

COMMISSIONERS JOURNAL NO. 69 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JUNE 7, 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

10:00A.M. Final Hearing For The Fancher Road Watershed Drainage Improvement Petition Project

1
RESOLUTION NO. 18-651

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JUNE 4, 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 June 4, 2018; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 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. 18-652

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0606:

It was moved by Mrs. Lewis, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0606 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
360 Water INC.	Environmental Services Training Modules	66211901-5305	\$14,222.00
McNaughton McKay	Electrical Supplies OECC	66211903-5201	\$ 3,816.00
McNaughton McKay	Electrical Supplies OECC (add a line)	66211904-5450	\$ 9,924.81

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Account</u>	<u>Amount</u>	<u>Line</u>
R1803736	B & K LEHNER EXCAVATING LLC	HAVENS #503 DITCH IMPROVEMENTS PROJECT	40311449 - 5301	\$60,522.00	0001
R1803792	IMAGE TREND INC	ANNUAL RECURRING CHARGES	10011303 - 5320	\$15,553.00	0001
R1803795	SOURCE 1 ENVIRONMENTAL	OPERATING SUPPLIES - PATCH MATERIAL	66211903 - 5201	\$ 3,870.00	0001
R1803795	SOURCE 1 ENVIRONMENTAL	OPERATING SUPPLIES - PIPE	66211903 - 5260	\$ 1,920.00	0002
R1803795	SOURCE 1 ENVIRONMENTAL	OPERATING SUPPLIES - PATCH MATERIAL	66211904 - 5201	\$ 3,870.00	0003
R1803795	SOURCE 1 ENVIRONMENTAL	OPERATING SUPPLIES - PIPE	66211904 - 5260	\$ 1,920.00	0004
R1803795	SOURCE 1 ENVIRONMENTAL	PIPE PATCH FLOW THROUGH PACKERS	66211901 - 5450	\$ 6,000.00	0005
R1803796	ALLIED TECHNICAL SERVICE INC	REPAIR INFLUENT FORCE MAINS AT LOWER SCIOTO	66211905 - 5328	\$ 8,565.00	0001
R1803828	CONTINENTAL OFFICE	FURNITURE	40411414 - 5450	\$ 5,035.05	0001

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ENVIRONMENTS

R1803856	XYLEM WATER SOLUTIONS USA INC	PROCESS PUMP - ALUM CREEK	66211904 - 5450	\$13,795.36	0001
R1803858	XYLEM WATER SOLUTIONS USA INC	FLYGHT PUMP - GOLF VILLAGE PS	66211903 - 5450	\$24,688.30	0001

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

5
RESOLUTION NO. 18-653

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Economic Development Department is requesting that Bob Lamb, Jenna Jackson and Nick Adams attend a Columbus Business First Venture Capital Forum in Columbus, Ohio on June 12, 2018 at the cost of \$174.00.

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

6
RESOLUTION NO. 18-654

IN THE MATTER OF ACCEPTING AND APPROVING THE DELAWARE COUNTY SHERIFF'S OFFICE TRANSPORT REPORT FOR THE MONTH OF APRIL 2018:

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

WHEREAS, section 325.07 of the Revised Code requires the County Sheriff to submit monthly expense reports to the Board of County Commissioners; and

WHEREAS, the Delaware County Sheriff has submitted a monthly report for April 2018;

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

Section 1. The Board hereby accepts and approves the Delaware County Sheriff's Office Transport Report for the month of April 2018.

Section 2. The Board hereby allows the expenses contained in the monthly report.

(Copy available for review at the Commissioners' Office until no longer of administrative value.)

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

7
KATHY STURMAN
LINDSAY COLLINS, CHAIR OF DELAWARE WALK TO END ALZHEIMER'S DAY
VINCE MCGRIL, DIRECTOR FOR THE ALZHEIMER'S ASSOCIATION OF CENTRAL OHIO

RESOLUTION NO. 18-655

IN THE MATTER OF THE DELAWARE COUNTY BOARD OF COMMISSIONERS RECOGNIZING JUNE 2018 AS BRAIN AND ALZHEIMER'S AWARENESS MONTH AND AUGUST 11, 2018 AS THE DELAWARE WALK TO END ALZHEIMER'S DAY:

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

WHEREAS, June, 2018 is Brain and Alzheimer's Awareness Month, recognizing a disease that affects 5.7 million Americans and 220,000 Ohioans; and

WHEREAS, recognizing these events provide an opportunity to promote and join the global conversation about the brain and Alzheimer's disease as a public health crisis; and

WHEREAS, with no known way to slow or prevent Alzheimer's disease, essential public health services of early detection, risk reduction, and surveillance are necessary to protect and improve the health at a population level; and

WHEREAS, caregiving for individuals with Alzheimer's disease often takes an enormous toll on family members; caregivers themselves often suffer more stress, depression, and health problems than caregivers of people with other illnesses; and

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WHEREAS, the Alzheimer's Association is the largest non-profit funder of Alzheimer's research and provides care and support to those living with the disease today with the help and support of its dedicated volunteers and

WHEREAS, The Delaware County Board of Commissioners recognize the important role the Alzheimer's Association, Central Ohio Chapter plays in meeting the needs of people affected by Alzheimer's disease and other forms of dementia through family and clinical support, early detection and diagnosis of disease education, advocacy and research; now, therefore

BE IT RESOLVED BY THE DELAWARE COUNTY COMMISSIONERS: That the Delaware County Board of Commissioners recognizes June 2018 as Brain and Alzheimer's Awareness Month and August 11, 2018 as the Delaware Walk to End Alzheimer's Day.

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

**8
RESOLUTION NO. 18-656**

IN THE MATTER OF APPROVING A SOFTWARE MAINTENANCE AGREEMENT BETWEEN COURTVIEW JUSTICE SOLUTIONS INC. D/B/A EQUIVANT, THE BOARD OF DELAWARE COUNTY COMMISSIONERS, AND THE DELAWARE COUNTY CLERK OF COURTS OFFICE FOR THE CASE MANAGEMENT SYSTEM USED BY THE DELAWARE COUNTY CLERK OF COURTS AND COMMON PLEAS COURT:

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

WHEREAS, the Clerk Of Courts recommends approval of agreement between Courtview Justice Solutions Inc. D/B/A equivant, The Board Of Delaware County Commissioners, and The Delaware County Clerk Of Courts Office, for the Case Management System;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approve an agreement between Courtview Justice Solutions Inc. D/B/A equivant, The Board Of Delaware County Commissioners, and The Delaware County Clerk Of Courts Office, for the Case Management System used by The Delaware County Clerk Of Courts And Common Pleas Court:

SOFTWARE MAINTENANCE AGREEMENT

This Software Maintenance Agreement ("Agreement") is entered into as of June 7, 2018 by and between CourtView Justice Solutions Inc. d/b/a equivant, with offices at 4825 Higbee Avenue NW, Suite 101, Canton, Ohio 44718 ("equivant"), and the Board of Commissioners, Delaware County, Ohio ("Board"), whose principal offices are located at 101 North Sandusky Street, Delaware, Ohio 43015 on behalf of the Delaware County Common Pleas Court ("Court"), whose principal offices are located at 110 North Sandusky Street, 500 Level, Delaware, Ohio 43015 and the Delaware County Clerk of Courts ("Clerk"), whose principal offices are located at 110 North Sandusky Street, 300 Level, Delaware, Ohio 43015 (Board, Court, and Clerk collectively "Customer"), and describes the terms and conditions pursuant to which equivant shall provide software maintenance services to Customer for certain Software (as defined below) (equivant and Customer collectively "Parties," individually "Party").

Whereas, equivant and Customer are parties to a Software License Agreement pursuant to which Customer has licensed certain software products ("Software") from equivant. Software expressly excludes software licensed by a third party;

Whereas, the Software paid-up license fee includes a warranty without charge as set forth in the Software License Agreement. In addition, support and maintenance ("Maintenance") for the Software is available. Maintenance includes bug fixes and telephone support and may include, if they are made available by equivant, software updates and enhancements; and

Whereas, the Parties wish to set forth the terms and conditions upon which the Parties have agreed Maintenance will be provided by equivant to the Customer for the Software. Except as expressly provided in this Agreement, equivant does not provide Maintenance for third party software that is licensed by a party other than equivant.

Therefore intending to be legally bound, the Parties hereby mutually agree to the following terms:

1. **TERM**

Maintenance provided under this Agreement will commence on June 1, 2018, however, this Agreement shall be effective upon the date the last Party signs this Agreement ("Effective Date") and shall continue through December 31, 2020 ("Initial Term").

2. **RENEWAL**

Upon written agreement of the Parties, this Agreement may be renewed for additional one (1) year periods

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("Subsequent Term") subject to the same terms and conditions provided herein and upon any such terms and conditions as may be specifically agreed upon, added and/or amended in writing by the Parties, unless terminated as set forth below.

3. **SCOPE OF MAINTENANCE SERVICES**

The Parties agree and understand that the fully executed Amendment 1 to the SOFTWARE LICENSE AGREEMENT transferring 15 licenses from the Delaware County Juvenile and Probate Court to the Clerk is a condition precedent to the execution and implementation of this SOFTWARE MAINTENANCE AGREEMENT.

equivant will provide the Maintenance as described in the Maintenance Terms attached hereto and labeled as Exhibit A.

equivant will provide tier one support for third party software purchased from equivalent, tier two and three support and revisions and upgrades will be provided by the manufacturer of such third party software. Tier one, tier two and tier three support is defined as:

Tier I: Is the initial support level responsible for basic customer reported issues. It is synonymous with first line support and denotes use support. A Tier I (equivalent) customer care specialist will gather the customer's information and determine the customer's issue by analyzing the symptoms and will attempt to identify the root cause of the underlying problem. If the root cause is a basic use issue the assigned customer care specialist will attempt to remediate the issue before escalating the issue to a higher level. If the reported issue is a technical issue the assigned customer care specialist will escalate the issue to a higher level.

Tier II: This is a more in-depth technical support level provided by personnel with additional experience and knowledge of the product. Manufacturer technicians providing Tier II support are responsible for: helping Tier I customer care specialist solve basic use problems, for handling basic technical issues, for investigating escalated issues by confirming the validity of the reported issue and identifying known solutions related to these more complex issues. If an issue is new and/or the assigned technician cannot determine a solution, they are responsible for escalating this issue to the Tier III technical support group.

Tier III: This is the highest level of technical support and is provided by manufacturer technicians with extensive experience and knowledge of the product for handling the most difficult and advanced problems. Often the Tier III technical support group includes the staff that developed and tested the product.

4. **PROPRIETARY PROPERTY**

All software development, design, documentation, and programs necessary to operate and maintain the systems described herein that were produced by equivalent shall remain the proprietary property of equivalent. Restriction of this proprietary property does not limit the Customer from making such copies of programs, documentation, and software-related materials for internal use. Except as otherwise required by law, disclosure of such materials to third parties or other contractors is strictly forbidden without the express written consent of equivalent.

5. **CUSTOMER RESPONSIBILITY FOR ENVIRONMENT**

To operate the supported software, equivalent will provide Customer with a definition of minimum requirements for the Customer's environment, infrastructure and related applications, which include, but are not limited to, Customer's operating system, database tools, and other support tools. equivalent will provide Customer with at least ninety (90) days written notice of changes to those minimum requirements. Customer must meet those minimum requirements or equivalent may decline to provide Maintenance. equivalent has no obligation to upgrade the supported software because of Customer's changes to its environment, infrastructure and related applications, including, but are not limited to, Customer's operating system, database tools and other supported tools.

6. **SOFTWARE MAINTENANCE FEE – PAID UP LICENSE**

In consideration of the Maintenance services to be provided for the Initial Term, Customer shall pay to equivalent the applicable amount set forth in the Software Maintenance Fee Schedule attached hereto as Schedule 1. For each Subsequent Term, equivalent reserves the right to change the annual Maintenance fee by providing Customer written notice of the change at least forty-five (45) days prior to the start date of any Subsequent Term.

7. **CONTRACT MAXIMUM**

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It is expressly understood and agreed that the total amount to be paid under this Agreement shall not exceed the maximum of \$94,981.00.

8. **ADDITIONAL SOFTWARE – PAID UP LICENSE**

In the event the Customer requires maintenance for additional Software ("Additional Software"), the parties may mutually agree in writing to modify this Agreement to include the Additional Software on Schedule 1 and make any other changes necessary for coverage of the Additional Software hereunder. The Software Maintenance Fee due under this Agreement shall also be modified in writing to include a prorated amount of the annual maintenance fee for the Additional Software covering the term remaining under then current term of this Agreement. The Maintenance Fee for this initial period of coverage shall be in an amount equal to twenty two percent (22%) of the non-discounted license fee paid for the Additional Software. For the first Subsequent Term, the amount due for the Additional Software shall be of the full value of the 22% of the non-discounted cost of the license fee. Thereafter, any change in the amount of annual Maintenance Fee due shall be provided as set out in this Agreement

9. **OTHER FEES AND EXPENSES**

Onsite Maintenance shall be provided only upon request by the Customer. If onsite maintenance is requested, Customer shall reimburse equivalent for reasonable travel expenses of equivalent's employees or agents in providing the onsite Maintenance, including meals during the period of travel. Reimbursement shall be limited to those items that are reimbursable under the then current Delaware County Employee Travel and Expense Reimbursement Policy, capped at the rates for reimbursement listed in such Policy. Travel expenses shall be billed and paid as the expenses are incurred. Onsite labor shall be provided on an hourly rate basis at the then current rates. Reimbursed travel expenses shall be invoiced and paid in the same manner as Maintenance.

10. **PAYMENT TERMS**

- a. To receive payment, equivalent shall submit proper annual invoices to the Clerk. Invoices shall be submitted to:

Jennifer Tubaugh
Chief Deputy Clerk of Courts
Delaware County Clerk of Courts
110 North Sandusky St., 300 Level
Delaware, Ohio 43015

- b. A proper invoice shall be on company letterhead and clearly display the word "Invoice" and include a sequential invoice number. Invoices shall be itemized and show a detail of all Maintenance and/or services to be provided and all other fees and costs.
- c. Payment for Maintenance for initial and subsequent terms is due and payable within thirty (30) days of the date of receipt by the Clerk of each proper invoice. The date of the warrant issued in payment shall be considered the date payment is made.
- d. Payment shall not be initiated by the Customer before a proper invoice is received. Defective invoices shall be returned to equivalent noting deficiencies and areas for correction. When such notification of defect is sent, the required payment date shall be thirty (30) days after receipt by the Clerk of a corrected and proper invoice.
- e. If a proper invoice remains unpaid by the Customer for at least ninety (90) days after receipt by the Clerk, equivalent may suspend Maintenance. Any such suspension shall occur only upon thirty (30) days advance written notice to Customer of the intent to suspend Maintenance. Reinstatement of Maintenance following such suspension requires all overdue payments to be paid in full.
- f. equivalent reserves the right after the Clerk has received an invoice to apply a late payment charge of 1.5% per month to amounts outstanding more than thirty (30) days after the payment due date shown on the invoice.

11. **DEFAULT AND TERMINATION**

- a. The Customer shall have the right to terminate Maintenance upon delivery of written notice to equivalent at least thirty (30) days prior to the start date of any Subsequent Term.
- b. The parties may mutually agree in writing to terminate this Agreement.
- c. Either party may terminate this Agreement if: (i) the other party fails to perform a material obligation of this Agreement, and if such failure remains uncured 30 days after receipt of written notice from the non-breaching party specifying the failure; or (ii) a party ceases to conduct business, becomes or is declared insolvent or bankrupt, is the subject of any proceeding relating to its liquidation or insolvency which is not dismissed within 90 days or makes an assignment for the benefit of creditors.

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- d. equivalent may terminate this Agreement if a proper invoice remains unpaid by the Customer for at least ninety (90) days after receipt by the Clerk. Such termination shall be effective upon thirty (30) days advance written notice to Customer and only if the Customer does not cure within thirty (30) days.
- e. In the event that Maintenance is terminated by equivalent pursuant to this section, equivalent shall have no continuing obligations to the Customer of any nature whatsoever with respect to Maintenance. Furthermore, termination by equivalent pursuant to the provisions hereof shall be without prejudice to any right or recourse available to equivalent, and without prejudice to equivalent's right to collect any amounts, which remain due to it hereunder.
- f. The Parties, without limitation, retain and reserve and may exercise any available administrative, contractual, equitable or legal actions or remedies.

12. **LIMITED WARRANTIES**

- a. Software. equivalent warrants for a period of ninety (90) days following the date of delivery of any software under this Agreement that it will substantially operate according to the documentation and product literature provided by equivalent. If it is determined solely by Customer that the software does not substantially operate according to such documentation provided by equivalent, equivalent shall, at its option and expense, apply commercially reasonable efforts to designing, coding and implementing programming changes to the source code to correct reproducible errors or correcting misstatements and omissions in the User's Guide and code documentation. Customer shall report all errors or other defects in the software to equivalent immediately upon their discovery. The remedies set forth in this section constitute Customer's sole and exclusive remedy for breach of this Warranty. equivalent does not warrant Third Party Software. equivalent will transfer any warranty provided by the licensor of the Third Party Software to Customer. Third Party Software is software that is not proprietary to equivalent.
- b. Services. equivalent warrants that the Services provided under this Agreement shall be performed with that degree of skill and judgment normally exercised by recognized professional firms performing the same or substantially similar services. In the event of any breach of the foregoing warranty, provided Customer has delivered to equivalent timely notice of such breach as hereinafter required, equivalent shall, at its own expense, in its discretion either (1) re-perform the non-conforming Services and correct the non-conforming Deliverables to conform to this standard; or (2) refund to Customer that portion of the Price received by equivalent attributable to the non-conforming Services and/or Deliverables. No warranty claim shall be effective unless Customer has delivered to equivalent written notice specifying in detail the non-conformities within 90 days after performance of the non-conforming Services or tender of the non-conforming Deliverables. The remedy set forth in this section is the sole and exclusive remedy for breach of the foregoing warranty.
- c. NO OTHER WARRANTIES. EQUIVANT MAKES NO OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE SOFTWARE OR THE DOCUMENTATION, OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT, INCLUDING MAINTENANCE AND SUPPORT. EQUIVANT SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SOFTWARE, DOCUMENTATION AND SAID OTHER MATERIALS AND SERVICES, AND WITH RESPECT TO THE USE OF ANY OF THE FOREGOING.

13. **LIMITATION OF LIABILITY**

- a. Customer hereby agrees that equivalent's total liability to Customer for any and all liabilities, claims or damages arising out of or relating to this Agreement, howsoever caused and regardless of the legal theory asserted, including breach of contract or warranty, tort, strict liability, statutory liability or otherwise, shall not, in the aggregate, exceed fees paid to equivalent hereunder. The parties acknowledge and agree to the foregoing liability risk allocation. Any claim by Customer against equivalent relating to this Agreement must be made in writing and presented to equivalent within six (6) months after the date on which this Agreement expires or is otherwise terminated.
- b. In no event shall either party be liable to the other for any punitive, exemplary, special, indirect, incidental or consequential damages (including, but not limited to, lost profits, lost business opportunities, loss of use or equipment down time, and loss of or corruption to data) arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even if the Parties have been advised of the possibility of such damages or loss and notwithstanding any failure of essential purpose of any limited remedy.

14. **INDEMNITY**

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- a. equivalent agrees to defend, indemnify, and hold harmless the Clerk, the Court, the Board, Delaware County, Ohio, and all of their respective boards, officers, officials, employees, volunteers, agents, and representatives (collectively "Indemnified Parties") from and against any and all third party actions, claims, suits, and/or demands and any judgments, awards, damages, losses, costs, fines, penalties, fees, and expenses resulting therefrom, including, but not limited to attorney's fees, as well as the reasonable costs related thereto (hereinafter collectively referred to as "Damages"), to the extent such Damages result from the gross negligence or willful acts or omissions of equivalent or any of its boards, officers, officials, employees, volunteers, agents, and representatives occurring in the performance of equivalent's obligations hereunder; provided, such defense and payments are conditioned on the following: (1) that equivalent shall be notified in writing by Customer within 10 business days following its receipt of any such claim, and (2) that equivalent shall have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise. equivalent shall not be responsible for any Damages or liability resulting, in whole or in part, from the negligence or willful misconduct of the Indemnified Parties.
- b. equivalent shall assume full responsibility for, pay for, and shall indemnify and hold free and harmless the Indemnified Parties from any harm, damage, destruction, injury, or loss, regardless of type or nature, known or unknown, realized or unrealized, to any property, real or personal, belonging to the Indemnified Parties or others, including but not limited to real estate, buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts arising out of or resulting in whole or in part from any actions, inactions, or omissions negligent or accidental, actual or threatened, intentional or unintentional of equivalent or any of its boards, officers, officials, employees, volunteers, agents, and representatives
- c. equivalent guarantees Customer free, uninterrupted, and unobstructed use of all and/or any portion of the Software and that the Software does not infringe on any owned, protected, licensed, trademarked, patented, non-patented, and/or copyrighted software, programming, services and/or equipment. In the event that either of the parties has or gains knowledge that the Software 1) actually or 2) potentially infringes on any ownership, protection, license, trademark, patent, non-patent, and/or copyright, equivalent shall, as applicable, take all of the following actions:
1. At no cost to Customer, secure the rights to possess or use the infringing or potentially infringing item so that Customer may continue to have free, uninterrupted, and unobstructed use of the Software.
 2. If equivalent is unable to secure rights to the item, equivalent shall immediately provide to Customer, at no cost to Customer, substitute software that, in the sole opinion of Customer, performs the same function and is of the same quality as the Software Maintained under this Agreement or refund to Customer the entire cost of the Agreement. In the event of such a substitution or refund, nothing shall prevent or limit Customer from pursuing any action against equivalent for damages suffered by Customer.

To the fullest extent of the law and without limitation, equivalent agrees to and shall indemnify and hold free and harmless the Indemnified Parties from any and all actions, claims, suits, demands, judgments, damages, losses, costs, fines, penalties, fees, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any infringement of any right to use or possess the Software. equivalent agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that equivalent shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, fines, penalties, fees, and expenses. equivalent further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that equivalent shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, fines, penalties, fees, and expenses, including, but not limited to attorney's fees.

15. **INSURANCE**

equivalent shall carry and maintain throughout the term of the Agreement, without lapse, the following policies of insurance with the following minimum coverage limits.

- a. Commercial General Liability Insurance with minimum coverage limits of at least one million dollars (\$1,000,000.00) per occurrence, with an annual aggregate of at least two million dollars (\$2,000,000.00), including coverage for subcontractors, if any are used. This insurance shall include, but not be limited to, the following coverage:
 1. Premises-Operations
 2. Product and Completed Operation
 3. Broad Form Property Damage
 4. Contractual
 5. Personal Injury

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- b. Umbrella or Excess Liability Insurance (over and above Commercial General Liability) with minimum coverage limits of at least two million dollars (\$2,000,000.00).
- c. If vehicles are to be used by equivalent in connection with this Agreement, Auto/Vehicle Liability Insurance covering all owned, leased, non-owned, and/or hired vehicles so used with minimum coverage limits at least three hundred thousand dollars (\$300,000.00) (Combined Single Limit) or, one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per accident for bodily injury and one hundred thousand dollars (\$100,000.00) per accident for property damage or more as may be required for particular vehicles or particular uses of vehicles as required by applicable law.

Prior to commencement of this Agreement, equivalent shall present to the Customer current certificates of insurance for the above required policies of insurance. The insurance company needs to be identified for each insurance policy and coverage. The certificates of insurance are to be signed by a person authorized by the insurance company to bind coverage on its behalf.

The Customer and Delaware County, Ohio shall be named as “Additional Insured” on the above listed policies of insurance.

equivalent shall be responsible for any and all premiums for all required policy(ies) of insurance.

All insurance shall be written by insurance companies licensed to do business in the State of Ohio and in good standing with the Ohio Department of Insurance.

The above required insurance coverage shall be primary insurance in respect to the Customer and any insurance maintained by the Customer shall be excess to the above required insurance and shall not contribute to it.

The insurer shall provide thirty (30) days written notice to the Customer before any cancellation or non-renewal of insurance coverage. Failure to provide such written notice will obligate the insurer to provide coverage as if cancellation or non-renewal did not take place.

If there is any change in insurance carrier or liability amounts, a new certificate of insurance must be provided to the Customer within seven (7) calendar days of change.

During the life of the Agreement, the Customer may request and equivalent shall timely produce additional certificate(s) of insurance. Failure of equivalent to provide a requested certificate of insurance within seven (7) calendar days of the request may be considered as default.

In addition to the rights and protections provided by the insurance policies as required above, the Customer shall retain any and all such other and further rights and remedies as are available at law or in equity.

16. WORKERS COMPENSATION INSURANCE

equivalent shall carry and maintain throughout the term of the Agreement Worker’s Compensation Insurance as required by Ohio law and any other state in which work will be performed. equivalent shall be responsible for any and all premiums for such policy(ies). At any time throughout the life of the Agreement the Customer may request proof of such insurance. Proof of such insurance shall be promptly provided upon request.

17. LICENSES

equivalent certifies and warrants that it and/or its employees have obtained and maintain current all approvals, licenses, including operator licenses, certifications, and/or other qualifications (collectively “Licenses”) necessary and/or required by law to perform this Agreement and to conduct business in the state of Ohio. equivalent further certifies and warrants that all such Licenses are operative and current and have not been revoked or are not currently suspended for any reason.

18. CERTIFICATION REGARDING FINDINGS FOR RECOVERY

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

Signature

Jeffrey Harmon, General Manager

Title

19. CERTIFICATION REGARDING PERSONAL PROPERTY TAXES

equivalent, by signature of its authorized representative below, hereby certifies that it is not charged with

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delinquent personal property taxes on the general list of personal property in Delaware County, Ohio, or any other counties containing property in the taxing districts under the jurisdiction of the Auditor of Delaware County, Ohio.

Signature

Jeffrey Harmon, General Manager

Title

20. **INDEPENDENT CONTRACTOR**

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

equivant assumes all responsibility for any and all federal, state, municipal, or other tax liabilities, along with workers compensation, unemployment compensation, contributions to retirement plans, and/or insurance premiums which may accrue and/or become due as a result of compensation received for services and/or deliverables rendered and/or received under or pursuant to this Agreement.

equivant and/or its officers, officials, employees, representatives, agents, and/or volunteers are not entitled to any benefits enjoyed by employees of the Clerk, the Court, the Board, or Delaware County, Ohio.

21. **INDEPENDENT CONTRACTOR ACKNOWLEDGEMENT/
NO CONTRIBUTION TO OPERS**

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

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

Signature

Jeffrey Harmon, General Manager

Title

22. **CAMPAIGN FINANCE – COMPLIANCE WITH R.C. § 3517.13**

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

23. **ACCESS TO RECORDS**

With reasonable notice to equivalent, and as often as the Customer or other agency or individual authorized by the Customer may deem necessary, equivalent shall make available to any or all the above named parties or their authorized representatives, at no cost and within a reasonable period of time, any and/or all contracts,

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subcontracts, invoices, receipts, reports, and documents, covered by this Agreement ("Records"). The Customer and the above named parties shall be permitted by equivant and shall be entitled to inspect or audit and/or make excerpts, photocopies, and/or transcripts of the Records.

24. **RETENTION OF RECORDS**

For a minimum of three (3) years after reimbursement/compensation for services rendered under this Agreement, equivant shall retain and maintain, and assure that all of its subcontractors retain and maintain, all Records. If an audit, litigation, or other action is initiated during the term of this Agreement, equivant shall retain and maintain, and assure that all of its subcontractors retain and maintain, the Records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever is later.

25. **AUDITS**

equivant agrees to fully cooperate with any audit of expenditures and/or records of service delivery conducted in association with this Agreement. equivant agrees to accept responsibility for receiving, replying to, and/or complying with any audit exception by any appropriate federal, state, local, or independent audit authority that is in any way associated with this Agreement and is attributable to equivant or the Maintenance. equivant agrees to reimburse the Customer the amount of any such audit exception, but only limited to resulting from overpayment by Customer.

26. **EQUAL OPPORTUNITY/NON-DISCRIMINATION/CIVIL RIGHTS**

In fulfilling the obligations and duties of this Agreement, equivant certifies and agrees as follows:

- a. equivant, all subcontractors, and/or any person acting on behalf of equivant or any subcontractor shall comply with any and all applicable federal, state, and/or local laws prohibiting discrimination and providing for equal opportunity.
- b. equivant, all subcontractors, and/or any person acting on behalf of equivant or any subcontractor shall not in any way or manner discriminate on account of race, color, religion, sex, age, disability, handicap, sexual orientation, gender identity, or military status as defined in R.C. § 4112.01, national origin, or ancestry.

equivant shall ensure that applicants are hired and that employees are treated during employment without regard to any of the above listed factors. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

equivant agrees to post in conspicuous places, available to employees and applicants for employment, notices stating that equivant complies with all applicable federal and state non-discrimination laws.

equivant shall incorporate the foregoing requirements of this section in all of its contracts for any of the work prescribed herein, and shall require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

27. **COUNTY POLICY**

equivant shall be bound by, conform to, comply with, and abide by all current applicable Delaware County policies, including, but not limited to, the Contractor Safety Policy, Computer Use Policy, Social Media Policy, and Internet Use Policy (collectively "County Policy") and shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, subcontractors, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with County Policy and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of equivant or any of its employees or subcontractors to comply with County Policy. Copies of County Policy 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 County Policy at any time and without notice.

28. **DRUG FREE/SMOKE FREE ENVIRONMENT**

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

29. **TERMINATION OF PRIOR SOFTWARE MAINTENANCE AGREEMENT**

The Parties hereby agree that the Software Maintenance Agreement between the Parties on behalf of the Clerk and Court dated December 13, 2004 and all other prior Software Maintenance Agreements between the Parties on behalf of the Clerk and Court are hereby terminated as of the Effective Date.

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30. **GENERAL TERMS**

- a. Neither Party may sell, assign, transfer, or otherwise convey any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other Party, except in the event of sale of assets, merger or consolidation. Notwithstanding the foregoing, equivalent may without violation of this paragraph engage the services of independent contractors to assist in the performance of its duties hereunder.
- b. All provisions of this Agreement, which by their nature should survive termination of this Agreement, will so survive.
- c. Any waiver of the provisions of this Agreement or of a Party's rights or remedies under this Agreement must be in a signed writing to be effective. Delay or failure by either Party to exercise any right hereunder, or to enforce any provision of this Agreement will not be considered a waiver thereof and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such Party's right to take subsequent action. No single waiver will constitute a continuing or subsequent waiver, nor shall a waiver of any one provision of the Agreement be deemed to be a waiver of any other provision.
- d. If any provision of the Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any manner. If any term, condition or provision in this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, the Parties shall work in good faith to agree to such modification that will to the maximum extent possible preserve the original intention of said term, condition or provision. If the Parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.
- e. This Agreement shall be governed by the laws of the State of Ohio, without regard to its laws relating to conflict or choice of laws. Subject to Paragraph g. below, the parties agree that the sole jurisdiction and venue for actions related to the subject matter hereof shall be the state and U.S. Federal courts in the State of Ohio. Both parties consent to the jurisdiction of such courts and waive any objections regarding venue in such courts.
- f. Any communication or notice permitted under the terms of this Agreement or required by law must be in writing, and will be deemed given and effective: (i) when delivered personally with proof of receipt; (ii) when sent by e-mail; (iii) when delivered by overnight express; or (iv) when mailed by certified or registered mail, postage prepaid, return receipt requested and addressed to a Party at its address for notices. Each Party's address for notices is stated below. Such address may be changed by a notice delivered to the other Party in accordance with the provisions of this Section.

Customer

Natalie Fravel
Clerk
Delaware County Clerk of Courts Office
110 N. Sandusky St., 300 Level
Delaware, Ohio 43015

Tel: (740) 833-2515

Email: nfravel@co.delaware.oh.us

Kristin Schultz
Court Administrator
Delaware County Common Pleas Court
110 N. Sandusky St., 500 Level
Delaware, Ohio 43015

Email: kschultz@co.delaware.oh.us

Tel: (740) 833-2554

Copy to

Christopher D. Betts
Assistant Prosecuting Attorney
Delaware County Prosecuting Attorney's Office
140 N. Sandusky St., 3rd Floor
Delaware, Ohio 43015

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Email: cbetts@co.delaware.oh.us

equivant

Jeffrey Harmon
General Manager
equivant
4825 Higbee Ave. NW, Suite 101
Canton, Ohio 44718

Tel: (330) 470-4280
Fax: (330) 494-2483

Email: jeffreyharmon@equivant.com

Copy to

Ron Singh
Contract Manager
equivant
4825 Higbee Ave. NW, Suite 101
Canton, Ohio 44718

Email: ron.singh@equivant.com

- g. The Parties will work together to resolve any disputes involving this Agreement and shall seek a fair and prompt negotiated resolution within ten (10) days of the initial notice of a dispute (“Dispute”). If the Dispute has not been resolved after such time, the Parties will escalate the issue to more senior levels. If the Parties are unable to resolve any Dispute at the senior management level, then the Parties retain and may, without limitation, exercise any and all available administrative, contractual, equitable or legal remedies.
- h. Neither Party shall be liable for any failure of or delay in performance of its obligations (except for payment obligations) under this Agreement to the extent such failure or delay is due to acts of God, acts of a public enemy, fires, floods, power outages, wars, civil disturbances, epidemics, pandemics, sabotage, terrorism, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes (whether or not the employees' demands are reasonable and/or within the Party's power to satisfy), failure of common carriers, Internet Service Providers, or other communication devices, acts of cyber criminals, terrorists or other criminals, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a Party is obtaining or must obtain approvals, authorizations, licenses, franchises or permits, inability to obtain labor, materials, power, equipment, or transportation, or other circumstances beyond its reasonable control (collectively referred to herein as "Force Majeure Occurrences"). Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays.
- i. This Agreement and any Schedules or Exhibits attached thereto contain the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes any and all prior or contemporaneous proposals, discussions, agreements, Customer issued purchase order or document of like intent or purpose, understandings, commitments, representations of any kind, whether oral or written, relating to the subject matter hereof. It is expressly agreed that if Customer issues a purchase order or other document for the services provided under this Agreement, such instrument will be deemed for Customer's internal use only, and no terms, conditions or provisions contained therein shall have any effect on the rights, duties or obligations of the Parties under, or in any way modify, this Agreement, regardless of any failure by equivant to object to such terms, conditions or provisions. This Agreement sets forth the sole and entire understanding between equivant and Customer with respect to the subject matter.
- j. The following exhibits are attached to this Agreement and by this reference incorporated into and made a part of this Agreement:
- Schedule 1 – Software Maintenance Fee Schedule
 - Exhibit A – Maintenance Terms
 - Exhibit B – OPERS Independent Contractor Acknowledgement Form
 - Exhibit C - Certification/Affidavit in Compliance With O.R.C. Section 3517.13

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- k. Delaware County, Ohio is a political subdivision and tax exempt. equivalent shall not charge the Customer any tax and agrees to be responsible for all tax liability that accrues as a result of this Agreement and the Services provided pursuant to this Agreement. Proof of exemption shall be provided upon request.
- l. Consistent with R.C. § 307.86(B)(2), the purchase consists of services related to information technology, such as programming services, that are proprietary or limited to a single source. As a result, this Contract is not required to be competitively bid.
- m. This Agreement may only be amended in writing with the mutual consent and agreement of the parties.
- n. The subject headings of the paragraphs in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.
- o. This Agreement may be executed in counterparts.
- p. This Agreement shall be deemed to have been drafted by both equivalent and the Customer and no purposes of interpretation shall be made to the contrary.
- q. 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.

**SCHEDULE 1
SOFTWARE MAINTENANCE FEE SCHEDULE**

Delaware County Common Pleas Court and Clerk of Courts		2018	2019	2020
		6/1/18 to 12/31/18	1/1/19 to 12/31/19	1/1/20 to 12/31/20
Common Pleas Court / Clerk of Courts				
• CourtView CMS	35	\$16,265.00	\$28,719.00	\$29,581.00
• eAccess single portal included with CMS	1			
• eAccess additional portal	1	\$825.00	\$1,457.00	\$1,501.00
• ePay	1	\$49.00	\$87.00	\$90.00
• Ohio Tax Lien Plug In	1	\$0.00	\$0.00	\$0.00
• Justice Filing	1	\$1,307.00	\$2,308.00	\$2,377.00
• Dashboards	5	\$253.00	\$447.00	\$460.00
Subtotal Common Pleas Court / Clerk of Courts		\$18,699.00	\$33,018.00	\$34,009.00
			2/1/19 to 12/31/19	1/1/20 to 12/31/20
Public Defender's Office				
• CourtView CMS	2		\$1,113.00	\$1,251.00
Subtotal Public Defender's Office			\$1,113.00	\$1,251.00
Total		\$18,699.00	\$34,131.00	\$35,260.00

**Exhibit A
MAINTENANCE TERMS**

1. SUPPORT SERVICES

Customer will authorize and identify a reasonable number of contacts who may initiate support with equivalent. These named users must be technically capable and familiar with the products covered under this Agreement. Customer will perform basic troubleshooting before contacting equivalent to eliminate issues caused by other variables such as applications, power, hardware, security, infrastructure, and environment. equivalent reserves the right to decline support to Customer named users not authorized to initiate support.

equivalent will provide support after confirming Customer has been unable to resolve the issue through its own troubleshooting. Once the reported problem can be reproduced and documented, and resolution identified such as assistance provided over the phone, application working as documented, configuration change, or programming change, the ticket will be closed. If a programming change is required, the ticket will remain open until the updated fix is delivered in a future release.

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Maintenance includes bug fixes and telephone support and may include, if they are made available by equivalent, software updates.

2. CORRECTION OF DEFECTS

In the event the Customer encounters an error and/or malfunction ("Defect") in the equivalent Software because it is not conforming to documentation provided by equivalent, it shall communicate the circumstances and any supporting information to equivalent. Upon receipt, equivalent will respond as follows:

- a. In the event that, in the mutual and reasonable opinion of equivalent and the Customer, there exists a Defect that does not constitute a serious impediment to the normal intended use of the equivalent Software, equivalent will correct the Defect and distribute the correction to the Customer in accordance with equivalent's normal software revision schedule.
- b. In the event that, in the mutual and reasonable opinion of equivalent and the Customer, there exists a Defect that does constitute a serious impediment to the normal intended use of the equivalent Software, equivalent will take such steps as are reasonably required to correct the Defect promptly.

3. SOFTWARE REVISIONS AND NEW VERSIONS

- a. equivalent Software may be revised by equivalent as a result of (i) emergency correction of Defect, (ii) periodic correction of Defects and/or (iii) the release of upgrades or improvements or modifications designed to improve the performance of the equivalent Software and/or to increase the capabilities of the equivalent Software (hereafter "Revisions").
- b. Revisions will be provided at no additional charge during the term of the Software Maintenance Agreement.
- c. New Versions ("New Versions") of the equivalent Software may be issued by equivalent from time to time (excluding 3rd party software). A New Version substantially changes the architecture and/or coding structure of the application, and the New Version is not written as an add-on to the current software code base. equivalent will, from time to time, release new products (including New Versions) and/or modules, which equivalent will make available to Customer at the then-current price(s).
- d. All Revisions and New Versions will be transmitted to the Customer electronically unless otherwise mutually agreed. The Customer shall be solely responsible for executing the appropriate instructions in order to transfer the Revisions or New Versions onto to its system unless otherwise mutually agreed in writing.
- e. If Customer reports a Defect to equivalent that can be resolved through upgrading to a New Revision, Customer must upgrade to the New Revision and equivalent is not obligated to correct the Defect through remediation of the older version unless otherwise mutually agreed in writing.
- f. equivalent Software is designed as standard products and not as customized systems. equivalent recognizes the need for some Customer customization; however, equivalent reserves the right to control the design, performance, and integration of equivalent products and, as a result, may reject Customer requests for modifications or enhancements that are inconsistent with equivalent's product strategy.
- g. equivalent will use commercially reasonable efforts to modify the equivalent Software in order to maintain its existing functionality and provide functionality required as a result of changes to the law, regulations, or rules of the Customer's State jurisdiction. A change to the law, regulations, or rules of the Customer's State jurisdiction that requires new functionality is an enhancement. equivalent, at its sole discretion, may elect to add such enhancements to the product as a Revision. If Customer requires such enhancement prior to equivalent decision, if any, to add to the product, the Customer will be required to pay for such additional services at equivalent's then current time and materials rate. In either case, the Customer shall timely notify equivalent in writing of all requested legislative updates. The notice shall contain a summary of the modifications, identifying the applications and functions to be modified as well as detailed specification of the required changes. The Customer shall also provide a complete text, including effective date, of the legislation and/or order mandating the modifications. equivalent shall then prepare a detailed functional specification for approval by Customer and the timeline required for implementation. Nothing in this provision requires equivalent to undertake extraordinary efforts to complete the legislative updates or provide new functionality except as additional services as described in section 7 below. Customer agrees to cooperate with other customers in the jurisdiction to agree upon appropriate specifications.

4. TECHNICAL LITERATURE

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equivant shall make available to the Customer technical literature that equivant considers relevant to the equivant Software and its use within the scope of Customer's operations.

5. REMOTE DIAGNOSTIC ACCESS

The Customer shall provide appropriate remote access capabilities by which equivant may, with the permission of the Customer, remotely access the equivant Software for the purpose of remote diagnostics and support.

6. PROPER USE

- a. The Customer agrees that all reasonable effort shall be taken to ensure that neither the equivant Software nor data files are misused.
- b. In the event that the Customer or its agents misuses the equivant Software or data files, including, but not limited to, inserting, updating, deleting or otherwise modifying data through a means other than the equivant Software, although equivant is not obligated to correct such misuse, equivant may attempt to correct the situation, if possible, at Customer's expense.
- c. In the event that diagnostic assistance is provided by equivant, which, in the reasonable opinion of equivant, relates to problems not caused by a Defect in the equivant Software, such assistance shall be at the Customer's expense.

7. ADDITIONAL SERVICES

- a. The Customer may desire to have additional modifications or minor enhancements performed; the fees for these services shall be in accordance with equivant's then current time and materials rates. Specific services may include requirements analysis, preparation of functional or programming specifications, software development, testing, documentation, installation, data conversion, training, and help desk support. equivant shall provide an estimate of cost prior to performing any of the above services. equivant shall only perform these modifications under an Amendment to this Agreement or under a separate agreement.
- b. Additional support outside the scope of the support services described in this Agreement may be available to the Customer upon request. These services shall be performed on a time and materials basis.

8. RESPONSE TIMES AND AVAILABILITY

- a. Definition. The Customer Support Department is the primary means of communication between the Customer and equivant regarding all equivant software issues. Customer Support provides the most efficient means to track, manage, and resolve all equivant software issues. The following table provides information on equivant's categorization of issues.

Priority	Criteria
<p><u>Urgent</u> Extremely Severe Business Impact</p>	<p>Issue results in broad disruption or degradation of production environment services (not caused by the Customer's hardware or environment) causing a severe business impact to the Customer, and for which no acceptable workaround exists, including where:</p> <ul style="list-style-type: none"> • A core business function is prevented from being carried out; or • An issue results in a disruption or degradation for multiple core business functions that affect one or more of the Customer's business groups.
<p><u>High</u> Serious Business Impact</p>	<p>An error or Software issue related to a core system or business function that causes a serious business impact to the Customer by impeding the normal intended use of the software but allowing processing to continue in a restricted manner, and for which there is no known system workaround.</p>
<p><u>Normal</u> Moderate Business Impact</p>	<p>A software operational error related to a core system or business function that causes a moderate to low business impact to the Customer but does not cause a serious impediment to the normal intended use of the software, and for which a system workaround may exist; or questions about how to use the application.</p>

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Priority	Criteria
Low Little or No Business Impact	System functionality is largely correct except for minor, display or cosmetic errors with non-core functions of the software that causes little or no business impact to the Customer. Includes requests for documentation changes or corrections.

b. Response Time. equivalent will respond as quickly as possible to each request, but uses the response time targets for Average First Reply Time, during the defined hours of operation, provided in the table below. First Reply Time is defined as the time it takes an equivalent Customer Care Agent to respond to Customer’s request for assistance.

	Average First Reply Time	Average Resolution Time Target
Urgent	1 hour	As soon as possible, but no more than 24 hours
High	8 business hours	48 hours (not including development or release time)
Normal	2 business days	5 business days (not including development or release time)
Low	2 business days	Mutually agreed time or Scheduled for future release

c. Resolution Time. Resolution time will vary depending on the severity and complexity of the reported problem. Resolution time is defined as the time it takes equivalent to sufficiently remedy the problem or return the system to operational status. Resolution may mean that a temporary fix has been provided to correct a problem until a permanent solution can be delivered. Average Resolution Time targets are provided in the table above. Elapsed time for development effort is not included in Resolution time.

d. Hours of Operation. equivalent shall be available for support services Monday through Friday, 8 A.M. to 5 P.M. Eastern Time, except for equivalent-observed holidays, which may be revised from time to time.

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

9
RESOLUTION NO. 18-657

IN THE MATTER OF AUTHORIZING THE USE OF TWO PROCUREMENT CARDS FOR THE DELAWARE COUNTY BOARD OF DEVELOPMENTAL DISABILITIES:

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 Delaware County Developmental Disabilities, 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: Delaware County Developmental Disabilities
Office/Department: Delaware County Developmental Disabilities

Daily spending per card: \$2,000.00
Monthly spending per card: \$5,000.00
Single transaction limit: \$2,000.00
Daily number of transactions per card: 10
Monthly number of transactions per card: 20

Name on Card: Tina Overturf

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Department Coordinator: Jared Zirillo

Appointing Authority: Delaware County Developmental Disabilities
Office/Department: Delaware County Developmental Disabilities

Daily spending per card: \$5,000.00
Monthly spending per card: \$10,000.00
Single transaction limit: \$5,000.00
Daily number of transactions per card: 10
Monthly number of transactions per card: 50

Name on Card: Annie Snyder
Department Coordinator: Jared Zirillo

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

**10
RESOLUTION NO. 18-658**

IN THE MATTER OF APPROVING THE SANITARY SEWER IMPROVEMENT PLANS FOR THE HEATHERS AT GOLF VILLAGE SECTION 3 PHASE A:

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 Heathers at Golf Village Section 3 Phase A;

THEREFORE BE IT RESOLVED, that the Board of Commissioners approve the sanitary sewer improvement plans for The Heathers at Golf Village Section 3 Phase A for submittal to the Ohio EPA for their approval.

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

**11
RESOLUTION NO. 18-659**

IN THE MATTER OF APPROVING THE SANITARY SEWER SUBDIVIDER AGREEMENTS FOR THE CENTER AT POWELL CROSSING AND SHELLY’S RETREAT AT CARPENTER’S MILL PUMP STATION IMPROVEMENTS:

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

WHEREAS, the Sanitary Engineer recommends approval of the Sanitary Subdivider Agreements for The Center at Powell Crossing and Shelly’s Retreat at Carpenter’s Mill Pump Station Improvements;

THEREFORE, BE IT RESOLVED that the Board of Commissioners approve the following Sanitary Sewer Subdivider Agreements for The Center at Powell Crossing and Shelly’s Retreat at Carpenter’s Mill Pump Station Improvements:

The Center at Powell Crossing

SUBDIVIDER’S AGREEMENT
DELAWARE COUNTY SANITARY ENGINEER

SECTION I: INTRODUCTION

This Agreement is entered into on this 7th day of June 2018, by and between **Powell Crossing Endeavors, LLC**, hereinafter called “Subdivider”, and the Delaware County Board of Commissioners (hereinafter called “County Commissioners” or “County”), and is governed by the following considerations and 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 Plan for The Center at Powell Crossing**, dated **10-17-2016**, and approved by the County on **March 27, 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 **4** wye connections containing 64 apartment units 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

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set forth herein, the Subdivider agrees and acknowledges that capacity shall not be guaranteed.

The development includes two connections for commercial buildings. These connections will each require a Commercial Tap Fee Form be submitted to the County. The number of residential equivalent connections will be determined following submittal of this form.

SECTION III: FINANCIAL WARRANTY

The Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$54,070.00**) 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.

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 **Sanitary Sewer Plan for The Center at Powell Crossing**.

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 Plan for The Center at Powell Crossing (\$1,892.45)**. The Subdivider shall also pay the Delaware County Sanitary Engineer eight percent (8.5%) of the estimated construction cost of the Improvements for inspection during construction and cleaning and televising of the sewers and appurtenances of **Sanitary Sewer Plan for The Center at Powell Crossing (\$4,595.00)**. 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 **Sanitary Sewer Plan for The Center at Powell Crossing** 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, 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.

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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.

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.

Shelly's Retreat at Carpenter's Mill Pump Station Improvements

SUBDIVIDER'S AGREEMENT
DELAWARE COUNTY SANITARY ENGINEER

SECTION I: INTRODUCTION

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This Agreement is entered into on this 7th day of June 2018, by and between **Pulte Homes Inc.**, hereinafter called "Subdivider", and the Delaware County Board of Commissioners (hereinafter called "County Commissioners" or "County"), and is governed by the following considerations and 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 **Shelly's Retreat at Carpenter's Mill Pump Station Improvements**, dated **April 30, 2018**, and approved by the County on **May 31, 2018**, 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 **0** single family residential equivalent connections approved with this Agreement.

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 (**\$460,689.47**) 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 1 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 **Shelly's Retreat at Carpenter's Mill Pump Station Improvements**.

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 **Shelly's Retreat at Carpenter's Mill Pump Station Improvements (\$16,124.13)**. 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 **Shelly's Retreat at Carpenter's Mill Pump Station Improvements (\$36,855.00)**. 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 (8%), 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 **Shelly's Retreat at Carpenter's Mill Pump Station Improvements** 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

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RESOLUTION NO. 18-660

IN THE MATTER OF ACCEPTING SANITARY SEWER IMPROVEMENTS FOR NORTH LAKE SUMMIT 1-A:

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

Whereas, the construction of new sanitary sewers at the North Lake Summit 1-A have been completed to meet Delaware County Sewer District requirements; and

Whereas, the Sewer District has received the necessary items required by the Subdivider’s Agreement; and

Whereas, the Sanitary Engineer recommends accepting sanitary sewers for ownership, operation, and maintenance by Delaware County as follows:

NORTH LAKE SUMMIT 1-A	360’ of 8- inch sewer	\$136,247.00
	6- manholes	\$ 19,260.00

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

Section 1. The Board hereby approves and accepts the above sanitary sewer improvements for ownership, operation, and maintenance by the Delaware County Sewer District.

Section 2. The Board hereby releases any Bond, certified check, irrevocable letter of credit, or other approved financial warranties executed to insure faithful performance for construction of the above sanitary sewer improvements, if applicable.

Section 3. The Board hereby accepts any Bond, certified check, irrevocable letter of credit, or other approved financial warranties executed per the requirements of the subdivider’s agreement for the five-year maintenance period for the above sanitary sewer improvements.

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

13

RESOLUTION NO. 18-661

IN THE MATTER OF CERTIFYING TO THE COUNTY AUDITOR SANITARY SEWER CAPACITY CHARGES FOR 7327 AFRICA ROAD, GALENA, OHIO 43021:

It was moved by Mr. Benton, seconded by Mrs. Lewis to certify the Sanitary Sewer Capacity Charges as follows:

Whereas, 7327 Africa Road, Galena, Ohio 43021 has requested to make a tap connection to the Delaware County sewer system; and

Whereas, 7327 Africa Road, Galena, Ohio 43021 has requested to pro-rate the charges over a 10 year period by certifying the charges to the tax duplicate; and

Whereas, the Sanitary Engineer recommends approval of the connection and the 10 year pro-rated charge;

Now Therefore Be It Resolved, that The Board of County Commissioners of Delaware, Ohio approve certifying the capacity charges as follows:

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7327 Africa Road, Galena, Ohio 43021

In the amount of \$6,900.00 with a \$1,405.84 finance charge (pro-rated over a 10 year period), making a total of \$8,305.84 for placement on the tax duplicate. Bi-annual payment being \$415.29.

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

15

ADMINISTRATOR REPORTS

Mike Frommer, County Administrator

-Would like to recognize one of our employee’s son. Zack Kreft, son of Amanda Kreft in our insurance risk department is a three time state champion. Twice for Cross Country and once for the 1600m run. He will be attending Notre Dame in the fall.

16

COMMISSIONERS’ COMMITTEES REPORTS

Commissioner Lewis

-Attended an EMA meeting this week. The EMA director at the time of the Las Vegas shooting spoke. Brandon Feller suggested that if any disaster should come to Delaware County that the United Way administrate the funds with no administrative costs.

Commissioner Benton

-Attended the Strand Theatre balcony re-dedication on Tuesday. The balcony was dedicated to the Manas Family. His daughter currently serves on the Strand Theatre.

-Dick Dawson passed away this week. He was very active in the agricultural community. Very appreciative of his work.

-Attended the Olentangy Rotary meeting with morning. Sheriff Martin was awarded the Vocational Service Award. Would like to take a moment to thank our deputies for their hard work. Even on their tough days, like yesterday, the deputies represent our county very well.

-A new OSU Wexner Center has been announced near the corner of Home Road and Sawmill Parkway. Bob Lamb and Mike Frommer had a hand in this deal.

Commissioner Merrell

-No reports

RECESS AT 9:54 AM/RECONVENE AT 10:03 AM

14

RESOLUTION NO. 18-662

10:00A.M. FINAL HEARING FOR THE FANCHER ROAD WATERSHED DRAINAGE IMPROVEMENT PETITION PROJECT:

It was moved by Mr. Benton, seconded by Mrs. Lewis to open the hearing at 10:03 A.M..

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

14 continued

RESOLUTION NO. 18-663

IN THE MATTER OF APPROVING, FOR A SPECIFIC OCCURRENCE, A SUSPENSION OF RULE 3-SPEAKER REGISTRATION; RULE 4-LIMITATIONS AND RULE 7-PUBLIC COMMENT PROCEDURE FROM THE RULES GOVERNING PUBLIC COMMENT BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO:

It was moved by Mrs. Lewis, seconded by Mr. Benton to approve, for a specific occurrence, a suspension of Rule 3-Speaker Registration; Rule 4-Limitations; Rule 7-Public Comment Procedure from the Rules Governing Public Comment Before The Board Of County Commissioners Of Delaware County, Ohio

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

14 continued

RESOLUTION NO. 18-664

IN THE MATTER OF CLOSING THE PUBLIC HEARING TO ADDRESS THE FANCHER ROAD WATERSHED DRAINAGE IMPROVEMENT PETITION PROJECT:

It was moved by Mrs. Lewis, seconded by Mr. Benton to close the hearing at 11:56 A.M.

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

14 continued

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RESOLUTION NO. 18-665

IN THE MATTER OF FINDING IN FAVOR OF THE IMPROVEMENT AND AFFIRMING THE ORDER FOR THE FANCHER ROAD WATERSHED DRAINAGE IMPROVEMENT PETITION PROJECT:

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

Whereas, on October 16, 2015, a Drainage Improvement Petition for the Fancher Road Watershed Drainage Improvement Petition Project was filed with the Board of Commissioners of Delaware County (the "Board"); and

Whereas, the Board on February 25, 2016 with Resolution #16-189 found in favor of the improvement and directed The Delaware County Engineer To Proceed With Preparation Of Plans, Reports, And Schedules For The Fancher Road Watershed Drainage Improvement Petition Project; and

Whereas, the Board on June 7, 2018, held a final public hearing to determine if the action is necessary, conducive to the public welfare, and the benefits derived exceed the cost incurred for The Fancher Road Watershed Drainage Improvement Petition Project; and

Whereas, after hearing testimony from property owners; considering the schedules, plans, and reports filed by the County Engineer; and-considering the cost of location and construction, the compensation for land taken, the effect on land along or in the vicinity of the route of the improvement, the effect on land below the lower terminus of the improvement that may be caused by constructing the improvement, the sufficiency of the outlet, the benefits to the public welfare, and the special benefits to land needing the improvement, the Board is prepared to issue its findings on the proposed improvements;

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

The Board hereby finds that the proposed improvement is necessary and that it will be conducive to the public welfare. The Board also finds that it is reasonably certain that the cost of the proposed improvement will be less than the benefits. Accordingly, the Board hereby affirms its order granting the prayer of the petition and approves the maps, profiles, plans, schedules and reports prepared by the Delaware County Engineer; and

This Board finds and determines that all formal actions taken by this Board concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in said formal actions were in meetings open to the public, in compliance with the laws of the State of Ohio.

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

14 continued

RESOLUTION NO. 18-666

IN THE MATTER OF COMMISSIONERS CONFIRMING THE ASSESSMENTS; APPROVING THE PAYMENT SCHEDULE AND ORDERING THE LETTING OF THE CONTRACTS FOR THE FANCHER ROAD WATERSHED DRAINAGE IMPROVEMENT PROJECT:

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

Whereas, the Board on June 7, 2018, held a final public hearing and with resolution NO. 18-665 found affirming order for The Fancher Road Watershed Drainage Improvement Petition Project; and

Whereas, after hearing testimony from property owners on the assessments for the improvement, the Board is prepared to issue its findings on the assessments;

Therefore, Be It Resolved by the Board of Commissioners of Delaware County, Ohio as follows:

The Board hereby approves The Fancher Road Watershed Drainage Improvement Petition Project assessments prepared by the Delaware County Engineer; and

FURTHER BE IT RESOLVED, That once the water shed is confirmed, the Delaware County Engineer's estimated assessments are hereby approved and confirmed, and the Engineer is ordered to receive bids for the construction of the improvement; and

FURTHER BE IT RESOLVED, The County Engineer is hereby directed to prepare the necessary bid documents and legal advertisements; and

FURTHER BE IT RESOLVED, That the County Engineer be and he is hereby directed to give at least two weeks public notice as required by law of the time when and the place where bids will be received for furnishing any material for the improvement, or for the construction of the improvement; and

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FURTHER BE IT RESOLVED, That the Board fixes 9:00 AM on December 7, 2018 as the date and time for the County Engineer to receive bids for the construction of the improvement, and all bids shall be received at the office of the Delaware County Engineer, 50 Channing Street, Delaware, Ohio; and

FURTHER BE IT RESOLVED, That county borrow funds to pay for the improvement, and that eight years shall be the period of time, in semi-annual installments, as taxes are paid, given the owners of land benefited, to pay the assessments that may be made for the improvement, and that interest shall be charged on the installments at the same rate charged to the Commissioners for the borrowing of the money, if after the deadline for the landowners to pay their assessments upfront passes and the total remaining construction cost to be borrowed is less than \$10,000.00 then the County will up front the remaining cost of the Construction and Commissioners will no longer borrow the money.

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

17

RESOLUTION NO. 18-667

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF EMPLOYMENT; DISCIPLINE OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL; FOR PENDING OR IMMINENT LITIGATION:

It was moved by Mrs. Lewis, seconded by Mr. Benton 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 employment; discipline of a public employee or public official; for pending or imminent litigation.

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

RESOLUTION NO. 18-668

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

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners