

**COMMISSIONERS JOURNAL NO. 70 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 6, 2018**

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

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

1
RESOLUTION NO. 18-1346

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD DECEMBER 3, 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 December 3, 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
 Scott Simmons, Liberty Township Professional Fire Fighters: EMS
 Chalaco Clark: EMS

3
ELECTED OFFICIAL COMMENT

4
RESOLUTION NO. 18-1347

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1205 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR1205:

It was moved by Mrs. Lewis, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1205, memo transfers in batch numbers MTAPR1205 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
Schindler	Preventative Maintenance	100111052-5325	\$8,026.01
Comp Management Inc.	Worker's Comp	61311923-5370	\$19,200.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Account</u>	<u>Amount</u>
R1805797	CAPITAL COLLISION SERVICES LLC	REPAIR BUCKET TRUCK	60111901 - 5370	\$ 5,305.45
R1805867	SMITH FEIKE MINTON INSURANCE INC	ADDITIONAL WC EXCESS PREMIUM DUE TO PAYROLL AUDIT	61311923 - 5370	\$ 8,297.00
R1805886	SOIL & WATER CONSERVATION DISTRICT	DITCH PETITION CHARGES	10011102 - 5328	\$24,210.53
R1805887	COMMISSIONERS	DI RUDER & TOOT PETITION CHARGES	40311417 - 5328	\$ 25.00
R1805887	COMMISSIONERS	HAVENS #503 PETITION CHARGES	40311449 - 5328	\$ 2,198.50
R1805887	COMMISSIONERS	RIBOV #620 PETITION CHARGES	40311450 - 5328	\$ 5,397.03
R1805887	COMMISSIONERS	THOMAS #9 PETITION CHARGES	40311453 - 5328	\$ 1,802.84
R1805887	COMMISSIONERS	FANCHER RD PETITION CHARGES	40311454 - 5328	\$ 1,571.13

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R1805887	COMMISSIONERS	WEBSTER ARNOLD PETITION CHARGES	40311455 - 5328	\$ 1,315.33
R1805887	COMMISSIONERS	SCOTT 604 LATERAL 2 PETITION CHARGES	40311457 - 5328	\$ 8,354.02
R1805887	COMMISSIONERS	RADNOR TWP #2015-1 PETITION CHARGES	40311458 - 5328	\$ 341.37
R1805887	COMMISSIONERS	KINGSTON TWP 2017-1 PETITION CHARGES	40311463 - 5328	\$ 731.97
R1805887	COMMISSIONERS	RUDER EAST PETITION CHARGES	40311465 - 5328	\$ 410.18
R1805887	COMMISSIONERS	RUDER WEST PETITION CHARGES	40311466 - 5328	\$ 1,373.09
R1805887	COMMISSIONERS	KINGSTON TWP 2017-2	40311467 - 5328	\$ 393.78
R1805887	COMMISSIONERS	ENGLISH 346 PETITION CHARGES	40311470 - 5328	\$ 296.29

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

**5
RESOLUTION NO. 18-1348**

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Child Support Enforcement Agency is requesting Tanya Kidd and Sherry Fluery attend a Delaware County Bar Association Domestic Relations CLE session in Delaware, Ohio on December 7, 2018 at the cost of \$75.00 (fund number 23711630).

The Human Resources Department is requesting that Dana Bushong attend a NPELHRA Conference and Training, Academy II in Scottsdale, Arizona from April 7-11, 2019 at the cost of \$2978.00 (fund number 10011108).

The Human Resources Department is requesting that Dawn Huston and Pam Sonagere attend a NPELHRA Conference in Scottsdale, Arizona from April 7-11, 2019 at the cost of \$3230.00 (fund number 10011108).

The Emergency Medical Services Department is requesting that Lt. Glen Keating attend a Fisdap Research Summit in Minneapolis, Minnesota from January 25-29, 2019 at the cost of \$550.00 (fund number 10011303).

The Child Support Enforcement Agency is requesting that Christina DeLong, Stacey Brown and Andrea Delcol attend an Office of Child Support Regional Training in Columbus, Ohio March 20, 2019; at no cost.

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

**6
RESOLUTION NO. 18-1349**

IN THE MATTER OF ACCEPTING THE TREASURER’S REPORT FOR THE MONTH OF OCTOBER 2018:

It was moved by Mrs. Lewis, seconded by Mr. Benton to accept the Treasurer’s Report for the month of October 2018.

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

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

**7
RESOLUTION NO. 18-1350**

RESOLUTION TO ADOPT VOTING MACHINES, MARKING DEVICES, AND AUTOMATIC TABULATING EQUIPMENT:

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

PREAMBLE

WHEREAS, R.C. § 3506.02(B) provides that voting machines, marking devices, and automatic tabulating equipment (collectively “Equipment”) may be adopted for use in elections in any county by the board of county commissioners of such county on the recommendation of the board of elections: and,

WHEREAS, the Board of Elections, Delaware County, Ohio (“BOE”) has recommended to this Board the

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adoption of certain Equipment for use in elections in Delaware County, Ohio (“County”) and, pursuant to R.C. 3506.05(B), has assured that a demonstration of the use of the recommended Equipment has been made available to all interested electors; and,

WHEREAS, this Board is in receipt of the BOE’s recommendation and now desires to adopt such recommendation.

RESOLUTION

NOW THEREFORE, BE IT RESOLVED:

1. Upon recommendation of the BOE, the Board hereby adopts for use in elections in the County the following Equipment:
 - Unisyn Voting Solutions OpenElect voting system, sold and serviced by RBM Consulting, LLC. This system is a hybrid system which is comprised of ballot marking devices (OpenElect FreedomVote Tablet) and optical scanners (OpenElect Voting Optical Scanners) for use at both polling locations and for in person absentee voting. A listing of the Equipment is attached as Exhibit 1 and by this reference incorporated into this Resolution.
2. Procedures and documentation to effectuate the purchase of the Equipment and to obtain the State of Ohio portion of funding for the purchase pursuant to 132nd GA, SB 135 shall be forthcoming.
3. All formal actions of this Board concerning and relating to the passage of this Resolution were adopted in an open meeting of the Board, and all deliberations of this Board and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including R.C. § 121.22.
4. This Resolution shall be in full force and effect immediately upon adoption.

EXHIBIT 1

UNISYN VOTING SOLUTIONS OPENELECT VOTING SYSTEM

LIST OF EQUIPMENT
OVO-OPTICAL SCAN TABULATOR WITH BALLOT BOX AND FIRMWARE
FREEDOMVOTE WITH FIRMWARE AND CASE
FREEDOMVOTE WITH FIRMWARE-CASE AND ADA PAD
OVCS CENTRAL SCANNER WITH SOFTWARE-FIRMWARE-DELL LAPTOP
OCS SOFTWARE SUITE MODULES INCLUDED- BALLOT LAYOUT MGR.(BLM); ELECTION MGR.(EM); ELECTION SERVER(ES); TABULATOR CLIENT (TC); TABULATOR(T); AUDITOR; UNISYN REPORTS -- ANNUAL FEE
SERVER FOR ELECTION MGMT. AND TABULATION-DELL
DELL LAPTOP - NETWORK
MY SQL DATA BASE
VOTING DEPLOYMENT INSTALLATION AND ACCEPTANCE TEST
PRE-ELECTION SUPPORT
LOGIC AND ACCURACY
VOTING AND TRANSPORT CART-FOUR VOTE STATIONS
ADDITIONAL TRANSPORT MEDIA
LICENSES FOR OPERATING SOFTWARE

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

**8
RESOLUTION NO. 18-1351**

IN THE MATTER OF APPROVING A TRANSFER OF APPROPRIATION FOR THE SHERIFF’S OFFICE:

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

Transfer of Appropriation

From: 28631336-5450	To: 28631336-5320	10,000.00
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2017 LEAP Grant/Machinery & Equip 2017 LEAP Grant/ Software and Computer Services

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

9

RESOLUTION NO. 18-1352

IN THE MATTER OF APPROVING THE SECOND AMENDMENT TO THE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, AND FORENSIC FLUIDS LABORATORIES, INC. FOR THE PURCHASE OF DRUG SCREENING LABORATORY SERVICES:

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

Whereas, the Director of Jobs & Family Services recommends approval of the following amendment;

Now, Therefore, Be It Resolved that the Delaware County Board of Commissioners approves the following amendment to the contract for drug screening laboratory services:

**Second Amendment
To Contract for
Drug Screening Laboratory Services
Between
Forensic Fluids Laboratories, Inc.
and
Delaware County Department of Job and Family Services**

This Second Amendment of the Contract For The Provision of Drug Screening Laboratory Services is entered into this 6th day of December, 2018 by and between the Delaware County, Ohio Board of County Commissioners (hereinafter "Board"), whose address is 101 North Sandusky Street, Delaware, Ohio 43015, the Delaware County, Ohio Department of Job and Family Services, a Title IV-E Agency, (hereinafter "Agency") whose address is 140 North Sandusky Street, 2nd Floor, Delaware, Ohio 43015, and Forensic Fluids Laboratories, Inc. (hereinafter "Provider") whose address is 225 Parsons Street, Kalamazoo, MI 49007 (hereinafter collectively the "Parties").

WHEREAS, the Parties entered into the Contract for The Provision of Drug Screening Laboratory Services on January 25, 2018.

WHEREAS, the parties agree to the addition of certain provisions to the Contract (collectively, "Provisions").

NOW THEREFORE, the Parties agree as follows:

1. The Parties agree to amend the Agreement to add the following Provisions:
 - A. The maximum amount payable pursuant to this Contract shall be increased to forty thousand dollars and no cents (\$40,000).
 - B. The contract term shall be extended through January 31, 2020.

2. Signatures

Any person executing this Second Amendment in a representative capacity hereby warrants that he/she has authority to sign this Second Amendment or has been duly authorized by his/her principal to execute this Second Amendment on such principal's behalf.

3. Conflicts

In the event of a conflict between the terms of the Contract, the First Amendment, and this Second Amendment, the terms of the Second Amendment shall prevail.

4. Terms of Agreement Unchanged

All terms and conditions of the Contract and First Amendment not changed by this Second Amendment remain the same, unchanged, and in full force and effect.

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

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RESOLUTION NO. 18-1353

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IN THE MATTER OF ACCEPTING SANITARY SEWER IMPROVEMENTS FOR EVANS FARM SECTION 1 ALUM CREEK WATER RECLAMATION AREA TRIBUTARY AREA 1 (LOTS 8552-8569 AND 8591-8602):

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

WHEREAS, Evans Farm Section 1 Alum Creek Water Reclamation Area Tributary Area 1 is defined as the sanitary sewers upstream of Existing Manhole 10 (lots 8552-8569 and 8591-8602); and

WHEREAS, the construction of new sanitary sewers at Evans Farm Section 1 Alum Creek Water Reclamation Area Tributary Area 1 (lots 8552-8569 and 8591-8602) have been completed to meet Delaware County Sewer District requirements; and

WHEREAS, Evans Farm Section 1 Alum Creek Water Reclamation Area Tributary Area 2 (defined as the sanitary sewers upstream of Manhole 28) are not achieving final acceptance by this Resolution; and

WHEREAS, the Sewer District has received the necessary items required by the Subdivider’s Agreement for the specified lots; and

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

Evans Farm Section 1 Alum Creek Water Reclamation Area Tributary Area 1 (lots 8552-8569 and 8591-8602)

1,842’ of 8” sewer \$75,876.45
9 ea. – manholes \$14,299.65

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 Regional Sewer District.

Section 2. 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 Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

**11
RESOLUTION NO. 18-1354**

IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH GPD GROUP FOR THE WOODS OF GLEN ERIN SANITARY SEWER IMPROVEMENTS PROJECT:

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with GPD Group to perform the professional design services for the Woods of Glen Erin sanitary sewer improvements project;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio, hereby approves the following agreement with GPD Group:

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into this 6th day of December, 2018, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and GPD Group (“Consultant”), hereinafter collectively referred to as the “Parties”, and shall be known as the “Agreement.”

1 SERVICES PROVIDED BY CONSULTANT

- 1.1 The Consultant will provide “Services” in connection with the following “Project”:
Woods of Glen Erin Sanitary Sewer Improvements Project
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.

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- 1.3 Services shall be defined in and rendered by the Consultant in accordance with the following documents, by this reference made part of this Agreement:
Exhibit A: Woods of Glen Erin Sewer Project GPD Group Scope of Services and Fee Proposal dated November 13, 2018.

2 SUPERVISION OF SERVICES

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

3 AGREEMENT AND MODIFICATIONS

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

4 FEES AND REIMBURSABLE EXPENSES

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Fee Proposal noted in Section 1.3.
- 4.2 For all services described in the Scope of Services and Fee Proposal, except "If Authorized" tasks, the fee shall be Forty-Six Thousand, Nine Hundred Eleven Dollars (\$46,911).
- 4.3 For all services identified in the Scope of Services and Fee Proposal as "If Authorized" tasks, the fee for each authorized task shall be the fee specified in the Fee Proposal for said task. "If Authorized" tasks shall only be performed upon written Notice of the Sanitary Engineer. The total fee for all "If Authorized" tasks shall not exceed Three Thousand, Fifty Dollars (\$3,050).
- 4.4 Total compensation under this Agreement shall not exceed Forty-Nine Thousand, Nine Hundred Sixty-One Dollars (\$49,961) without subsequent modification.
- 4.5 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Services.

5 NOTICES

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

Sanitary Engineer:

Name: Delaware County Sanitary Engineer's Office
Attn: Julie McGill, P.E.

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: 740-833-2255

Email: jmcgill@co.delaware.oh.us

Consultant:

Name of Principal in Charge: Tony Burgoyne

Address of Firm: 1801 Watermark Drive, Suite 210

City, State, Zip: Columbus, OH 43215

Telephone: 614-210-0751

Email: jturner@gpdgroup.com (Jim Turner)

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6 PAYMENT

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

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

- 7.1 The Consultant shall commence Services upon written Notice to Proceed from the Sanitary Engineer and shall complete the Services no later than eight (8) months thereafter.
- 7.2 Consultant shall not proceed with any "If Authorized" tasks without written authorization from the Sanitary Engineer.
- 7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Consultant may make a written request for time extension, and the Sanitary Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

8 SUSPENSION OR TERMINATION OF AGREEMENT

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

9 CHANGE/ADDITIONS IN SCOPE OF SERVICES

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

For services in addition to those included in Section 1 as authorized or "if authorized," a scope and fee shall be negotiated and agreed to by both Parties prior to performance of the services. This Agreement shall be modified or amended in writing with the mutual consent and agreement of the Parties prior to performance of the additional services.

10 OWNERSHIP

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

11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT

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

12 INDEMNIFICATION

- 12.1 The Consultant shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other

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liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Consultant, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

13 INSURANCE

- 13.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.
- 13.5 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 13.1 and 13.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 13.6 Proof of Insurance: Prior to the commencement of any work under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Consultant will replace certificates for any insurance expiring prior to completion of work under this Agreement.

14 MISCELLANEOUS TERMS AND CONDITIONS

- 14.1 Prohibited Interests: Consultant agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Consultant further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 14.2 Independent Contractor: The Parties acknowledge and agree that Consultant is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Consultant also agrees that, as an independent contractor, Consultant assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Consultant hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 14.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 14.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 14.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a

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waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.

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

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

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

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

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

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

12

RESOLUTION NO. 18-1355

IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH PRIME AE GROUP, INC. FOR THE WOODS OF GLEN ERIN SANITARY SEWER IMPROVEMENTS PROJECT:

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with Prime AE Group, Inc. to perform professional design services for the Woods of Glen Erin sanitary sewer improvements project;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio, hereby approves the following agreement with Prime AE Group, Inc.:

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PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into this 6th day of December, 2018, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and PRIME AE Group, Inc. (“Consultant”), hereinafter collectively referred to as the “Parties”, and shall be known as the “Agreement.”

1 SERVICES PROVIDED BY CONSULTANT

- 1.1 The Consultant will provide “Services” in connection with the following “Project”:
Woods of Glen Erin Sanitary Sewer Improvements Project
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 Services shall be defined in and rendered by the Consultant in accordance with the following documents, by this reference made part of this Agreement:
Exhibit A: Proposal to Provide Professional Engineering Services Woods of Glen Erin, Sanitary Sewer System dated November 1, 2018.

2 SUPERVISION OF SERVICES

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

3 AGREEMENT AND MODIFICATIONS

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

4 FEES AND REIMBURSABLE EXPENSES

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Fee Proposal noted in Section 1.3.
- 4.2 For all services described in the Scope of Services and Fee Proposal, except “If Authorized” tasks, the lump sum fee shall be Fifty Thousand Dollars (\$50,000).
- 4.3 Total compensation under this Agreement shall not exceed Fifty Thousand Dollars (\$50,000) without subsequent modification.
- 4.4 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Services.

5 NOTICES

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

Sanitary Engineer:

Name: Delaware County Sanitary Engineer’s Office
Attn: Julie McGill, P.E.

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: 740-833-2255

Email: jmcgill@co.delaware.oh.us

Consultant:

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Name of Principal in Charge: Kerry Hogan, P.E., BCEE
 Address of Firm: 8415 Pulsar Place, Suite 300
 City, State, Zip: Columbus, OH 43240
 Telephone: 614-591-0250
 Email: jkerr@primeeng.com (Jeff Kerr)

6 PAYMENT

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

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

- 7.1 The Consultant shall commence Services upon written Notice to Proceed from the Sanitary Engineer and shall complete the Services no later than twelve (12) months thereafter.
- 7.2 Consultant shall not proceed with any "If Authorized" tasks without written authorization from the Sanitary Engineer.
- 7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Consultant may make a written request for time extension, and the Sanitary Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

8 SUSPENSION OR TERMINATION OF AGREEMENT

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

9 CHANGE/ADDITIONS IN SCOPE OF SERVICES

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

For services in addition to those included in Section 1 as authorized or "if authorized," a scope and fee shall be negotiated and agreed to by both Parties prior to performance of the services. This Agreement shall be modified or amended in writing with the mutual consent and agreement of the Parties prior to performance of the additional services.

10 OWNERSHIP

- 10.1 Upon completion or termination of the Agreement, the Consultant shall provide copies, if so requested, to the County of all documents or electronic files produced under this Agreement. Consultant shall not be liable for any modifications of the documents or for use of said documents not for their intended purpose.
- 10.2 The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed surveys, calculations, reports, schematics, drawings and any other tangible written or electronic work produced in accordance with the Agreement.

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

11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT

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

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

12 INDEMNIFICATION

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

13 INSURANCE

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

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

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

13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.

13.5 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 13.1 and 13.2. Consultant shall require all of its subcontractors to provide like endorsements.

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

14 MISCELLANEOUS TERMS AND CONDITIONS

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

14.2 Independent Contractor: The Parties acknowledge and agree that Consultant is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Consultant also agrees that, as an independent contractor, Consultant assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Consultant hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**

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- 14.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 14.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 14.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 14.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 14.7 Findings for Recovery: Consultant certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 14.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 14.9 County Policies: The Consultant shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Consultant shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Consultant to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 14.10 Drug-Free Workplace: The Consultant agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Consultant shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 14.11 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

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

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

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

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

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

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RESOLUTION NO. 18-1356

IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH MS CONSULTANTS, INC. FOR PROFESSIONAL ENGINEERING SERVICES FOR PROCESS TREATMENT IMPROVEMENTS DESIGN AND EQUIPMENT SELECTION AT THE LOWER SCIOTO WATER RECLAMATION FACILITY AND THE SCIOTO RESERVE AND TARTAN FIELDS WASTEWATER RE-USE FACILITIES:

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with MS Consultants, Inc. to perform professional design services for process treatment improvements at Delaware County Sewer District facilities;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio, hereby approves the following agreement with MS Consultants, Inc.:

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into this 6th day of December, 2018, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 ("County"), and MS Consultants, Inc., 2221 Schrock Road, Columbus, Ohio 43229 ("Consultant"), hereinafter collectively referred to as the "Parties", and shall be known as the "Agreement."

1 SERVICES PROVIDED BY CONSULTANT

- 1.1 The Consultant will provide "Services" in connection with the following "Project": Professional engineering services for process treatment improvements design and equipment selection at the Lower Scioto Water Reclamation Facility and the Scioto Reserve and Tartan Fields Wastewater Re-Use Facilities.
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 Services are defined in and shall be rendered by the Consultant in accordance with the following documents, by this reference made part of this Agreement:
Exhibit A: Scope of Services, Dated 11/9/18

2 SUPERVISION OF SERVICES

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

3 AGREEMENT AND MODIFICATIONS

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

4 FEES AND REIMBURSABLE EXPENSES

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with Exhibit A.
- 4.2 For all Services described in the project scope, except "If Authorized" tasks, the fee shall be billed at the Time and Material rates included in Exhibit A, not to exceed \$348,000.
- 4.3 For all Services identified in the project scope as "If Authorized" tasks, the fee for each authorized task shall be the fee specified in Exhibit A for said task. "If Authorized" tasks shall only be performed upon written Notice from the Sanitary Engineer.
- 4.4 Total compensation under this Agreement shall not exceed \$384,000 without subsequent modification.
- 4.5 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the Services.

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5 NOTICES

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

Sanitary Engineer:

Name: Delaware County Sanitary Engineer’s Office
Attn: Brad Stanton

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: (740) 833-2240

Email: bstanton@co.delaware.oh.us

Consultant:

Name of Principal in Charge: Michael Kratofil

Address of Firm: 2221 Schrock Road

City, State, Zip: Columbus, OH 43229

Telephone: 614-898-7100

Email: mkratofil@msconsultants.com

6 PAYMENT

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

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

- 7.1 The Consultant shall commence Services upon written Notice to Proceed (“Authorization”) from the Sanitary Engineer and shall complete the work no later than 7/1/2019.
- 7.2 Consultant shall not proceed with any “If Authorized” tasks without written Authorization.
- 7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Consultant may make a written request for time extension, and the Sanitary Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

8 SUSPENSION OR TERMINATION OF AGREEMENT

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

9 CHANGE/ADDITIONS IN SCOPE OF SERVICES

- 9.1 In the event that significant changes to the scope of Services are required during performance of the Services, the first party shall notify the second party in writing with a detailed explanation of the

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circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall be approved by both parties.

For services in addition to those included in Section 1 as authorized or "if authorized", a scope and fee shall be negotiated and agreed to by both Parties prior to performance of the services. This agreement shall be modified or amended in writing with the mutual consent and agreement of the Parties prior to performance of the additional services.

10 OWNERSHIP

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

11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT

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

12 INDEMNIFICATION

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

13 INSURANCE

- 13.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.
- 13.5 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 13.1 and 13.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 13.6 Proof of Insurance: Prior to the commencement of any work under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Consultant will replace certificates for any insurance expiring prior to completion of work under this Agreement.

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14 MISCELLANEOUS TERMS AND CONDITIONS

- 14.1 Prohibited Interests: Consultant agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Consultant further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 14.2 Independent Contractor: The Parties acknowledge and agree that Consultant is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Consultant also agrees that, as an independent contractor, Consultant assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Consultant hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 14.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 14.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 14.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 14.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 14.7 Findings for Recovery: Consultant certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 14.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 14.9 County Policies: The Consultant shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Consultant shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Consultant to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 14.10 Drug-Free Workplace: The Consultant agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Consultant shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 14.11 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

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

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

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

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

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

14

RESOLUTION NO. 18-1357

IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS AND INCREASE OF PURCHASE ORDERS:

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

Supplemental Appropriation

60211925-5370	Flexible Spending Accounts/Insurance Premiums & Claims	20,000.00
60211902-5370	Employee Benefits/Insurance Premiums & Claims	160,000.00

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio, hereby approves the following purchase order increases:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
P1800413	Interflex	60211925-5370	\$ 22,800.00
P1800411	CEBCO	60211902-5370	\$ 888,000.00

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

15

RESOLUTION NO 18-1358

IN THE MATTER OF APPROVING A TRANSFER OF APPROPRIATIONS FOR THE PROSECUTOR LAW ENFORCEMENT TRUST FUND AND THE PROSECUTOR GENERAL FUND:

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

Transfer of Appropriations:

From-	To-	Amount
77112104-5101 Prosecutor Law Enf Trust Fund/Health Ins	77112104-5001 Prosecutor Law Enf Trust Fund/Compensation	\$3,478.00
10012101-5101 Prosecuting Attorney/Health Ins	10012101-5001 Prosecuting Attorney/Compensation	\$3,000.00

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

Other Business:

16

RESOLUTION NO. 18-1359

IN THE MATTER OF APPROVING A TRANSFER OF APPROPRIATION FOR RECORDS CENTER:

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

Transfer of Appropriation

From:	To:	
10011103-5200	10011103-5101	\$3,000.00

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Records Center – Materials and Supplies Records Center – Health Insurance

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

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ADMINISTRATOR REPORTS

Dawn Huston, Deputy Administrator

-No reports

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COMMISSIONERS' COMMITTEES REPORTS

Commissioner Lewis

-Thank you to everyone who attended today's meeting.

-Would like to present Caleb Sefcik (mentioned in Mondays' session) with a proclamation for his contributions to P.I.N.

Commissioner Benton

-Will be attending the CCAO Winter Conference next week.

-There will not be a Commissioners' Session on Monday to allow the Commissioners and staff to attend the CCAO Winter Conference.

-The People In Need Clearing House will take place on Sunday at the Fairgrounds Coliseum.

-Pleased to announce that Engineer Chris Bauserman will be awarded the Engineer of the Year at the County Engineer Association of Ohio Conference (happening at the same time of the CCAO Winter Conference).

Commissioner Merrell

-Engineer Bauserman does a great job and provides great leadership to his office.

-P.I.N. does an amazing job at disturbing the goods that the generous residents of Delaware County provide to those in need.

-The Freeman Breakfast takes place this Saturday (from 5:30 AM-11:30 AM) at the Hardware Exchange.

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RESOLUTION NO. 18-1360

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

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

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

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

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

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

Resolution No. 18-1361 was not utilized.

RESOLUTION NO. 18-1362

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. Merrell Aye Mr. Benton Aye

There being no further business, the meeting adjourned.

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Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners