

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MARCH 18, 2019**

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

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

**1
RESOLUTION NO. 19-243**

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD MARCH 14, 2019:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on March 14, 2019; and

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

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

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

**2
PUBLIC COMMENT**

**3
RESOLUTION NO. 19-244**

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0315 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR0315:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0315, memo transfers in batch numbers MTAPR0315 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
Rumpke (P1901148)	Sludge Disposal Water Rec	66211900-5380	\$ 50,000.00
American Producers (P1901222)	Safety Equipment Water Rec	66211900-5225	\$ 1,500.00
M Tech Company (P1901162)	Camera Work Water Rec	66211900-5201	\$ 4,000.00
Granger (P1901148)	Safety Supplies Water Rec	66211900-5225	\$ 1,500.00
Speak Write (P1901187)	Job and Family Services	22511607-5301	\$ 6,000.00
	Approved amendment		

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

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RESOLUTION NO. 19-245**

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Commissioners' Office is requesting that Marisa Stith attend a Sunshine Laws Certified Training Course in Columbus, Ohio April 18, 2019; at no cost.

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

**5
RESOLUTION NO. 19-246**

IN THE MATTER OF CANCELING THE THURSDAY MARCH 28TH, 2019 COMMISSIONERS' SESSION:

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It was moved by Mr. Merrell, seconded by Mr. Benton to cancel the Thursday March 28th, 2019 Commissioners' Session.

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

**6
RESOLUTION NO. 19-247**

IN THE MATTER OF APPROVING BID DOCUMENTS AND SETTING THE BID DATE FOR THE PROJECT KNOWN AS THE CDBG PY2018 ACTIVITY 1 ASHLEY VILLAGE STREET IMPROVEMENTS:

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

WHEREAS, the Board of Delaware County Commissioners approved the Program Year 2018 Small Cities Community Development Block Grant Agreement B-F-18-1AT-1 with the Ohio Development Services Agency per Resolution No. 18-1055, which includes the project known as the CDBG PY2018 Activity 1 Ashley Village Street Improvements (the "Project"); and

WHEREAS, OHM Advisors have completed the engineering consulting services for the Project; and

WHEREAS, the Delaware County Economic Development Coordinator has worked with Poggemeyer Design Group to prepare all necessary bid documents for the Project; and

WHEREAS, the Delaware County Economic Development Coordinator and the Village of Ashley jointly recommend approving the bid documents and advertising for bids for the Project;

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

Section 1: The bid documents for the project known as the CDBG PY2018 Activity 1 Ashley Village Street Improvements are hereby approved.

Section 2: The Economic Development Coordinator is hereby directed to advertise for bids to be published in the Delaware Gazette on Wednesday, March 20, 2019, and again on Wednesday, March 27, 2019, and receive bids on behalf of the Board in accordance with the following Public Notice:

NOTICE TO CONTRACTORS

Sealed bids will be received by the Village of Ashley and Delaware County Board of Commissioners ("Owner"), at the office of the Delaware County Commissioners at 101 N. Sandusky St., Delaware, Ohio 43015 on the 3rd day of April, 2019 until 2:00 pm current local time for the: "2019 Ashley Paving Program CDBG" and will be publicly opened and read immediately thereafter. Each bid must contain the full names of the party or parties making the same, with an affidavit as to interested parties, and in the case of a corporation not chartered in Ohio, with a proper certificate that such corporation is authorized to do business in Ohio, and shall be accompanied by a Bid Guaranty Bond for the full amount (100%) of the Bid, in favor of the "Owner" or a certified check, cashier's check, or letter of credit pursuant to Chapter 1305 of the Ohio Revised Code, in the amount of 10% of the Bid, payable to the "Owner."

It is agreed that the bid guaranty shall be for the benefit of the "Owner" pursuant to Section 153.54 of the Ohio Revised Code if the undersigned fails to execute the Contract in conformity with the Form of Contract incorporated in the contract documents and furnish Bond and insurance certificates within ten (10) days after the notification of the award of the Contract to the undersigned.

2019 Ashley Paving Program CDBG, is to be known as the "Project", Federal Prevailing wages apply to this project for all bidding purpose and construction purposes, and is funded through PY2018 Community Development Block Grant (CDBG) Allocation Funds, Copies of the Contract Documents are on file and may be obtained at the office of the "Owner" upon payment of Fifty Dollars (\$50.00), none of which will be refunded. Checks shall be made payable to the Village of Ashley.

Please note that in order to be considered as a "responsive bidder" for this project, you must purchase a set of plans and bid documents, and follow all instructions provided. Bids from contractors who are not on the Plan Holders List will be disqualified.

Village of Ashley 2019 Ashley Paving Program CDBG

The "Owner" reserves the right to reject any and all bids, to waive any informalities in the bids received, and to accept any bid which it deems lowest and best.

The "Owner" is an Equal Opportunity Employer and does not discriminate against the handicapped.

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Notice to Bidders is posted on the Delaware county Board of Commissioner' website <https://co.delaware.oh.us/media-room/bids/> and the Village of Ashley.

ENGINEER'S ESTIMATE:

The Engineer's Official Estimate of Probable Cost for this Project is \$122,490.

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

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ADMINISTRATOR REPORTS

Mike Frommer, County Administrator

- There is a tentative date of April 4, 2019 as the first meeting of the Pre-Hospital Care System Board.
- Participated in a mock vote with the new voting machines last Thursday.

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COMMISSIONERS' COMMITTEES REPORTS

Commissioner Merrell

- Attended the Developmental Disabilities Lifetime of Giving Awards ceremony last week.
- Attended the CCAO Executive meeting last week. Lieutenant Governor Jon Husted attended as well.
- Congratulations to Olentangy Liberty High School boys' basketball team for advancing to the State Finals.
- Happy Birthday to Commissioner Benton today.

Commissioner Benton

- The County recorded over \$7million in sales tax receipts last quarter.
- Attended the Annual Health Department meeting last week.
- The Ohio State men's' basketball team got into the NCAA tournament.

Commissioner Lewis

- No reports.

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RESOLUTION NO. 19-248

IN THE MATTER OF APPROVING AN IN-LIEU FEE PROGRAM CREDIT PURCHASE AGREEMENT FOR THE HOME ROAD/SR 315 IMPROVEMENT PROJECT:

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

**IN-LIEU FEE PROGRAM
CREDIT PURCHASE AGREEMENT
HUNTINGTON & PITTSBURGH CORPS DISTRICTS**

WHEREAS, the discharge of dredged or fill material into waters of the United States and waters of the State of Ohio, including streams and wetlands, is regulated pursuant to Section 404 of the Clean Water Act, 33 U.S.C. §1344, and/or Ohio Revised Code Chapter 6111;

WHEREAS, entities planning to place dredged or fill material into waters of the United States or waters of the State of Ohio, including streams and wetlands, must comply with standards and conditions imposed by the Army Corps of Engineers (the "Corps") and/or the Ohio Environmental Protection Agency (the "Ohio EPA") including, in many cases, the mitigation of impacts;

WHEREAS, the Stream + Wetlands Foundation ("S+W") has established an In-Lieu Fee Program ("ILFP") in the Huntington and Pittsburgh Corps Districts that has been approved by the IRT and is authorized to provide ILFP credits to entities required to provide compensatory mitigation for stream and wetland impacts; and

THEREFORE, Delaware County Engineer ("Client") and S+W agree they will comply with the following guidelines and procedures by which Client will purchase ILFP wetland mitigation credits from S+W to provide compensatory mitigation for stream and/or wetland impacts permitted under Sections 404 and 401 of the Clean Water Act and/or Ohio Revised Code Chapter 6111.

A. Initial Reservation Period

This Agreement shall become effective on upon the date this Agreement is signed by both S+W and Client. Upon receipt of a complete, signed copy of this Agreement and the Initial Deposit, S+W will reserve the ILFP mitigation credits designated above for a period of six (6) months (the "Initial Reservation Period"). In the event that Client withdraws its stream and/or wetland fill permit application or the application is denied, the deposit will be refunded upon the written request of Client confirming permit withdrawal or denial, provided such request is received by S+W within six (6) months from the Effective Date.

B. Extension of Reservation Period

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Client may extend the Initial Reservation Period for additional six (6) month periods (not to exceed 24 months from the Effective Date) by delivering payment(s) to S+W of 10% of the total ILFP credit purchase price for each six (6) month extension period and timely providing S+W with written notice requesting such extension. All deposit payments are non-refundable upon expiration of the Initial Reservation Period. Full payment is due no later than two years after the Effective Date of this Agreement. If S+W does not receive full payment within two years of the Effective Date, all deposit payments will be retained by S+W and the previously reserved ILFP credits will be immediately available for sale to third parties.

C. **Within thirty (30) days of issuance of the Clean Water Act Section 404 permit and, if necessary, the Section 401 Certification and/or Ohio Isolated Wetland Permit, whichever is later received (the "Permit Issue Date"), Client will tender in full the outstanding balance of the cost of the ILFP credits.** Client will concurrently provide S+W with a copy of the Section 404 permit and, if applicable, the Section 401 Certification and/or the Ohio Isolated Wetland Permit or other approval to impact wetlands on the project. If payment is not received by S+W within thirty (30) days of the Permit Issue Date, the Client will be considered to be in Default of Payment and a late payment penalty of \$500 or 2.0% interest on outstanding balance, whichever is greater, shall be immediately applied for each month or portion thereof until payment is received in full, including all late payment penalties.

D. If the Client is in Default of Payment for greater than ninety (90) days, S+W may, at its sole discretion, notify the Client that this Agreement is terminated and elect to market and sell the Client's reserved ILFP credits to a third party. The Corps and/or Ohio EPA shall be notified by S+W that this Agreement has been terminated and the ILFP credits are no longer held in reserve for the Client. The Client's deposit payment(s) will be forfeited to S+W; provided, however, that S+W may, in its sole discretion, and written request of the Client apply the amount of the deposit payment or any portion thereof against the cost of future ILFP credit purchases by the Client from S+W.

E. The Client shall have no obligation other than the payments set forth in this Agreement for the completion of compensatory mitigation represented by the purchase of the ILFP credits. S+W is solely responsible for the successful implementation of all compensatory mitigation represented by the purchase of the ILFP credits consistent with the ILFP Final Instrument. This Agreement does not constitute a permit or other authority to proceed with the proposed stream and/or wetland impacts and the Client is solely responsible for obtaining all necessary permits and other approvals required for the project.

I. OBLIGATIONS OF STREAM + WETLANDS

A. S+W has established the Huntington and Pittsburgh Corps District ILFP and the IRT has confirmed that S+W is authorized to sell ILFP credits to entities required to provide compensatory mitigation for stream and wetland impacts.

B. In consideration for the payment by Client of \$280,540.00 (plus any subsequently accrued late payment penalties), S+W hereby agrees to provide n/a approved wetland ILFP credits and 1079 approved stream ILFP credits established in the Huntington and Pittsburgh Corps District ILFP for the benefit of Client consistent with the terms of the Agreement. S+W shall be solely responsible for completing the compensatory mitigation requirements consistent the purchase of ILFP credits and the terms of the Huntington and Pittsburgh Corps Districts ILFP Instrument, including applying wetland mitigation credits purchased by Client and ensuring the quality and performance of wetland ecosystems serving as mitigation for Client. S+W shall indemnify Client from any damages or liabilities which may arise out of any act or omission of S+W.

C. S+W will promptly provide written confirmation to the Client that full payment has been received for the purchase of ILFP credits specified in paragraphs II of this Agreement.

II. GENERAL PROVISIONS

A. This Agreement shall be governed and construed in accordance with the laws of the State of Ohio. Venue for the resolution of any dispute shall be in the Court of Common Pleas of Franklin County, Ohio or in the federal court in the Southern District of Ohio in Columbus, Ohio.

B. The signatories hereto represent and covenant that they are authorized to execute this Agreement and to bind the respective parties to this Agreement.

C. This Agreement is the entire agreement between S+W and Client and supersedes any prior agreements of communications relating thereto. No modification hereof or subsequent agreement related to the sale of ILFP credits described herein shall be binding on either party unless reduced to writing and signed by both parties hereof.

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

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IN THE MATTER OF APPROVING RIGHT-OF-WAY WORK PERMIT SUMMARY SHEET:

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

WHEREAS, the below requests to perform work within the right-of-way have been reviewed and approved by the Delaware County Engineer;

NOW, THEREFORE, BE IT RESOLVED that the following permits are hereby approved by the Board of Delaware County Commissioners:

Permit #	Applicant	Location	Type of Work
U19-051	Spectrum	E. Orange Road	Place buried cable in ROW
U19-052	AEP	Various Roads	Provide single customer service
U19-053	AT&T	Worthington Road	Set poles, bury cable & transfer cables
U19-054	MCI Metro	Worthington Road	Place aerial cable
U19-055	Del-Co Water	Lane Road	Install Waterline
U19-056	Team Fishel	Manley Road	Bury fiber optic cable
U19-057	Frontier	Cheshire Road	Place aerial cable in ROW

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

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RESOLUTION NO. 19-250

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

It was moved by Mr. Merrell, 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 of employment of a public employee or public official; for pending or imminent litigation.

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

RESOLUTION NO. 19-251

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

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

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

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

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Jeff Benton

Jennifer Walraven, Clerk to the Commissioners