

COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 21, 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**  
RESOLUTION NO. 18-540

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD MAY 17, 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 May 17, 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**  
RESOLUTION NO. 18-541

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0518 AND PROCUREMENT CARD PAYMENTS IN BATCH NUMBER PCAPR0518:

It was moved by Mrs. Lewis, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0518, Procurement Card Payments in batch number PCAPR0518 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO' Increase</b>			
<b>PR Number</b>	<b>Vendor Name</b>	<b>Line Description</b>	<b>Line Account      Amount</b>
R1803691	CARBON ENTERPRISES INC	SAND FOR FILTER #5 AT OECC	66211903 -      \$5,500.00 5201
R1803619	COLUMBUS STATE COM. COLLEGE	JOB AND FAMILY PROGRAM	22311611-      \$6,000.00 5348

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

**5**  
RESOLUTION NO. 18-542

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Regional Sewer District is requesting that Tiffany Maag, Elizabeth Buening, Emily Weidman, Cory Smith, Jason Watts, Marshall Yarnell, and Mark Chandler attend an SEOWEA Section Meeting in Columbus, Ohio on May 31, 2018 at a total cost of \$120.00 from fund 66211901/66211902.

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

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RESOLUTION NO. 18-543

IN THE MATTER OF APPROVING COMMUNITY ENHANCEMENT GRANT FOR VIETNAM VETERANS OF AMERICA CHAPTER 1095:

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

WHEREAS, the following entity has requested Community Enhancement Grant funds from Delaware County;

Vietnam Veterans of America Chapter 1095 15,540.00

NOW THEREFORE BE IT RESOLVED, by the Board of County Commissioners of Delaware County that the Board hereby approve Community Enhancement Grant funds;

Vietnam Veterans of America Chapter 1095 11,013.33

FURTHER BE IT RESOLVED, that the Board of County Commissioners approves a transfer of appropriation

<b>From</b>	<b>To</b>	
10011102-5380	10062601-5201	11,013.33
Commissioner General/Other Services	Veteran Services/General Supplies	

FURTHER BE IT RESOLVED, that the Board of County Commissioners approves a purchase order and voucher (10011102 -5602).

Vietnam Veterans of America Chapter 1095 11,013.33

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

7

RESOLUTION NO. 18-544

IN THE MATTER OF APPROVING THE SANITARY SEWER IMPROVEMENT PLANS FOR THE PINES SECTION 1 PHASE A & B:

It was moved by Mrs. Lewis, seconded by Mr. Benton to approve the following sanitary sewer improvement plans for submittal to the Ohio EPA for their approval.

WHEREAS, the Sanitary Engineer recommends approval of the sanitary sewer improvement plans for The Pines Section 1 Phase A & B;

THEREFORE BE IT RESOLVED, that the Board of Commissioners approve the sanitary sewer improvement plans for The Pines Section 1 Phase A & B for submittal to the Ohio EPA for their approval.

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

8

RESOLUTION NO. 18-545

IN THE MATTER OF APPROVING THE SANITARY SEWER SUBDIVIDER’S AGREEMENT FOR SYCAMORE TRAIL:

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

WHEREAS, the Sanitary Engineer recommends approval of the Sanitary Subdivider’s Agreement for Sycamore Trail;

THEREFORE, BE IT RESOLVED that the Board of Commissioners approve the following Sanitary Sewer Subdivider’s Agreement for Sycamore Trail:

**SUBDIVIDER’S AGREEMENT**  
**DELAWARE COUNTY SANITARY ENGINEER**

**SECTION I: INTRODUCTION**

This Agreement is entered into on this 21<sup>st</sup> day of May 2018, by and between **TBD Ventures, LLC**, hereinafter called “Subdivider”, and the Delaware County Board of Commissioners (hereinafter called “County Commissioners” or “County”) as evidenced by the **Sycamore Trail** Subdivision Plat filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, and is governed by the following considerations and

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conditions, to wit:

The Subdivider is to construct, install or otherwise make all public improvements (the "Improvements") shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for **Sanitary Sewer Improvement Plans for Sycamore Trail**, dated 8/18/2017, and approved by the County on 8/31/2017, all of which are a part of this Agreement. The Subdivider shall pay the entire cost and expense of the Improvements.

**SECTION II: CAPACITY**

There are **18** single family residential equivalent connections approved with this Agreement. Capacity shall be reserved for one year from the date of this Agreement, unless the County Commissioners grant an extension in writing. If the final Subdivision Plat is not recorded prior to expiration of the reservation deadline as set forth herein, the Subdivider agrees and acknowledges that capacity shall not be guaranteed.

**SECTION III: FINANCIAL WARRANTY**

For on-site improvements the following options for financial warranty apply:

**OPTIONS:**

- (1) Should the Subdivider elect to record the plat prior to beginning construction, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$137,777.00**) which is acceptable to the County Commissioners to insure faithful performance of this Agreement and the completion of all Improvements in accordance with the Subdivision Regulations of Delaware County, Ohio.
- (2) Should the Subdivider elect to proceed with construction prior to recording the plat, no approved financial warranties are necessary until such time as Subdivider elects to record the plat. At that time, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction remaining to be completed as determined by the Delaware County Sanitary Engineer.

The Subdivider hereby elects to use Option 2 for this project.

Initials \_\_\_\_\_

Date \_\_\_\_\_

The Subdivider shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the Delaware County Sanitary Engineer a five (5) year maintenance bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The Subdivider further agrees that any violations of or noncompliance with any of the provisions and stipulations of this Agreement shall constitute a breach of contract, and the County shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the Improvements for **Sycamore Trail**.

**SECTION IV: FEES**

It is further agreed that upon execution of this Agreement, the Subdivider shall pay the Delaware County Sanitary Engineer three and one-half percent (3½%) of the estimated construction cost of the Improvements for plan review of **Sanitary Sewer Improvement Plans for Sycamore Trail (\$4,822.20)**. The Subdivider shall also pay the Delaware County Sanitary Engineer eight percent (8%) of the estimated construction cost of the Improvements for inspection during construction and cleaning and televising of the sewers and appurtenances of **Sycamore Trail (\$11,022.16)**. The Delaware County Sanitary Engineer shall in his or her sole discretion inspect, as necessary, the Improvements being installed or constructed by the Subdivider and shall keep records of the time spent by his or her employees and agents in such inspections and in the event the hours worked for inspection at a rate of \$75.00 per hour and for the camera truck at \$150.00 per hour exceeds the eight percent (8½%), the County may require, and the Subdivider shall pay, additional funds based on the estimated effort for completion as determined by the Sanitary Engineer in his or her sole discretion.

In addition to the charges above, the Subdivider shall pay the cost of any third party inspection services for **Sycamore Trail** as required by the County.

**SECTION V: CONSTRUCTION**

All public improvement construction shall be performed within one (1) year from the date of the approval of this Agreement by the County Commissioners, but extension of time may be granted if approved by the County Commissioners.

The Subdivider shall indemnify and save harmless the County, Townships, Cities, and/or Villages and all of their officials, employees, and agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any action, or omissions of the Subdivider, and any of its contractors or sub-contractors, or from any material, method,

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or explosive used in the Work, or by or on account of any accident caused by negligence, or any other act or omission of the Subdivider, and any of its contractors or the contractors' agents or employees in connection with the Work.

The Subdivider shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the County. The representative shall be replaced by the Subdivider when, in the opinion of the County, the representative's performance is deemed inadequate.

If, due to unforeseen circumstances during construction activities, the Subdivider must install any of the Improvements to a different location than shown on the approved and signed construction plans, the Subdivider shall request a revision to the construction plans and the Delaware County Sanitary Engineer shall evaluate this request. If the request for a revision is approved in writing by the Delaware County Sanitary Engineer, then the Subdivider shall provide and record a revised, permanent, exclusive sanitary easement prior to the County's acceptance of the sewer. The language and dimensions of the revised, permanent, exclusive sanitary easements shall be subject to the approval of the Delaware County Sanitary Engineer.

The Subdivider shall, during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the County regarding submission of shop drawings, construction schedules, operation of facilities, and other matters incident to the construction and operation of the Improvements.

The Subdivider shall obtain all other necessary utility services incident to the construction of the Improvements and for their continued operation. The Subdivider shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the Subdivider and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the County.

**SECTION VI: EASEMENTS**

The Subdivider shall provide to the County all necessary easements or rights-of-way required to complete the Improvements, all of which shall be obtained at the expense of the Subdivider. All Improvements, including, but not limited to, public sanitary sewers, force mains, manholes, and private laterals to offsite properties shall be located within a recorded, permanent, exclusive sanitary easement on file at the Delaware County Recorder's Office, the language of which shall be subject to approval by the Delaware County Sanitary Engineer. The dimensions of all easements shall be as shown on the approved engineering drawings. If any onsite easement or necessary right of way is not to be recorded as part of a subdivision plat, such easements and rights-of-way shall be recorded and provided to the Delaware County Sanitary Engineer before a preconstruction meeting will be permitted and before construction may begin on the Improvements. All offsite easements must be recorded prior to signing the plans unless otherwise permitted, in writing, by the Delaware County Sanitary Engineer.

**SECTION VII: COMPLETION OF CONSTRUCTION**

The County shall, upon certification in writing from the Delaware County Sanitary Engineer that all construction is complete according to the plans and specifications, by Resolution, accept the Improvements described herein and accept and assume operations and maintenance of the Improvements.

The Subdivider shall within thirty (30) days following completion of construction of the Improvements, and prior to final acceptance, furnish to the County as required:

- (1) "As built" drawings of the Improvements which plans shall become the property of the County and shall remain in the office of the Delaware County Sanitary Engineer and Delaware County Engineer and/or the City of Powell. The drawings shall be on reproducible Mylar (full size), two paper copies (one full size & one 11"x17"), and a Compact Diskette with the plans in .DWG format & .PDF format.
- (2) An Excel spreadsheet, from a template as provided by the Delaware County Sanitary Engineer, shall accompany the plan submittal showing the locations of the manholes in Ohio State Plane North Coordinates NAD 1983 (NAVD 1988 datum) and other miscellaneous project data.
- (3) An itemized statement showing the cost of the Improvements.
- (4) An Affidavit or waiver of lien from all contractors associated with the project that all material and labor costs have been paid. The Subdivider shall indemnify and hold harmless the County from expenses or claims for labor or materials incident to the construction of the Improvements.
- (5) Documentation showing the required sanitary easements.

Should the Subdivider become unable to carry out the provisions of this Agreement, the Subdivider's heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this Agreement. Notwithstanding any other provision of this Agreement, the County shall have no obligation to construct any improvements contemplated herein, and any construction thereof on the part of the County shall be strictly permissive and within the County's sole discretion.

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The Subdivider, for a period of five (5) years after acceptance of the Improvements by the County, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the Improvements shall be the same as new equipment warranties and shall be assigned to the County upon acceptance of the Improvements. A list of corrective items shall be provided to the Subdivider prior to expiration of the five (5) year period.

After the acceptance of the Improvements, the capacity charge **and any surcharges** shall be paid by the applicant upon request to the Delaware County Sanitary Engineer for a tap permit to connect to the sanitary sewer. User fee charges will commence the day the sanitary tap is made, regardless of completeness of construction.

**SECTION VIII: SIGNATURES**

IN CONSIDERATION WHEREOF, the County Commissioners hereby grant the Subdivider or its agent the right and privilege to make the Improvements stipulated herein and as shown on the approved plans.

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

**9**

**RESOLUTION NO. 18-546**

**IN THE MATTER OF APPROVING A SERVICES AGREEMENT WITH POWER SOLUTIONS GROUP LTD FOR REMOVAL AND REPLACEMENT OF SURGE ARRESTING RELAYS, MEDIUM VOLTAGE SWITCHGEAR REPAIRS AND BREAKER AND UNDERGROUND CABLE TESTING AT REGIONAL SEWER DISTRICT FACILITIES:**

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with Power Solutions Group LTD to perform the services;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio, hereby approve the following agreement with Power Solutions Group LTD.:

**DIVISION OF ENVIRONMENTAL SERVICES  
REGIONAL SEWER DISTRICT  
SERVICES AGREEMENT**

This Agreement is made and entered into this 21st day of May, 2018, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and *Power Solutions Group LTD, 425 Kerr Rd, Tipp City, Oh 45371* (“Contractor”) hereinafter collectively referred to as the “Parties.”

**1 SERVICES PROVIDED BY CONTRACTOR**

- 1.1 The Contractor will provide “Services” in connection with the following “Project”:  
*Removal and Replacement of Surge Arresting Relays at Lower Scioto WWTP, Medium voltage switchgear repairs, Breaker and Underground cabling testing.*
- 1.2 The Contractor shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 The Services are described in and shall be rendered by the Contractor in accordance with, the following documents, by this reference, made part of this Agreement.  
*Exhibit A: Domestic Field Service Rates*

**2 SUPERVISION OF SERVICES**

- 2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Sanitary Engineer (“Sanitary Engineer”) as the Project Manager and agent of the County for this Agreement.
- 2.2 The Sanitary Engineer shall have authority to review and order changes, commencement, suspension or termination of the Services performed under this Agreement

**3 AGREEMENT AND MODIFICATIONS**

- 3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Contractor, shall supersede all prior understandings and agreements relating to the Project, and may only be modified or amended in writing with the mutual consent and agreement of the parties.

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**4 FEES AND REIMBURSABLE EXPENSES**

- 4.1 Compensation for Services provided under this Agreement shall be on a time and material basis, according to Exhibit A.
- 4.2 Total compensation under this Agreement shall not exceed \$30,000 without subsequent modification.
- 4.3 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Services.

**5 NOTICES**

- 5.1 "Notices" issued under this Agreement shall be served to the parties listed below in writing. The parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.

County:

Name: Jason Watts

Address: 10333 Olentangy River Rd, Powell, Ohio 43065

Telephone: 740-833-2238

Email: jwatts@co.delaware.oh.us

Contractor:

Name of Principal: Stuart Spohn

Address of Firm: 425 Kerr Rd.

City, State, Zip: Tipp City, Ohio 45371

Telephone: 614-310-8018

Email: sspohn@powersolutionsgroup.com

**6 PAYMENT**

- 6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Contractor and approved by the Sanitary Engineer and shall be in accordance with the Contractor's Price Proposal.
- 6.2 Invoices shall be submitted to the Project Manager by the Contractor on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Contractor shall promptly submit documentation as needed to substantiate said invoices.
- 6.3 The County shall pay invoices within thirty (30) days of receipt.

**7 NOTICE TO PROCEED, COMPLETION OF SERVICES, DELAYS AND EXTENSIONS**

- 7.1 The Contractor shall commence Services upon written Notice to Proceed ("Authorization") from the Sanitary Engineer and shall complete the Services in accordance with Exhibit A.
- 7.2 Contractor shall not proceed with any "If Authorized" tasks without written Authorization.
- 7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Contractor may make a written request for time extension, and the Sanitary Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

**8 SUSPENSION OR TERMINATION OF AGREEMENT**

- 8.1 The County, upon written Notice as specified in Section 5, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Contractor shall immediately suspend or terminate Services, as ordered by the County.

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- 8.2 In the case of Termination, the Contractor shall submit a final invoice within sixty (60) days of receiving Notice of Termination for Services completed up to the date of termination. The County is not liable for payment for Services performed after the date of termination.

**9 CHANGE IN SCOPE OF SERVICES**

- 9.1 In the event that significant changes to the Scope of Services are required during performance of the Services, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall be approved by both parties.

**10 OWNERSHIP**

- 10.1 Upon completion or termination of the Agreement, the Contractor shall provide copies, if so requested, to the County of all documents or electronic files produced under this Agreement
- 10.2 The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed surveys, calculations, reports, schematics, drawings and any other tangible written or electronic work produced in accordance with the Agreement.
- 10.3 This section does not require unauthorized duplication of copyrighted materials.

**11 CHANGE OF KEY CONTRACTOR STAFF; ASSIGNMENT**

- 11.1 The Contractor shall immediately notify the County, in writing, of any change to key Contractor staff or subcontractors assigned to the Services as contemplated at the time of executing this Agreement.
- 11.2 The Contractor shall not assign or transfer this Agreement, or any of the rights, responsibilities, or remedies contained herein, to any other party without the express, written consent of the County.

**12 INDEMNIFICATION**

- 12.1 The Contractor 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.

**13 INSURANCE**

- 13.1 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.
- 13.2 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.
- 13.3 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.
- 13.4 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 13.1 and 13.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 13.5 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.

**14 MISCELLANEOUS TERMS AND CONDITIONS**

- 14.1 Prohibited Interests: Contractor 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. Contractor further agrees that it will not employ in any manner a current County

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employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.

- 14.2 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 14.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 14.4 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.
- 14.5 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.
- 14.6 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 to be effective and to be complied with.
- 14.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 14.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 14.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing Services under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 14.10 Drug-Free Workplace: The Contractor 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. The Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the Services being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 14.11 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of Services under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the Services to which the Agreement relates.

Contractor further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of Services under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.



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Contractor certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.

Contractor certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.

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

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

**10**  
**RESOLUTION NO. 18-547**

**IN THE MATTER OF AUTHORIZING THE USE OF A PROCUREMENT CARD FOR THE REGIONAL SEWER DISTRICT:**

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

WHEREAS, pursuant to R.C. 301.29, the Board of Commissioners of Delaware County by Resolution No. 04-1193 dated September 30th, 2004, adopted a policy for the use of County Procurement Cards; and

WHEREAS, the Board of Commissioners of Delaware County by Resolution No. 11-1040 dated October 3rd, 2011, adopted amendments to the Policies and Procedures for the county procurement card program; and

WHEREAS, the appointing authority for the procurement card being the Board of Commissioners, has adopted the procurement card policy for the use of the card to pay for specific classes of work related expenses, without submitting a monthly estimate of the expenses, pursuant R.C. 301.29 (F)(2).

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners of Delaware County, State of Ohio, authorize the use of the following procurement cards to the limits indicated and for specific work related expenses designated in the Procurement Card Policy without submitting a monthly estimate of expenses:

Appointing Authority:                      Board of Commissioners  
Office/Department:                      Regional Sewer District

Daily spending per card:                      \$3,000.00  
Monthly spending per card:                      \$3,000.00  
Single transaction limit:                      \$1,500.00  
Daily number of transactions per card:                      5  
Monthly number of transactions per card:                      50

Name on Card:                      Nathan Givens

Department Coordinator:                      Gina DeWitt

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

**11**  
**RESOLUTION NO. 18-548**

**IN THE MATTER OF APPROVING A WAIVER FOR SMARTBILL LTD TO RELEASE SEWER BILLING DATA TO JADE TRACK, INC. ON BEHALF OF OLENTANGY LOCAL SCHOOLS:**

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

WHEREAS, the Delaware County Board of Commissioners entered into a contract with SmartBill, Ltd. on September 8, 2016 to provide printing, mailing and online bill viewing services to the Regional Sewer District; and

WHEREAS, Olentangy Local Schools has signed the waiver on May 11, 2018, authorizing JadeTrack, Inc. to receive the sewer utility bills for buildings in the Olentangy Local School District; and

WHEREAS, Olentangy Local Schools has requested that the Regional Sewer District permit SmartBill, Ltd. to provide PDF formatted sewer bills for Olentangy Local Schools to JadeTrack, Inc;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, approve a waiver for SmartBill Ltd. to provide PDF formatted Regional Sewer District sewer bills for Olentangy Local Schools to JadeTrack, Inc. until notification is presented in writing to terminate this service:

(Copy of wavier available for review at the Sanitary Engineer’s Office until no longer of administrative value)

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

**12**

**RESOLUTION NO. 18-549**

**IN THE MATTER OF ADOPTING A RESOLUTION DECLARING A NECESSITY AND THE INTENT OF THE DELAWARE COUNTY BOARD OF COMMISSIONERS TO APPROPRIATE PROPERTY:**

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

WHEREAS, the Board of Delaware County Commissioners (the "Board") deems it necessary for the public convenience and welfare to construct a highway improvement known as the Lewis Center Road and North Road Improvements (DEL-CR106-0.44) by construction, reconstruction, installation, replacement, repair, maintenance and improvement of Lewis Center Road and North Road in Delaware County, Ohio (the "Improvement"); and

WHEREAS, the Board has determined that additional land is necessary for the Improvement and that the Board and property owners were unable to agree on the terms of conveyance through good faith negotiations; and

WHEREAS, the Board has determined the fair market value ("FMV") for the property to be appropriated and any resultant damages; and

WHEREAS, the Board has determined that it is necessary to take immediate possession of the property to be appropriated via the "quick take" procedure under section 163.06(B) of the Revised Code;

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

Section 1. The Board deems it necessary, and it is hereby declared to be the intention of the Board, to appropriate the following property necessary for the Improvement and determines the FMV for the same:

Property Owner(s)	Interest to be Appropriated	FMV
Richard L. Ball & Martha L. Ball	16-WD, T1, T2	\$15,220.00
Evans Farm Delaware, LLC	17-WD, T	\$71,996.00

The parcel identifiers listed in the table above are taken from the approved right-of-way plans and highway construction plans for the Improvement, which are, by this reference, fully incorporated herein and are on file and available for inspection or copying at the Office of the Delaware County Engineer, 50 Channing Street, Delaware, Ohio 43015.

Section 2. The appropriations deemed necessary herein being for the purpose of making or repairing roads which shall be open to the public without charge, the Board further deems it necessary, and hereby states its intention, to immediately obtain and take possession of and enter upon the property to be appropriated upon filing the Petition and depositing the FMV with the Court, in accordance with section 163.06(B) of the Revised Code.

Section 3. The Board hereby directs the Delaware County Prosecuting Attorney to commence the appropriation proceedings on behalf of the Board.

Section 4. This Resolution shall take effect and be in force immediately upon passage.

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

**13**

**RESOLUTION NO. 18-550**

**IN THE MATTER OF APPROVING OWNER'S AGREEMENT FOR BERLIN MANOR SECTION 1:**

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

Whereas, The Engineer recommends approving the Owner's Agreement for Berlin Manor Section 1.

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the Owner's Agreement for Berlin Manor Section 1 as follows:

**OWNER'S AGREEMENT**  
**PROJECT NUMBER: 7014**

**THIS AGREEMENT**, executed on this 21<sup>st</sup> day of May, 2018 between **BERLIN MANOR ONE, LLC**, hereinafter called 'OWNER' and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE**

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**COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **BERLIN MANOR SECTION 1**, further identified as Project Number 15033 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

**OPTIONS:**

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

**OWNER** hereby elects to use Option 2 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

**All public improvement construction** shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** further agrees that any violations of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **COUNTY** shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **FIFTY-SEVEN THOUSAND DOLLARS (\$57,000)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

**Upon completion of construction**, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

**Acceptance of the project** into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

**Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer** during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**.

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within Delaware County and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County**.

**Should the OWNER become unable to carry out the provisions of this AGREEMENT**, the **OWNER'S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.

**In consideration whereof**, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants the **OWNER** or his agent, the right and privilege to make the improvements stipulated herein.

**EXHIBIT "A"**

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CONSTRUCTION COST ESTIMATE	\$1,433,400
CONSTRUCTION BOND AMOUNT	\$ N/A
MAINTENANCE BOND AMOUNT	\$ 143,340
INSPECTION FEE DEPOSIT	\$ 57,000

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

**14**

**RESOLUTION NO. 18-551**

**IN THE MATTER OF APPROVING GENERAL ENGINEERING SERVICES AGREEMENT 2018-1 FOR SERVICES AS LISTED IN THE SCOPE BELOW:**

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

**GENERAL ENGINEERING SERVICES  
DELAWARE COUNTY ENGINEER'S OFFICE  
DELAWARE, OHIO**

**Scope of Services**

Delaware County General Eng Serv 2018-1  
Scope of Services Date: 2-20-18  
PID No. Various

The consultant may be required to perform miscellaneous design tasks, plan review, and environmental investigations on a task order type basis. Basic services may include, but are not limited to, the following:

- Roadway Design
- Plan Review
- Intersection Design
- Bridge Design
- Surveying Services
- Traffic Studies
- Preparation of Right of Way Descriptions/Plans
- Lighting Design
- Structural Design and Review Services
- Geotechnical Services

Bridge Inspection (not including Underwater Bridge Inspection)

All work shall be performed on an actual cost basis or by negotiated lump sum fee per task order, to be determined by the Department. The consultant shall maintain a project cost accounting system that will segregate costs for individual task orders.

The duration of the agreement will be 24 months from authorization.

The total amount of this agreement shall not exceed \$200,000.00.

Whereas, the County Engineer recommends approval of General Engineering Services Contract No. 2018-1 between the Delaware County Board of Commissioners and EMH&T;

THEREFORE, BE IT RESOLVED that the Board of Commissioners approve General Engineering Services Contract No. 2018-1 between the Delaware County Board of Commissioners and EMH&T as follows:

**ENGINEERING SERVICES AGREEMENT**

This Agreement is made and entered into this 21<sup>st</sup> day of May, 2018, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 ("County"), and EMH&T, 5500 New Albany Road, Columbus Ohio 43054 ("Consultant"), hereinafter collectively referred to as the "Parties", and shall be known as the "Prime Agreement."

**1 SERVICES PROVIDED BY CONSULTANT**

- 1.1 The Consultant will provide "Services" in connection with the following "Project":  
Delaware County General Engineering Services Contract 2018-1
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.

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- 1.3 Services are defined in and shall be rendered by the Consultant in accordance with the following documents, by this reference made part of this Agreement:  
Delaware County General Engineering Services 2018-1 Scope of Services dated 2-20-18

**2 SUPERVISION OF WORK**

- 2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Engineer (“County Engineer”) as the Project Manager and agent of the County for this Agreement.
- 2.2 The County Engineer or his designee shall have authority to review and order changes, commencement, suspension or termination of the Services performed under this Agreement

**3 AGREEMENT AND MODIFICATIONS**

- 3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Consultant, shall supersede all prior understandings and agreements relating to the Project, and may only be modified or amended in writing with the mutual consent and agreement of the parties.

**4 FEES AND REIMBURSABLE EXPENSES**

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Fee Proposal noted in Section 1.
- 4.2 For all task order requests made by the Project Manager, the Consultant shall prepare a proposal to complete the requested services as detailed in the task order. The Project Manager shall issue written approval of any task order proposal made by the Consultant in the form of a Notice to Proceed prior to the Consultant initiating work under the task order.
- 4.3 Total compensation under this Agreement shall not exceed Two Hundred Thousand Dollars and No Cents (\$200,000.00) without subsequent modification.
- 4.4 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Services.

**5 NOTICES**

- 5.1 “Notices” issued under this Agreement shall be served by U.S. certified mail to the persons listed below in writing. The Parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.

County Engineer:

Name: Chris Bauserman, P.E., P.S.  
Attn: Robert M. Riley, P.E., P.S.

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: 740-833-2400

Email: [rriley@co.delaware.oh.us](mailto:rriley@co.delaware.oh.us)

Consultant:

Name of Principal in Charge: Sandra C. Doyle Ahern, MEn

Address of Firm: 5500 New Albany Road

City, State, Zip: Columbus, Ohio 43054

Telephone: 614-775-4500

Project Contact Email: Ms. Abby Cueva, P.E. (acueva@emht.com)

**6 PAYMENT**

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6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Consultant and approved by the County Engineer shall be based on the calculated percentage of work performed to date in accordance with the Consultant's Price Proposal.

6.2 Invoices shall be submitted to the Project Manager by the Consultant on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Consultant shall promptly submit documentation as needed to substantiate said invoices.

6.3 The County shall pay invoices within thirty (30) days of receipt.

**7 NOTICE TO PROCEED, COMPLETION OF WORK, DELAYS AND EXTENSIONS**

7.1 The Consultant shall commence Work upon written Notice to Proceed ("Authorization") by the County Engineer and shall complete the work on or before July 1, 2020.

7.2 In the event that unforeseen and unavoidable delays prevent the timely completion of work to be performed under this Agreement, the Consultant may make a written request for time extension, and the County Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

**8 SUSPENSION OR TERMINATION OF AGREEMENT**

8.1 The County, upon written Notice as specified in Section 5, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Consultant shall immediately suspend or terminate Work, as ordered by the County.

8.2 In the case of Termination, the Consultant shall submit a final invoice within sixty (60) days of receiving Notice of Termination for Work completed up to the date of termination. The County is not liable for payment for work performed after the date of termination.

**9 CHANGE IN SCOPE OF SERVICES**

9.1 In the event that significant changes to the Scope of Services are required during performance of the Work, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall be approved by both parties.

**10 OWNERSHIP**

10.1 Upon completion or termination of the Agreement, the Consultant shall provide copies, if so requested, to the County of all documents or electronic files produced under this Agreement

10.2 The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed surveys, calculations, reports, schematics, drawings and any other tangible written or electronic work produced in accordance with the Agreement.

10.3 This section does not require unauthorized duplication of copyrighted materials.

**11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT**

11.1 The Consultant shall immediately notify the County, in writing, of any change to key Consultant staff or subconsultants assigned to the Work as contemplated at the time of executing this Agreement.

11.2 The Consultant shall not assign or transfer this Agreement, or any of the rights, responsibilities, or remedies contained herein, to any other party without the express, written consent of the County.

**12 INDEMNIFICATION**

12.1 The Consultant 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 Consultant, 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.

12.2 The Consultant 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 breach of contract, infringement of any right to use, possess, or otherwise operate or have any owned, protected, licensed, trademarked, patented, non-patented, and/or copyrighted software, product, service, equipment, invention, process, article, or appliance

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manufactured, used, or possessed in the performance of the Agreement and/or in providing the Services, to the extent caused by any act, error, or omission of the Consultant, 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.

**13 INSURANCE**

- 13.1 General Liability Coverage: Consultant 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.
- 13.2 Automobile Liability Coverage: Consultant 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.
- 13.3 Workers' Compensation Coverage: Consultant 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.
- 13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.
- 13.5 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 13.1 and 13.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 13.6 Proof of Insurance: Prior to the commencement of any work under this Agreement, Consultant, 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. Consultant will replace certificates for any insurance expiring prior to completion of work under this Agreement.

**14 MISCELLANEOUS TERMS AND CONDITIONS**

- 14.1 Prohibited Interests: Consultant 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. Consultant 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.
- 14.2 Independent Contractor: The Parties acknowledge and agree that Consultant is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Consultant also agrees that, as an independent contractor, Consultant assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Consultant hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 14.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 14.4 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.
- 14.5 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.

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- 14.6 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 to be effective and to be complied with.
- 14.7 Findings for Recovery: Consultant certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 14.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 14.9 County Policies: The Consultant shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Consultant shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Consultant to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 14.10 Drug-Free Workplace: The Consultant 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. The Consultant 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.
- 14.11 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

Consultant further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

Consultant certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.

Consultant certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.

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

**15**

**RESOLUTION NO. 18-552**

**IN THE MATTER OF APPROVING CONTRACTS OF SALE AND PURCHASE FOR DALE R. FREY, MARK S. & CYNTHIA B. DIMICK, AND BEVERLY A. WICKLINE; AND A BILL OF SALE FOR PRESTWICK COMMONS, FOR THE PROJECT KNOWN AS DEL-CR-14-1.23:**

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 Dale R. Frey, Mark S. & Cynthia B. Dimick, and Beverly A. Wickline; and a Bill of Sale for Prestwick Commons, for the project known as DEL-CR-14-1.23

Now Therefore Be It Resolved that:

Section 1. The Delaware County Board of Commissioners approve the Contracts of Sale and Purchase for Dale R. Frey, Mark S. & Cynthia B. Dimick, and Beverly A. Wickline; and a Bill of Sale for Prestwick Commons, for the project known as DEL-CR-14-1.23 as follows:

**Dale R. Frey**



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

**WITNESSETH:** On this 21<sup>st</sup> day of May, 2018, Dale R. Frey, Married, whose address is 3257 East Powell 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 North Sandusky Street, Delaware, Ohio 43015, hereinafter the PURCHASER, the following described premises, hereinafter the PROPERTY, to wit:

See Attached Exhibit A (Property Description)  
Parcel 148 WD, CH, SL, T  
DEL-CR14-1.23

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 **\$11,670.00** 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.

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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.
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

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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.
18. Delaware County will erect orange plastic construction fence at the beginning of construction along the Temporary Easement line to clearly designate the acquisition limits.
19. If within six (6) months of the "completion of construction" as defined as the date of seeding and mulching application, the tree(s) die on SELLER'S remaining property in proximity to the construction area on the PROPERTY as a result of the construction, PURCHASER shall compensate SELLER in an amount not to exceed Two Thousand Two Hundred Fifty Dollars (\$2,250.00) per tree. In the event that PURCHASER and SELLER cannot agree on whether a tree died as a result of construction, PURCHASER and SELLER shall select a certified arborist to provide an opinion as to the cause of death of the tree, with PURCHASER paying the fee, not to exceed Five Hundred Dollars (\$500.00), of the arborist. In the event PURCHASER and SELLER cannot agree on a certified arborist to render an opinion, PURCHASER and SELLER shall each select a certified arborist, who shall agree upon and select a third certified arborist to render a final and binding opinion on the cause of death of the tree, with PURCHASER paying all fees not to exceed Five Hundred Dollars (\$500.00) per arborist.
20. Curb cut at the street shall be 26' wide and 16' wide at a distance of 21' back from the curb. Transition to the existing driveway from beyond the temp easement line shall be responsibility of owner.

**Mark S. & Cynthia B. Dimick**

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

**WITNESSETH:** On this 21<sup>st</sup> day of May, 2018, Mark S. Dimick and Cynthia B. Dimick, Husband and Wife, whose address is 2392 E. Powell 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 North Sandusky Street, Delaware, Ohio 43015, hereinafter the PURCHASER, the following described premises, hereinafter the PROPERTY, to wit:

See Attached Exhibit A (Property Description)  
Parcel 76 WD, CH, T  
DEL-CR14-1.23

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 **\$13,300.00** 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.

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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, whatever 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.
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

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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.
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.

**Beverly A. Wickline:**

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

**WITNESSETH:** On this 21<sup>st</sup> day of May, 2018, Beverly A. Wickline, Unmarried, whose address is 7951 Hickory Ridge Court, 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 North Sandusky Street, Delaware, Ohio 43015, hereinafter the PURCHASER, the following described premises, hereinafter the PROPERTY, to wit:

See Attached Exhibit A (Property Description)  
Parcel 173 WD, T-1, T-2  
DEL-CR14-1.23

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 **\$25,000.00** 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.

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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, whatever 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.
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.

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- 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.
- 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.

Prestwick Commons:

BILL OF SALE FROM TENANT  
(Structures) and/or  
Miscellaneous  
Improvements

This Contract made and entered into this \_\_\_day of \_\_, 20\_\_ by Prestwick Commons Home Owners Association, hereinafter called Owner and the The Delaware County Board of Commissioners, hereinafter called the LPA, and is based on the following understanding:

Situated on Parcel No. 35, on an area of land fee owned by James T. Kuhn and Alexis K. Kuhn, Husband and Wife the following described structure(s)/improvement(s) for the purpose of this Agreement shall be considered to be real property, the same as if attached to the land.

LIST STRUCTURES/IMPROVEMENTS AND COMPENSATION FOR EACH

- 69 LF Four board, wood fence @ \$25/LF.....\$405.00
- 1 Large Pine @ \$2,250.00
- 1 Large Hardwood @ \$2,250.00
- 1 Large Pine @ \$2,250.00
- 1 Large Hardwood @ \$2,250.00
- 2 Small Evergreens @ \$300.00 Each
- 2 Small Hardwoods @ \$300.00 Each
- 392 SF Landscape bed @ \$8.00/SF.....\$3,135.00
- 21 LF Stone Edging @ \$25.00/LF.....\$525.00
- 500 +/- SF Landscape Bed @ \$8.00/SF.....\$4,000.00
- 39 LF Stone Edging @ \$25.00/LF.....\$975.00

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It is mutually agreed and understood by and between the Owner of said structure(s)/improvement(s) and the LPA as follows:

1. The sum \$20,807.00 is the entire amount of money to be paid to Owner for the above-referenced structure(s)/improvement(s).
2. The Owner of said structure(s)/improvement(s) is to remain in possession of the structure(s) /improvement(s) for a period of time after the execution of this Agreement, which period of time is set forth in paragraph three. The Owner shall keep any insurance policies in effect on the structure(s) /improvement(s) so long as he has possession of same, and the LPA shall be subrogated to any and all claims for damages to the buildings after title passes.
3. The Owner will remain in possession of the structure(s)/improvement(s), and all attached fixtures and equipment and shall protect and preserve the same as they now exist, and shall deliver peaceful unoccupied possession thereof to the LPA, its employees or assigns at the closing or as directed by the The Delaware County Board of Commissioners.
4. It is agreed that the following fixtures and/or equipment:  
69 LF Four board, wood fence, 1 Large Pine, 1 Large Hardwood, 1 Large Pine, 1 Large Hardwood, 2 Small Evergreens, 2 Small Hardwoods, 392 SF Landscape bed, 21 LF Stone Edging and 500 +/- SF Landscape Bed, 39 LF Stone Edging or other items that are normally considered a part of, and add to the value of the structure(s), shall be delivered by the owner, intact.
5. The Owner of said structure(s)/improvement(s) shall assign all rights of access to the structure(s) /improvement(s) to the LPA, thus granting the LPA the right to enter onto the land described herein, where the structure(s)/improvement(s) are located, to removed the s structure(s) /improvement(s) in accordance with plans on file and/or for the purpose of removing materials from the structure(s) via the most direct and practical route to the nearest public highway or street.

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

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

**16**  
**RESOLUTION NO. 18-553**

**IN THE MATTER OF DECLARING THE NECESSITY FOR IMPROVEMENTS TO SALISBURY DRIVE AND LIBERTY ROAD, AND APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH 2LMN, INC. FOR THE PROJECT KNOWN AS DEL-CR9-00.00, SALISBURY AND LIBERTY ROUNDABOUT:**

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

WHEREAS, Section 5555.022 of the Revised Code provides that a Board of County Commissioners may find by a majority vote that the public convenience and welfare require the improving of any part of any public road, may fix the route and termini of the improvement and may authorize such Improvement; and,

WHEREAS, the County Engineer has determined that the construction of a roundabout at Salisbury Drive and Liberty Road is required for safety and capacity improvement in the area; and,

WHEREAS, Section 305.15 of the Revised Code provides that a Board of Commissioners may enter into contracts with any person, firm, partnership, association or corporation qualified to perform engineering services in the state, and;

WHEREAS, the County Engineer requests the assistance of a consulting engineer for the purpose of preparing surveys, plans, profiles, cross sections, estimates and specifications for said Improvements and has selected 2LMN, Inc. of Lancaster, Ohio through a qualifications based selection process conforming to Section 153.69 of the Revised Code;

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners that:

Section 1: The public convenience and welfare require the construction of a roundabout at the intersection of Liberty Road and Salisbury Drive along with widening of Liberty Road to provide left turn lanes at the intersection of Libertydale Drive as well as a shared use path extending from Libertydale Drive to Salisbury Drive are required for safety and capacity improvement in the area, and that the Improvement known as DEL-CR9-00.00, Salisbury and Liberty Roundabout be initiated for such purpose; and,

Section 2: The following contract is approved:



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**PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into this 21<sup>st</sup> day of May, 2018, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and 2LMN, Inc., 2475 Sugar Grove Road, SE, Lancaster, Ohio 43130 (“Consultant”), hereinafter collectively referred to as the “Parties”, and shall be known as the “Agreement.”

**1 SERVICES PROVIDED BY CONSULTANT**

- 1.1 The Consultant will provide “Services” in connection with the following “Project”: DEL-CR9-00.00, Salisbury and Liberty Roundabout.
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 Services shall be rendered by the Consultant in accordance with the following documents, by this reference made part of this Agreement:  
Scope of Services and Price Proposal dated March 30, 2018

**2 SUPERVISION OF SERVICES**

- 2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Engineer as the “Project Manager” and agent of the County for this Agreement.
- 2.2 The Project Manager shall have authority to review and order changes, commencement, suspension or termination of the Services performed under this Agreement

**3 AGREEMENT AND MODIFICATIONS**

- 3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Consultant, shall supersede all prior understandings and agreements relating to the Project, and may only be modified or amended in writing with the mutual consent and agreement of the parties.

**4 FEES AND REIMBURSABLE EXPENSES**

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Scope of Services and Price Proposal noted in Section 1.3.
- 4.2 For all services described in the Scope of Services and Price Proposal, except “If Authorized” tasks, the lump sum fee shall be \$236,834.36, which amount shall not be exceeded without subsequent modification.
- 4.3 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Services.

**5 NOTICES**

- 5.1 “Notices” issued under this Agreement shall be served to the parties listed below in writing. The parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.

Project Manager:

Name: Delaware County Engineer  
Attn: Ryan J. Mraz

Address: 50 Channing Street, Delaware, OH 43015

Telephone: (740) 833-2425

Email: Rmraz@co.delaware.oh.us

Consultant:

Name of Principal in Charge: Muhammad U. Riaz, P.E.

Address of Firm: 2475 Sugar Grove Road, SE

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City, State, Zip: Lancaster, OH 43130  
 Telephone: 740-687-5542  
 Email: James A. Hamilton, P.E.

**6 PAYMENT**

- 6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Consultant and approved by the Project Manager and on the calculated percentage of work performed to date in accordance with the Consultant's Price Proposal.
- 6.2 Invoices shall be submitted to the Project Manager by the Consultant on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Consultant shall promptly submit documentation as needed to substantiate said invoices.
- 6.3 The County shall pay invoices within thirty (30) days of receipt.

**7 NOTICE TO PROCEED, COMPLETION OF SERVICES, DELAYS AND EXTENSIONS**

- 7.1 The Consultant shall commence Services upon written Notice to Proceed ("Authorization") by the Project Manager and shall complete the Services no later than December 31, 2019.
- 7.2 Consultant shall not proceed with any "If Authorized" tasks without written Authorization.
- 7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Consultant may make a written request for time extension, and the Project Manager may grant such an extension provided that all other terms of the Agreement are adhered to.

**8 SUSPENSION OR TERMINATION OF AGREEMENT**

- 8.1 The County, upon written Notice as specified in Section 5, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Consultant shall immediately suspend or terminate Services, as ordered by the County.
- 8.2 In the case of Termination, the Consultant shall submit a final invoice within sixty (60) days of receiving Notice of Termination for Services completed up to the date of termination. The County is not liable for payment for Services performed after the date of termination.

**9 CHANGE IN SCOPE OF SERVICES**

- 9.1 In the event that significant changes to the Scope of Services are required during performance of the Services, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall be approved by both parties.

**10 OWNERSHIP**

- 10.1 Upon completion or termination of the Agreement, the Consultant shall provide copies, if so requested, to the County of all documents or electronic files produced under this Agreement
- 10.2 The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed surveys, calculations, reports, schematics, drawings and any other tangible written or electronic work produced in accordance with the Agreement.
- 10.3 This section does not require unauthorized duplication of copyrighted materials.

**11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT**

- 11.1 The Consultant shall immediately notify the County, in writing, of any change to key Consultant staff or subconsultants assigned to the Services as contemplated at the time of executing this Agreement.
- 11.2 The Consultant shall not assign or transfer this Agreement, or any of the rights, responsibilities, or remedies contained herein, to any other party without the express, written consent of the County.

**12 INDEMNIFICATION**

- 12.1 The Consultant 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

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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 Consultant, 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.

**13 INSURANCE**

- 13.1 General Liability Coverage: Consultant 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.
- 13.2 Automobile Liability Coverage: Consultant 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.
- 13.3 Workers' Compensation Coverage: Consultant 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.
- 13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the services hereunder. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.
- 13.5 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 13.1 and 13.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 13.6 Proof of Insurance: Prior to the commencement of any Services under this Agreement, Consultant, 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. Consultant will replace certificates for any insurance expiring prior to completion of Services under this Agreement.

**14 MISCELLANEOUS TERMS AND CONDITIONS**

- 14.1 Prohibited Interests: Consultant 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. Consultant 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.
- 14.2 Independent Contractor: The Parties acknowledge and agree that Consultant is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Consultant also agrees that, as an independent contractor, Consultant assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Consultant hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 14.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 14.4 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.
- 14.5 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.

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- 14.6 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 to be effective and to be complied with.
  
- 14.7 Findings for Recovery: Consultant certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
  
- 14.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
  
- 14.9 County Policies: The Consultant shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Consultant shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing Services under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Consultant to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
  
- 14.10 Drug-Free Workplace: The Consultant 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. The Consultant shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the Services being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
  
- 14.11 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of Services under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the Services to which the Agreement relates.

Consultant further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of Services under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

Consultant certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.

Consultant certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.

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

**17**

**RESOLUTION NO. 18-554**

**IN THE MATTER OF APPROVING A SUPPLEMENTAL APPROPRIATION:**

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

**Supplemental Appropriation**

40311449-5301	Havens #503 Drainage Improvement/Contracted Professional Services	85,000.00
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Vote on Motion                      Mr. Benton              Aye              Mr. Merrell              Aye              Mrs. Lewis              Aye

**18**

**ADMINISTRATOR REPORTS**

Mike Frommer, County Administrator  
-Met with Jenna Hicks (DKMM) about the Transfer Station plans.

**19**

**COMMISSIONERS' COMMITTEES REPORTS**

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Commissioner Lewis

- Attended a meeting where the Indian Ambassador to the United States gave a speech Thursday night.
- Attended a Stepping Up Executive Planning Committee meeting Thursday afternoon. The stepping up program has received a technical assistance grant. Denny Schooley announced that the DATA program was getting some strategic planning assistance from MORPC.

Commissioner Benton

- Attended the COYC annual and quarterly meeting on Thursday afternoon.
- Attended the Willowbrook Grand Opening of their new wing on the west side of town. The new wing is a transitional living, where those who need some assistance but not full time assistance can reside.
- Attended the EMS annual awards banquet yesterday. Their external award went to the Westerville Fire/Rescue and Police force for their response to the incident where two officers lost their lives.
- The Maxtown Kroger re-opening will be held Wednesday.
- Pleased to report that the Georgia Lady Bulldogs have made it to the Sweet 16 for softball.

Commissioner Merrell

- Pleased to report that the Oklahoma Lady Sooners have also made it to the Sweet 16 for softball again this year.
- Attended the CCAO board meeting Friday. They are working on having the candidates for Governor attend an upcoming meeting.
- Regional Planning executive meeting will be held Wednesday.
- Attended the Arts Festival on Saturday.

**20**

**RESOLUTION NO. 18-555**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF EMPLOYMENT; COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL; FOR COLLECTIVE BARGAINING:**

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 employment; compensation of a public employee or public official; for collective bargaining.

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

**RESOLUTION NO. 18-556**

**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                      Mrs. Lewis              Aye              Mr. Benton              Aye              Mr. Merrell              Aye

Commissioner Merrell was absent due to a previous commitment.

**RECESS AT 11:05 AM/RECONVENE 1:32 PM**

**RESOLUTION NO. 18-557**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT 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:

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

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

**RESOLUTION NO. 18-558**

**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. Merrell            Absent            Mrs. Lewis            Aye            Mr. Benton            Aye

There being no further business, the meeting adjourned.

\_\_\_\_\_  
Gary Merrell

\_\_\_\_\_  
Barb Lewis

\_\_\_\_\_  
Jeff Benton

\_\_\_\_\_  
Jennifer Walraven, Clerk to the Commissioners