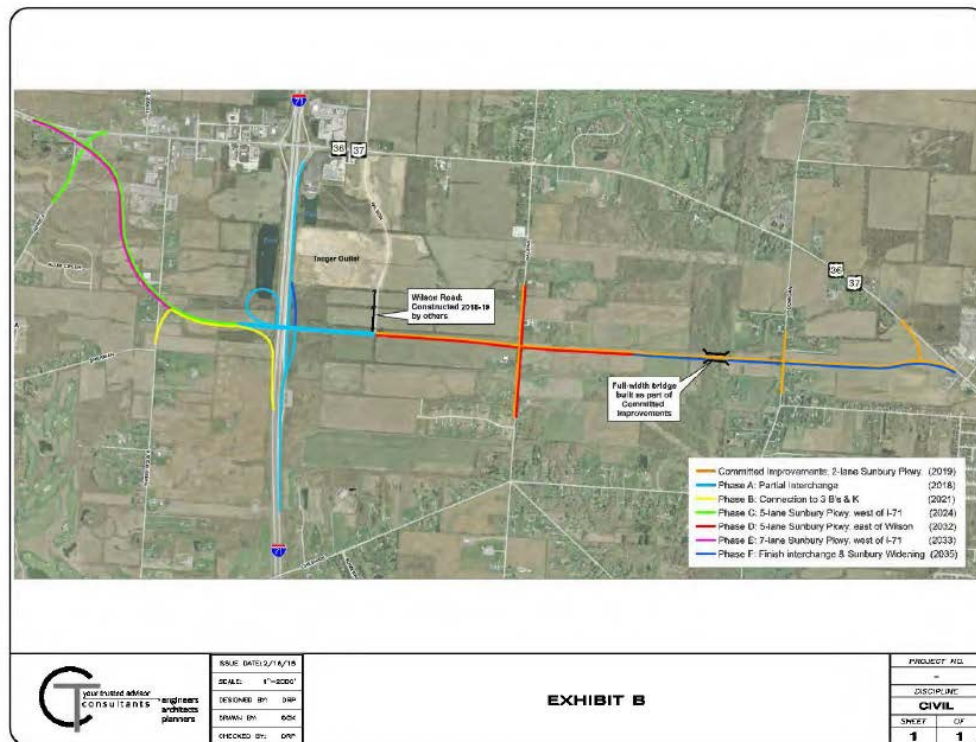


EXHIBIT B

DEPICTION OF PROPOSED INTERCHANGE AND DESCRIPTION OF INTERCHANGE COSTS



COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018

NORTHGATE I-71/US 36/SR 37 Interchange Modification - Cost & Funding Summary

Phase	Funding Source	Preliminary				TOTALS	40% of Total	Note: TRAC points greater to funding match greater than 40%
		Engineering**	Detailed Design***	ROW	Construction			
2018 Phase A	TOTAL	\$4,900,000	\$10,710,000	\$10,150,000	\$38,200,000	\$53,960,000	\$21,564,000	
	Developer	\$4,900,000				\$25,760,000		
	NCA		\$10,710,000	\$10,150,000	\$7,700,000	\$7,700,000		
	Sunbury				\$100,000	\$100,000		
	MORPC				\$400,000	\$400,000		
	Berkshire Township					\$0		
2021 Phase B	TOTAL	\$0	\$1,630,000	\$3,990,000	\$28,400,000	\$34,020,000	\$9,608,000	
	Developer					\$4,600,000		
	NCA		\$1,630,000	\$3,990,000	\$2,900,000	\$2,900,000		
	Columbus Outlets LLC*				\$6,500,000	\$6,500,000		
	Sunbury				\$0	\$0		% asked from TRAC of total
	Berlin Twp				\$10,000,000	\$10,000,000		42% construction cost
2022 Phase C	TOTAL	\$0	\$2,820,000	\$7,260,000	\$36,300,000	\$46,280,000	\$18,917,000	
	Developer					\$2,820,000		
	NCA		\$2,820,000		\$33,460,000	\$33,460,000		
	Berlin Township				\$0	\$0		% asked from TRAC of total
	Delaware County				\$7,260,000	\$7,260,000		22% construction cost
	TRAC				\$36,300,000	\$36,300,000		78% provided by others
2019 Phase D	TOTAL	\$0	\$160,000	\$7,600,000	\$7,760,000	\$7,760,000	\$3,104,000	
	NCA		\$160,000	\$7,600,000	\$7,760,000	\$7,760,000		0% construction cost
	TOTAL	\$0	\$160,000	\$7,600,000	\$7,760,000	\$7,760,000		100% provided by others
2020 Phase E	TOTAL	\$0	\$240,000	\$17,400,000	\$17,640,000	\$17,640,000		% asked from TRAC of total
	NCA		\$240,000	\$17,400,000	\$17,640,000	\$17,640,000		0% construction cost
	TOTAL	\$0	\$240,000	\$17,400,000	\$17,640,000	\$17,640,000		100% provided by others
2013 Phase F	TOTAL	\$0	\$170,000	\$12,800,000	\$12,970,000	\$12,970,000	\$5,188,000	
	NCA		\$170,000	\$12,800,000	\$12,970,000	\$12,970,000		0% construction cost
	TOTAL	\$0	\$170,000	\$12,800,000	\$12,970,000	\$12,970,000		100% provided by others

Funding Source	Preliminary				TOTALS	40% of Total	Note: TRAC points greater to funding match greater than 40%
	Engineering**	Detailed Design***	ROW	Construction			
Developer	\$4,900,000	\$15,160,000	\$13,140,000	\$0	\$33,200,000		\$33,200,000
NCA		\$3,990,000	\$13,140,000	\$81,460,000	\$88,480,000		\$88,480,000
Sunbury			\$100,000	\$100,000	\$100,000		\$100,000
MORPC			\$400,000	\$400,000	\$400,000		\$400,000
Berkshire Township			\$0	\$0	\$0		\$0
Columbus Outlets LLC*			\$16,500,000	\$16,500,000	\$16,500,000		\$16,500,000
TRAC		\$7,260,000	\$22,740,000	\$0	\$22,740,000		\$22,740,000

* Amount from Simon Tanger Future Transportation Commitments

** Preliminary Engineering for all phases provided in Phase A

*** Detailed Design includes all of design for Phase A plus 50% of design for Phases B thru F; partial design of other phases is needed up front to confirm alignment of Phase A

* Amount from Simon Tanger Future Transportation Commitments
** Preliminary Engineering for all phases provided in Phase A
*** Detailed Design includes all of design for Phase A plus 50% of design for Phases B thru F; partial design of other phases is needed up front to confirm alignment of Phase A

SUMMARY OF COSTS FOR ALL PHASES

Preliminary Engineering**	Detailed Design***	ROW	Construction	GRAND TOTAL	% asked from TRAC of total
\$4,900,000	\$15,730,000	\$20,400,000	\$12,800,000	\$54,830,000	18% construction cost 82% provided by others

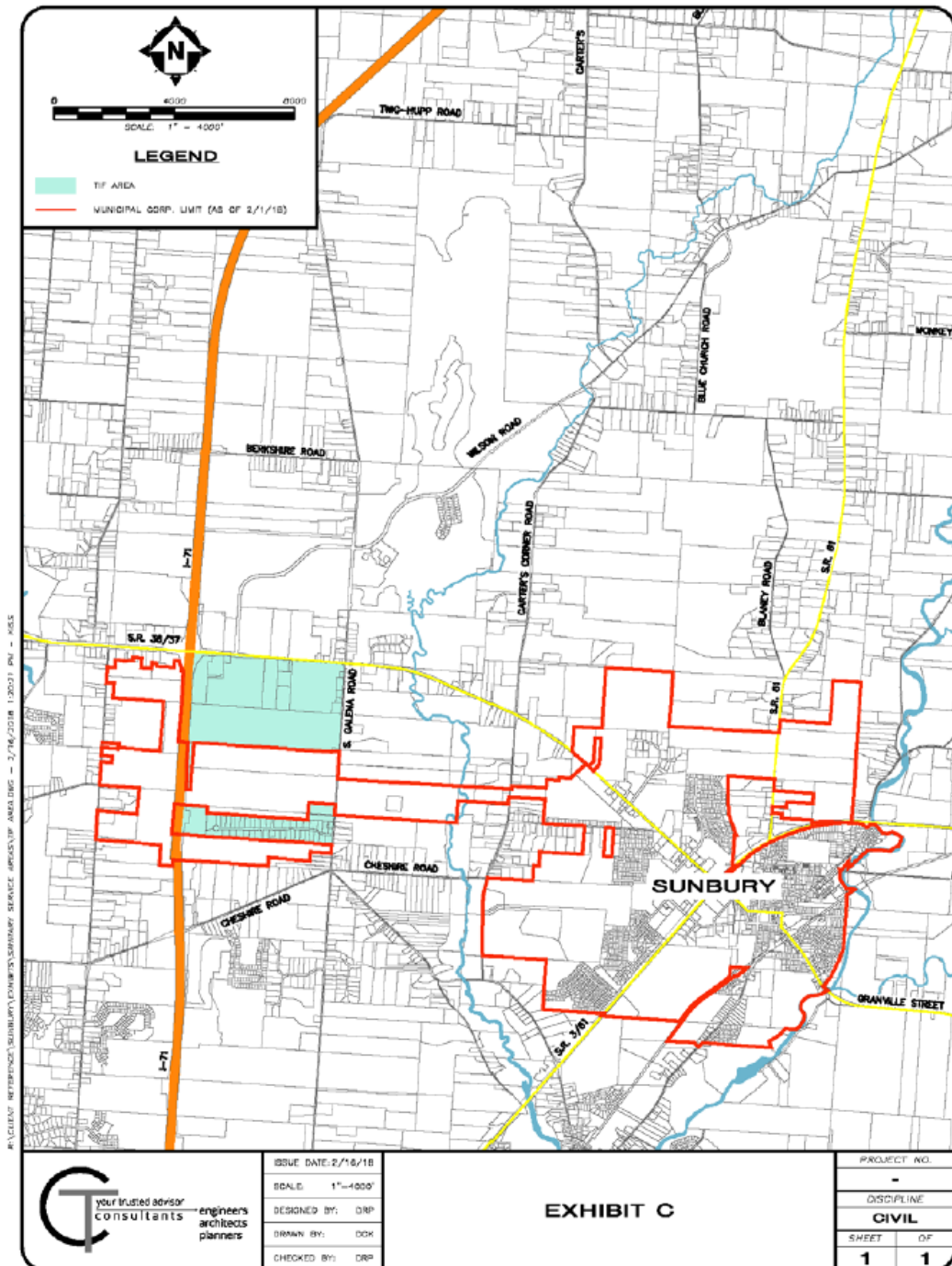
SUMMARY OF FUNDING

AGENCY	AMOUNT / YEAR										TOTALS	SOURCE	
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025			
Developer	\$4,900,000	\$20,860,000			\$4,620,000		\$2,820,000					\$33,200,000	Developer
NCA			\$7,700,000		\$2,900,000			\$160,000		\$7,840,000		\$18,400,000	NCA
Sunbury			\$100,000									\$100,000	Sunbury
MORPC			\$400,000									\$400,000	MORPC
Berkshire Township												\$0	Berkshire Township
Berlin Township												\$0	Berlin Township
Columbus Outlets LLC			\$10,000,000		\$6,500,000							\$16,500,000	Columbus Outlets LLC
TRAC			\$10,000,000		\$10,000,000							\$30,000,000	TRAC

COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018

EXHIBIT C

DEPICTION OF POSSIBLE COUNTY TIF AREA



Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

20

ADMINISTRATOR REPORTS

- Administrator Frommer asked the Board for Direction on Transportation Improvement District
- Discussions
- Look in to the next step of Possible Creation of T.I.D.

21

COMMISSIONERS' COMMITTEES REPORTS

Commissioner Barb Lewis

- Attended A Meeting With Franklin Co. Commissioner John O'Grady At A C.C.O.A. Presentation Concerning A Joint Effort With The Ohio School Board Association On School Safety

Commissioner Jeff Benton

- Thursday Attended The Annual MORPC State Of The Region Lunch Meeting
- Thursday And Friday Attended C.C.A.O. Taxation Meetings And Budget Meetings. Board Of Elections And Public Defender And Local Government Funds Issues

COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018

Commissioner Gary Merrell

-At The Friday Board C.C.A.O. Meeting Asked For A Delay On Vote For The Re-Organization Of The OSU Extension Offices. First Time Hearing Of The Idea, Wanted Opportunity To Discuss With Local Office

-Veteran Event Meeting With Source Pointe

22

RESOLUTION NO. 18-449

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, pursuant to section 121.22(G) of the Revised Code, a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the matters specified in section 121.22(G)(1)-(7) of the Revised Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio:

Section 1. The Board hereby adjourns into executive session for consideration of compensation of a public employee or public official.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

22 continued

RESOLUTION NO. 18-450

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Benton, seconded by Mrs. Lewis to adjourn out of Executive Session.

Vote on Motion Mr. Benton Aye Mr. Merrell Absent Mrs. Lewis Aye

23

RESOLUTION NO. 18-451

IN THE MATTER OF APPROVING CONTRACTS OF SALE AND PURCHASE FOR KEITH & ELSIE HINSHAW FOR THE PROJECT KNOWN AS DEL-CR 13-1.65; AND FOR LEWIS CENTER UNITED METHODIST CHURCH, AND SUSAN HALL FOR THE PROJECT KNOWN AS DEL-CR 106-0.44:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

Whereas, the County Engineer recommends approval of the Contracts of Sale and Purchase for Keith & Elsie Hinshaw for the project known as DEL-CR 13-1.65; and for Lewis Center United Methodist Church, and Susan Hall for the project known as DEL-CR 106-0.44:

Now Therefore Be It Resolved that:

Section 1. The Delaware County Board of Commissioners approve the Contracts of Sale and Purchase for Douglas & Tracey Kagy, James & Lisa Bauman, Ronald & Sally Bell; and Michael & Donna Coury for the project known as DEL-CR 14-1.23; and for Jack & Joyce Smith, and John Naylor for the project known as DEL-CR 13-3.25 as follows:

DEL-CR 13-1.65

Keith and Elsie Hinshaw

CONTRACT FOR SALE AND PURCHASE OF REAL PROPERTY
WITH BUILDING(S) & LAND

PARCEL(S): #381-414-03-019-000
Worthington & Africa Road

This Agreement is by and between the Delaware County Board of Commissioners [“Purchaser”] and Keith T. Hinshaw and Elsie L. Hinshaw, Trustees (“Sellers”). Purchaser and Sellers are referred to collectively in this Agreement as “Parties.”

In consideration of the mutual promises, agreements and covenants herein contained, the Parties contract as follows:

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

1. Price and Consideration

Purchaser shall pay to Seller the sum of Three Hundred Forty-Five Thousand Dollars (\$345,000), which sum shall constitute the entire amount of compensation due Seller for: (a) the real property to be conveyed, including all fixtures; (b) any and all damages to any residual lands of Seller; (c) Seller's covenants set forth herein; (d) any and all supplemental instruments reasonably necessary to transfer the title of the subject property. Seller shall be exclusively responsible for all delinquent taxes and assessments, including penalties and interest, and for all other real estate taxes and assessments that are a lien as of the date on which this Agreement closes. The taxes and assessments for the current calendar year shall be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever is earlier in time. Seller shall be responsible for any and all future installments of any special assessments levied and assessed against the real property, whether or not any such special assessment has been certified to the county auditor for collection, provided that such installments of special assessments shall be a lien on the subject real property as of the date of transfer of title. Purchaser may withhold in escrow a sufficient amount of the purchase money to satisfy the foregoing items to be paid by Seller; any balance remaining after such taxes, assessments, etc., are discharged shall be paid to Seller and any deficiency shall be the responsibility of Seller.

2. Estate Sold and Deed to Transfer

Seller, upon fulfillment of all the obligations and terms of this Agreement, shall sell and convey to Purchaser, its successors and assigns, the property which is more particularly described in Exhibit A attached hereto and by this reference incorporated herein, together with all the appurtenances and hereditaments thereunto belonging and with all buildings and improvements now located thereon, and all fixtures of every nature now attached to or used with said land, buildings and improvements including, but not limited to, all heating, hot water, air conditioning, plumbing, attached electrical fixtures with bulbs or tubes, window shades, venetian blinds, curtain and traverse rods, awnings, storm and screen sashes and doors, and shrubbery and trees.

If the rights, titles and estates described in Exhibit A constitute the fee simple in, to and of the real property, then such sale and conveyance by Seller shall be by a good and sufficient general warranty deed with, if applicable, full release of dower. In the event the rights, titles, and estates described in Exhibit A constitute something less than the fee simple of the real property, then such sale and conveyance by Seller shall be by a good and sufficient deed or other instrument regularly and ordinarily used to transfer such lesser rights, titles and estates with, if applicable, full release of dower.

3. Limited Access Parcels - Waiver of Abutters' Rights

If the property described in Exhibit A is designated by Purchaser as a limited access parcel, then Seller further agrees to release to Purchaser, its successors and assigns, any and all abutters' rights, including access rights, appurtenant to any remaining lands of Seller (from which the property described in Exhibit A is being severed) in, over, on, from and to the property described in Exhibit A.

4. Supplemental Instruments

Seller agrees to execute any and all supplemental instruments or documents necessary to vest Purchaser with the rights, titles and interests described in Exhibit A.

5. Warranty of Title

Seller shall, and hereby does, warrant that the property described in Exhibit A is free and clear from all liens and encumbrances whatsoever, except: (a) easements, restrictions, conditions and covenants of record; (b) all legal highways; (c) zoning and building laws, ordinances, rules and regulations; and (d) any and all taxes and assessments not yet due and payable.

6. Elimination of Others' Interests

Seller shall assist, in whatever manner reasonably possible under the circumstances, to procure and deliver to Purchaser releases and cancellations of any and all other rights, titles and interests in the property described in Exhibit A, such as, but not limited to, those belonging to tenants, lessees, mortgagees or others now in possession or otherwise occupying the subject premises, and all assessment claims against said property.

Seller and Purchaser agree that if a mortgagee of Seller or of a predecessor in title fails to cooperate with the efforts to obtain a release of that mortgagee's mortgage lien secured by the property described in Exhibit A, then and in that event this Agreement shall become null and void and the parties to this Agreement shall be discharged and released from any and all obligations created by this Agreement; for the purposes of this provision, the term "fails to cooperate" shall include a demand or request by any such mortgagee for a fee to process such a release of that mortgagee's mortgage lien that Purchaser, in its sole discretion, deems to be excessive.

7. No Change in Character of Property

Seller shall not change the existing character of the land or alter, remove, destroy or change any structure or fixture located on the property described in Exhibit A. If, prior to the date on which possession of the subject property is surrendered to Purchaser, the subject property, including structures and fixtures, suffers any damage, change, alteration or destruction then, and without regard to the cause thereof, Seller shall restore the subject property to the condition it was in at the time Seller executed this Agreement; in the alternative, Seller may agree to accept the abovementioned purchase price less the costs associated with such restoration. If Seller refuses to either restore the premises or accept the decreased consideration as aforementioned, then

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

Purchaser, at its option after discovery or notification of such damage, change, alteration or destruction, may terminate and cancel this Agreement upon written notice to Seller.

8. Offer to Sell

If Seller executes this Agreement prior to Purchaser, then this Agreement shall constitute and be an Offer to Sell by Seller that shall remain open for acceptance by Purchaser for a period of 20 days immediately subsequent to the date on which Seller delivers such executed Agreement to Purchaser. Upon Purchaser's acceptance and execution of this Agreement within said period of 20 days, this Agreement shall constitute and be a valid Contract for Sale and Purchase of Real Property that is binding upon the Parties.

9. Designation of Escrow Agent

Seller agrees that Purchaser may designate an escrow agent to act on behalf of the Parties in connection with the consummation and closing of this Agreement.

10. Closing Date

The consummation and closing of this Agreement shall occur at such time and place as the Parties may agree, but no later than 10 days after Purchaser notifies Seller in writing that Purchaser is ready to consummate and close this Agreement. Provided, however, in no event shall such consummation and closing occur more than 120 days after the last date on which one of the Parties executes this Agreement.

11. Physical Possession of Structures Occupied by Seller

Seller shall surrender physical possession of all structures occupied by Seller, or the portions thereof occupied by Seller, to Purchaser not later than 30 days after Purchaser tenders the purchase price to Seller. Seller agrees that Purchaser may withhold in escrow from the purchase price the sum of \$0.00 to ensure that the subject structures will be vacated on or before the 30 days mentioned above and that the subject structures will be surrendered to Purchaser in the same condition as it was in at the time Seller executed this Agreement. If Seller properly vacates and surrenders possession of the subject structures as aforesaid, then said \$0.00 shall be paid immediately to Seller. If the subject structures are not vacated as aforesaid, a rental agreement for the subject structures shall be entered into by the Parties, in which Seller shall be the lessee and Purchaser shall be the lessor, and upon execution of such rental agreement the said \$0.00 shall be paid immediately to Seller; in the event Seller fails or refuses for any reason to enter into such rental agreement, then Purchaser may retain all or part of the said \$0.00 withheld in escrow to compensate Purchaser for the reasonable amount of rent that Seller owes for holding over possession of the subject structures, plus an amount to pay for any taxes, assessments and for any costs of restoration necessary to put the structures in the same condition as they were at the time Seller executed this Agreement.

12. Physical Possession of Vacant Land and Structures

Seller shall surrender physical possession of vacant land and vacant structures to Purchaser not later than the date on which Purchaser tenders the purchase price to Seller.

13. Control of Property Occupied by Seller's Tenant(s)

Control of property occupied by Seller's tenant(s) shall be assumed by Purchaser on the date Purchaser tenders the purchase price to Seller. From that date forward, Purchaser shall be entitled to collect and retain as its own funds any and all rental payments thereafter made by such tenant(s). If any rents due under the lease(s) with Seller have been prepaid by Seller's tenant(s), then said prepaid rents shall be prorated to the date on which the purchase price is tendered by Purchaser, and said prepaid rents shall be paid to Seller and Purchaser in accordance with such proration.

14. Binding Agreement

Any and all of the terms, conditions and provisions of this Agreement shall be binding upon and shall inure to the benefit of Seller and Purchaser and their respective heirs, executors, administrators, successors and assigns.

15. Multiple Originals

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute but one and the same instrument.

16. Entire Agreement

This instrument contains the entire agreement between the Parties, and it is expressly understood and agreed that no promises, provisions, terms, warranties, conditions or obligations whatsoever, either express or implied, other than herein set forth, shall be binding upon Seller or Purchaser.

17. Amendments and Modifications

No amendment or modification of this Agreement shall be valid or binding upon the Parties unless it is made in writing, cites this Agreement and is signed by Seller and Purchaser.

DEL-106-0.44

Lewis Center United Methodist Church

**CONTRACT OF SALE AND PURCHASE
VACANT LAND/IMPROVEMENTS**

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

WITNESSETH: On this 23rd day of April, 2018, Lewis Center United Methodist Church, an Ohio non-profit corporation, whose address is 1081 Lewis Center Road, Lewis Center, OH 43035 hereinafter, the SELLER, in consideration of the mutual promises, agreements, and covenants herein do hereby grant, remise, and sell to the Board of County Commissioners of Delaware County, Ohio, whose address is 101 N. Sandusky Street, Delaware, OH 43015, hereinafter the PURCHASER, the following described premises, hereinafter the PROPERTY, to wit:

See Attached Exhibit A (Property Description)

014-WD, T, S – DEL-CR106-0.44 Lewis Center Road and North Road Improvements

015-WD1, WD2, T1, T2 – DEL-CR106-0.44 Lewis Center Road and North Road Improvements

By this reference, Exhibit A is incorporated herein and made a part hereof as if fully rewritten herein.

TERMS OF PURCHASE:

1. PURCHASER promises and agrees to pay to the SELLER the total sum of Seventy Five Thousand Seven Hundred Eighty-Four and no/100 Dollars (\$75,784.00) which total sum to be paid the SELLER pursuant to this CONTRACT shall be in exchange and constitute the entire compensation for all of the following:
 - (A) All title, rights, and interest in and to the PROPERTY; and,
 - (B) For damages to any residual lands of the SELLER; and,
 - (C) For SELLER's covenants herein; and,
 - (D) For expenses related to the relocation of the SELLER, their family, and business; and,
 - (E) For any supplemental instruments necessary for transfer of title.

It is understood and agreed that the SELLER is responsible for all delinquent taxes and assessments on the PROPERTY, including, but not limited to, penalties and interest and all other real estate taxes and assessments which are a lien on the PROPERTY on the date of closing. The current calendar year's taxes are to be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever date is earlier. SELLER is also responsible for all future installments of special assessments levied and assessed against the PROPERTY, whether these special assessments have or have not been certified to the county auditor for collection, provided those installments are a lien on the PROPERTY at the date of transfer. The PURCHASER may hold in escrow a sufficient amount of the purchase money to satisfy the above items. Any balance remaining after taxes, assessments, etc. are discharged, shall be refunded to the SELLER and any deficiency shall be the responsibility of the SELLER.

2. Closing shall occur at a time and place agreed upon between the parties, but no later than 30 days after notification of the SELLER by the PURCHASER that PURCHASER is ready to close. All title and interest in the PROPERTY shall transfer from the SELLER to the PURCHASER and closing shall occur within ninety (90) days. This date by which transfer and closing must occur may be modified via a signed writing mutually agreed upon by all parties to this CONTRACT.
3. SELLER agrees to transfer, sell, and convey, upon the fulfillment of all the obligations and terms of this CONTRACT, by a good and sufficient deed of general warranty of title, with full release of dower, to said PURCHASER, its successors and assigns, the PROPERTY in fee simple, together with all the appurtenances and hereditaments thereunto belonging and improvements now located thereon and all fixtures of every nature now attached or used with said land and improvements.
4. SELLER further agrees to release to the PURCHASER, its heirs, successors and assigns, any and all abutters rights or easements, including access rights to and from the PROPERTY, what ever the nature of such access rights, including but not limited to, across, in, over, upon, and above, appurtenant to any remaining lands of the SELLER not sold, transferred, or conveyed to the PURCHASER pursuant to this CONTRACT of which the PROPERTY now forms a part. (This paragraph applies to limited access parcels only.)
5. SELLER further agrees to execute supplemental instruments necessary for the construction and maintenance over, across, and upon the PROPERTY, necessary for the road, street, and/or highway project for which the PROPERTY was acquired.
6. SELLER further agrees to transfer, sell, and convey the PROPERTY with release of dower and warranting the same free and clear from all liens and encumbrances whatsoever, excepting zoning restrictions and public utility easements of record.
7. SELLER further agrees to assist wherever possible to procure, record, and deliver to the PURCHASER releases and cancellations of all interest in such title, including, but not limited to tenants, lessees or others now in possession, or in any manner occupying or having an interest in the PROPERTY, and all assessment claims against the PROPERTY.

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

8. Prior to acceptance by the PURCHASER, the execution of this CONTRACT by the SELLER shall constitute an offer to sell which shall continue for a period of twenty (20) days from the date of such execution. Upon acceptance of this CONTRACT by the PURCHASER within said period, it shall constitute a valid and binding CONTRACT of Sale and Purchase.
9. SELLER agrees that the PURCHASER may designate an escrow agent who shall act on behalf of both parties in connection with the consummation and closing of this CONTRACT.
10. SELLER also agrees that he will not destroy, change, alter, or damage the existing character of the PROPERTY. The SELLER understands and hereby assumes the risk of and any and all damage, change, or alteration that may occur to the PROPERTY between execution of this CONTRACT and the date the PURCHASER takes possession of the PROPERTY and hereby agrees to indemnify the PURCHASER for any and all such damage, change, or alteration that occurs.

In the event that any damage, change, alteration or destruction occurs to the PROPERTY resulting from any cause whatsoever, prior to the date possession is surrendered to the PURCHASER, the SELLER agrees to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER, or to accept the purchase price consideration, hereinabove stated, less the cost of restoration. In the event the SELLER refuses to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER or to accept the money consideration less the cost of such restoration as hereinabove stated, the PURCHASER may, at its option after discovery or notification of such destruction, change, alteration, damage, removal, or injury, terminate this CONTRACT by signed written notice to said SELLER. In addition to termination of the CONTRACT, PURCHASER hereby preserves and may exercise any and all legal options, actions, causes, or remedies that are or may be available to the PURCHASER. Nothing in this provision or this CONTRACT shall be interpreted to limit the PURCHASER from exercising any such available legal options, actions, causes, or remedies.

11. Until such time as the SELLER completely vacates the PROPERTY, the SELLER agrees to indemnify, save and hold the PURCHASER, and all of its officers, employees, agents, servants, representatives, and volunteers free and harmless from any and all claims of liability, whatever the source or nature, related to the SELLER's use and occupation of the PROPERTY and from any and all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the SELLER's use or occupation of the PROPERTY. The SELLER shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the PURCHASER or any of its officers, employees, agents, servants, representatives, and volunteers by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees.
12. The SELLER hereby acknowledges that the compensation or consideration specified in this CONTRACT represents and is the full and total amount of compensation and consideration that the SELLER will and is entitled to receive from the PURCHASER in exchange for, in relation to, and in connection with the transfer of the PROPERTY. The SELLER and the SELLER's heirs, executors, administrators, successors, and assigns hereby forever release the PURCHASER from any and all claims for any damages, injuries, or any additional compensation or consideration than is expressly provided for in this CONTRACT. The SELLER hereby further forever releases the PURCHASER from any and all claims the SELLER, and the SELLER's heirs, administrators, executors, successors, and assigns may make as related to the transfer of the PROPERTY, costs associated with the transfer of the PROPERTY, for any damage to any residue property as a result of the transfer, for any damage or injury suffered to the SELLER or the SELLER's business as a result of relocating from the PROPERTY, for expenses related to the relocation of the SELLER, their family, and business, or any other cost, damage, or injury, whatever the source or nature, associated with or the result of the transfer of the PROPERTY.
13. This CONTRACT shall be binding upon the SELLER and the SELLER's heirs, executors, administrators, successors and assigns, and shall inure to the benefit of the PURCHASER, its heirs, successors and assigns.
14. If any item, condition, portion, or section of this CONTRACT 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 CONTRACT and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
15. This CONTRACT shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this CONTRACT shall be filed in and heard before the courts of Delaware County, Ohio.

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

16. This CONTRACT and its Attachments shall constitute the entire understanding and agreement between the SELLER and the PURCHASER, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.
17. This CONTRACT shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

Susan Hall:

**CONTRACT OF SALE AND PURCHASE
VACANT LAND/IMPROVEMENTS**

WITNESSETH: On this 23rd day of April 2018, Susan Hall, Trustee or her Successor(s) as Trustees of "The Hawk Property Management Trust", dated December 23, 2014, whose address is 5719 North Road, Lewis Center, Ohio 43035 hereinafter, the SELLER, in consideration of the mutual promises, agreements, and covenants herein do hereby grant, remise, and sell to the Board of County Commissioners of Delaware County, Ohio, whose address is 101 N. Sandusky Street, Delaware, OH 43015, hereinafter the PURCHASER, the following described premises, hereinafter the PROPERTY, to wit:

See Attached Exhibit A (Property Description)

027B-WD1 and T1 – DEL-CR106-0.44 Lewis Center Road and North Road Improvements

By this reference, Exhibit A is incorporated herein and made a part hereof as if fully rewritten herein.

TERMS OF PURCHASE:

1. PURCHASER promises and agrees to pay to the SELLER the total sum of Twelve Thousand Two Hundred Eighty and no/100 Dollars (\$12,280.00) which total sum to be paid the SELLER pursuant to this CONTRACT shall be in exchange and constitute the entire compensation for all of the following:
 - (A) All title, rights, and interest in and to the PROPERTY; and,
 - (B) For damages to any residual lands of the SELLER; and,
 - (C) For SELLER's covenants herein; and,
 - (D) For expenses related to the relocation of the SELLER, their family, and business; and,
 - (E) For any supplemental instruments necessary for transfer of title.

It is understood and agreed that the SELLER is responsible for all delinquent taxes and assessments on the PROPERTY, including, but not limited to, penalties and interest and all other real estate taxes and assessments which are a lien on the PROPERTY on the date of closing. The current calendar year's taxes are to be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever date is earlier. SELLER is also responsible for all future installments of special assessments levied and assessed against the PROPERTY, whether these special assessments have or have not been certified to the county auditor for collection, provided those installments are a lien on the PROPERTY at the date of transfer. The PURCHASER may hold in escrow a sufficient amount of the purchase money to satisfy the above items. Any balance remaining after taxes, assessments, etc. are discharged, shall be refunded to the SELLER and any deficiency shall be the responsibility of the SELLER.

2. Closing shall occur at a time and place agreed upon between the parties, but no later than 30 days after notification of the SELLER by the PURCHASER that PURCHASER is ready to close. All title and interest in the PROPERTY shall transfer from the SELLER to the PURCHASER and closing shall occur within ninety (90) days. This date by which transfer and closing must occur may be modified via a signed writing mutually agreed upon by all parties to this CONTRACT.
3. SELLER agrees to transfer, sell, and convey, upon the fulfillment of all the obligations and terms of this CONTRACT, by a good and sufficient deed of general warranty of title, with full release of dower, to said PURCHASER, its successors and assigns, the PROPERTY in fee simple, together with all the appurtenances and hereditaments thereunto belonging and improvements now located thereon and all fixtures of every nature now attached or used with said land and improvements.
4. SELLER further agrees to release to the PURCHASER, its heirs, successors and assigns, any and all abutters rights or easements, including access rights to and from the PROPERTY, what ever the nature of such access rights, including but not limited to, across, in, over, upon, and above, appurtenant to any remaining lands of the SELLER not sold, transferred, or conveyed to the PURCHASER pursuant to this CONTRACT of which the PROPERTY now forms a part. (This paragraph applies to limited access parcels only.)
5. SELLER further agrees to execute supplemental instruments necessary for the construction and maintenance over, across, and upon the PROPERTY, necessary for the road, street, and/or highway project for which the PROPERTY was acquired.

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

6. SELLER further agrees to transfer, sell, and convey the PROPERTY with release of dower and warranting the same free and clear from all liens and encumbrances whatsoever, excepting zoning restrictions and public utility easements of record.
7. SELLER further agrees to assist wherever possible to procure, record, and deliver to the PURCHASER releases and cancellations of all interest in such title, including, but not limited to tenants, lessees or others now in possession, or in any manner occupying or having an interest in the PROPERTY, and all assessment claims against the PROPERTY.
8. Prior to acceptance by the PURCHASER, the execution of this CONTRACT by the SELLER shall constitute an offer to sell which shall continue for a period of twenty (20) days from the date of such execution. Upon acceptance of this CONTRACT by the PURCHASER within said period, it shall constitute a valid and binding CONTRACT of Sale and Purchase.
9. SELLER agrees that the PURCHASER may designate an escrow agent who shall act on behalf of both parties in connection with the consummation and closing of this CONTRACT.
10. SELLER also agrees that he will not destroy, change, alter, or damage the existing character of the PROPERTY. The SELLER understands and hereby assumes the risk of and any and all damage, change, or alteration that may occur to the PROPERTY between execution of this CONTRACT and the date the PURCHASER takes possession of the PROPERTY and hereby agrees to indemnify the PURCHASER for any and all such damage, change, or alteration that occurs.

In the event that any damage, change, alteration or destruction occurs to the PROPERTY resulting from any cause whatsoever, prior to the date possession is surrendered to the PURCHASER, the SELLER agrees to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER, or to accept the purchase price consideration, hereinabove stated, less the cost of restoration. In the event the SELLER refuses to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER or to accept the money consideration less the cost of such restoration as hereinabove stated, the PURCHASER may, at its option after discovery or notification of such destruction, change, alteration, damage, removal, or injury, terminate this CONTRACT by signed written notice to said SELLER. In addition to termination of the CONTRACT, PURCHASER hereby preserves and may exercise any and all legal options, actions, causes, or remedies that are or may be available to the PURCHASER. Nothing in this provision or this CONTRACT shall be interpreted to limit the PURCHASER from exercising any such available legal options, actions, causes, or remedies.

11. Until such time as the SELLER completely vacates the PROPERTY, the SELLER agrees to indemnify, save and hold the PURCHASER, and all of its officers, employees, agents, servants, representatives, and volunteers free and harmless from any and all claims of liability, whatever the source or nature, related to the SELLER's use and occupation of the PROPERTY and from any and all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the SELLER's use or occupation of the PROPERTY. The SELLER shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the PURCHASER or any of its officers, employees, agents, servants, representatives, and volunteers by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees.
12. The SELLER hereby acknowledges that the compensation or consideration specified in this CONTRACT represents and is the full and total amount of compensation and consideration that the SELLER will and is entitled to receive from the PURCHASER in exchange for, in relation to, and in connection with the transfer of the PROPERTY. The SELLER and the SELLER's heirs, executors, administrators, successors, and assigns hereby forever release the PURCHASER from any and all claims for any damages, injuries, or any additional compensation or consideration than is expressly provided for in this CONTRACT. The SELLER hereby further forever releases the PURCHASER from any and all claims the SELLER, and the SELLER's heirs, administrators, executors, successors, and assigns may make as related to the transfer of the PROPERTY, costs associated with the transfer of the PROPERTY, for any damage to any residue property as a result of the transfer, for any damage or injury suffered to the SELLER or the SELLER's business as a result of relocating from the PROPERTY, for expenses related to the relocation of the SELLER, their family, and business, or any other cost, damage, or injury, whatever the source or nature, associated with or the result of the transfer of the PROPERTY.
13. This CONTRACT shall be binding upon the SELLER and the SELLER's heirs, executors, administrators, successors and assigns, and shall inure to the benefit of the PURCHASER, its heirs, successors and assigns.
14. If any item, condition, portion, or section of this CONTRACT or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the

**COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018**

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 CONTRACT and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.

15. This CONTRACT shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this CONTRACT shall be filed in and heard before the courts of Delaware County, Ohio.
16. This CONTRACT and its Attachments shall constitute the entire understanding and agreement between the SELLER and the PURCHASER, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.
17. This CONTRACT shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

Section 2. The Board approves Purchase Orders and Vouchers for the above contracts.

Vote on Motion Mr. Merrell Absent Mr. Benton Aye Mrs. Lewis Aye

RECESS 11:30 A.M./RECONVENE 1:30P.M. (Starting in the vicinity of 9225 Todd Street Road Sunbury, Ohio 43074)

**IN THE FIELD:
1:30 P.M. VIEWING FOR CONSIDERATION OF THE KINGSTON TOWNSHIP WATERSHED
#2017-2 DRAINAGE IMPROVEMENT PETITION**

On April 23, 2018 at 1:30P.M. in the vicinity of 9225 Todd Street Road Sunbury, Ohio 43074 The Delaware County Commissioners viewed the watershed area with staff members from the Delaware County Engineer’s Office and the Delaware County Soil and Water Conservation District.

Commissioners Present: Jeff Benton, Gary Merrell, and Barb Lewis

On January 26, 2018, a drainage petition for the Kingston Township Watershed #2017-2 Drainage Improvement was filed with the Board of County Commissioners to:

1. Generally improve the drainage, both surface and subsurface, to a good and sufficient outlet, by replacing, repairing, and/or altering the existing improvement as required and/or creating new surface and subsurface drainage ditches, mains, or laterals as requested by this petition.
2. In Delaware County, Kingston Township within the Kingston Township Watershed #2017-2 Watershed and generally following but not limited to the course and termination of existing improvements.

NOTE: the first hearing on the petition is scheduled for Thursday July 19, 2018 at 10:00A.M..

The Commissioners:

- Looked At And Followed The Proposed Tile Areas -In The Vicinity Of 9225 Todd Street Road
- On North Side Of Todd Street Road When 9225 Front Floods Water Floods Over The CAD
- Water In Front Of 9225 Almost Reaches The Road.
- Ditches Not Deep Enough To Reach Little Walnut Creek” The Sufficient Outlet For This Area
- Water In Area Jumps Watershed;
- Utility Pole,
- Breather
- Township Is Also An Owner In Area (Road A Direct Assessment)
- Viewed Maps Of Area
- The Petition (Signatures And Words) Determines The Upstream Part Of A Project The “Sufficient Outlet” Determines The Bottom Of A Project (Little Walnut Creek)
- Viewed Ditch Beside CAD Alongside Of 9248 Todd Street Road (No Flooding On 9248 Property)
- projects since 1998 are automatically placed on County Drainage Maintenance Program
- this is a landowner initiated process and detailed surveys follow if the project moves past the first hearing
- if approved money pooled only for this project; assessments placed on build-able lots current and future
- 4 Factors Determine Possible Assessment: Acres Benefited, Land Use, Percent Of Improvement Used; Remote Factor

The following is a PDF copy of the Commissioners’ Office sign-in sheet of the people present at the viewing who chose to sign the sign-in sheet.

COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 23, 2018



Delaware County Commissioners

Jeff Benton
Barb Lewis
Gary Merrell

SIGN-IN SHEET FOR APRIL 23, 2018

**1:30 P.M. Viewing For Consideration Of The Kingston
Township Watershed #2017-2 Drainage
Improvement Petition**

NAME	ADDRESS
1 SARAH DI NOVO	101 N. Sandusky St., 42015
2 DAVE Smith	9225 Todd St. Rd Sunbury
3 JEFF RATLIFF	9251 TODD ST RD SUNBURY
4 Andrew Young	9248 Todd Street RD.
5 Samantha Young	9248 Todd Street Rd.
6 TED McInerney	9298 Todd St Rd.
7 Darlene Beckwith	9309 Todd St. Rd
8 John Deekenridge	9309 Todd St. Rd
9 Liz Filbert	9197 Todd St Rd
10 Sara Edward S (aka)	9323 " "
11 Mal Collier	2870 20 RD 15
12 Chris Adkins	230 Co Rd 218
13 SCOTT STEPHENS	DELAWARE SWCA
14 Brett Bergeford	DCEO

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners