

COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 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

9:45 A.M. Public Hearing For Consideration Of A Petition From The Board Of Berlin Township Trustees Requesting Vacation Of Township Road 123A, In Berlin Township, Delaware County, Ohio Under The Special Procedures Of R.C. 5553.045

1
RESOLUTION NO. 19-320

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD APRIL 8, 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 April 8, 2019; 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
RESOLUTION NO. 19-321

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0410 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR0410:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0410, memo transfers in batch numbers MTAPR0410 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
P1900262 (line 4) EPS	Supplies and Rental Equipment for Facilities	10011105-5260	\$ 7,000.00
P1900262 (line 5) EPS	Supplies and Rental Equipment for Facilities	10011105-5335	\$ 1,650.00
P1900262 (line 2) EPS	Supplies and Rental Equipment for Facilities	10011105-5328	\$ 1,000.00
P1901268 Peterson	Alum Creek Work	66611900-5410	\$ 68,893.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Line Account</u>	<u>Amount</u>
R1902888	BUCKEYE PAVING COMPANY	SEAL COAT PARKING LOT - 22 COURT STREET	40111402 - 5328	\$22,000.00
R1902889	BUCKEYE PAVING COMPANY	SEAL COAT PARKING LOT - JAIL	40111402 - 5328	\$ 7,918.00
R1902891	BUCKEYE PAVING COMPANY	SEAL COAT PARKING LOT - 1405 ST RT 23N	40111402 - 5328	\$ 6,850.00

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

4
RESOLUTION NO. 19-322

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019**

The Auditor’s Office is requesting that Seiji Kille attend a Fraud Investigation & Prevention Conference in Columbus, Ohio from May 8-9, 2019 at the cost of \$425.20 (fund number 10010101).

The Regional Sewer District is requesting that Mark Hobler attend an Alloway VIP Workshop in Bellville, Ohio on May 1, 2019 at a total cost of \$59.00 from fund 66211900.

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

5

RESOLUTION NO. 19-323

IN THE MATTER OF THE BOARD OF COUNTY COMMISSIONERS DECLARING THE WEEK OF APRIL 7th NATIONAL CRIME VICTIMS’ RIGHTS WEEK IN DELAWARE COUNTY:

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

WHEREAS, Delaware County continues its efforts to prevent and respond to crime at every level, and will never neglect to show fairness, dignity, and respect to survivors of crime, and will honor them during National Crime Victims’ Rights Week 2019; and

WHEREAS, Delaware County will observe National Crime Victims’ Rights Week from April 7 through April 13 by placing signs for each township on the lawn of the Delaware County Commissioners’ Office. This display will serve as a powerful reminder that victims are not alone and healing is possible. Victims will also be honored through the 11th annual Walk-A-Mile-In-Her-Shoes event, scheduled for May 3rd. The Walk-A-Mile event raises awareness about sexualized violence toward women; and

NOW, THEREFORE, BE IT RESOLVED it is with great respect that the Delaware County Commissioners express their admiration for those survivors of crime who have turned personal tragedies into triumph. As a community, we understand that crime has an impact, and we vow to demonstrate compassion and offer support for those who need it most. To those who serve -- our volunteers, law enforcement officers, prosecutors, victim service providers, health care professionals, parole and probation officers, counselors and a host of many others whose dedication and service to victims helps to lessen the trauma and assist in personal recoveries... we offer our deepest gratitude.

FURTHER BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY THAT, the week of April 7 through 13, 2019, is declared National Crime Victim’s Rights Week in Delaware County, and all citizens of Delaware County are encouraged to use this week to reaffirm their commitment to victims of crime by extending to them respect, understanding, and compassion.

BE IT HEREBY RESOLVED, that the Clerk of the Board of Commissioners shall cause this Resolution to be spread upon the Board’s Official Journal.

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

6

RESOLUTION NO. 19-324

IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, JEFFREY W. SHARP, REQUESTING ANNEXATION OF 8.900 ACRES OF LAND IN BERKSHIRE TOWNSHIP TO THE VILLAGE OF GALENA:

It was moved by Mr. Benton, seconded by Mr. Merrell to acknowledge that on April 4, 2019, the Clerk to the Board of Commissioners received an annexation petition request to annex 8.900 acres from Berkshire Township to the Village of Galena.

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

7

RESOLUTION NO. 19-325

IN THE MATTER OF GRANTING ANNEXATION PETITION, FROM AGENT FOR THE PETITIONER, JACKSON B. REYNOLDS III, REQUESTING ANNEXATION OF 11.555 ACRES OF LAND IN LIBERTY TOWNSHIP TO THE CITY OF POWELL:

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

WHEREAS, on March 13, 2019, the Clerk to the Board of the Delaware County Commissioners received an annexation petition filed by Jackson B. Reynolds III, agent for the petitioners, of 11.555 acres, more or less, from Liberty Township to the City of Powell; and

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019**

WHEREAS, pursuant to section 709.023 of the Revised Code, if the Municipality or Township does not file an objection within 25 days after filing of the annexation petition, the Board at its next regular session shall enter upon its journal a resolution granting the proposed annexation; and

WHEREAS, 25 days have passed and the Clerk of the Board has not received an objection from the City of Powell or the Township of Liberty;

NOW, THEREFORE, BE IT RESOLVED the Delaware County Board of Commissioners grants the annexation petition request to annex 11.555 acres, more or less, in Liberty Township to the City of Powell.

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

8

RESOLUTION NO. 19-326

IN THE MATTER OF APPROVING THE DELAWARE COUNTY 2019 MULTI-HAZARD MITIGATION PLAN:

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

WHEREAS, pursuant to Section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165), the Delaware County Office of Homeland Security and Emergency Management (DCOHSEM) has developed the *Delaware County 2019 Multi-Hazard Mitigation Plan* that includes hazards to which Delaware County and its municipalities are susceptible and outlines processes for identifying and addressing the natural hazards, risks, and vulnerabilities of Delaware County; and

WHEREAS, Delaware County has a history of experiencing damage from flooding, tornados, severe summer weather, severe winter weather, and other hazards resulting in loss of life, property loss, economic hardship, and threats to public health and safety; and

WHEREAS, the *Delaware County 2019 Multi-Hazard Mitigation Plan* has been developed after more than a year of research and work done by DCOHSEM and representatives of various local governmental agencies and stakeholder organizations; and

WHEREAS, Delaware County and its municipalities (excluding those areas of the Cities of Columbus, Dublin and Westerville partially located within Delaware County) have been assessed for susceptibility to hazards; and

WHEREAS, adoption of a natural hazards mitigation plan is a condition of eligibility to receive federal mitigation funds available through the Federal Emergency Management Agency; and

WHEREAS, the *Delaware County 2019 Multi-Hazard Mitigation Plan* recommends numerous mitigation actions, developed in conjunction with local stakeholders and designed to protect the people and property affected by the natural hazards that face the aforementioned planning area; and

WHEREAS, the estimated potential losses that the aforementioned planning area could incur during a hazard event have been calculated;

THEREFORE BE IT RESOLVED THAT the Delaware County Board of Commissioners hereby adopts and plans to implement the *Delaware County 2019 Multi-Hazard Mitigation Plan*.

This Resolution shall take effect immediately upon adoption.

Adopted this 11th day of April, 2019.

All formal actions of this Board/Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Board/Council, and all deliberations of this Board/Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

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

9

RESOLUTION NO. 19-327

IN THE MATTER OF APPROVING GRANTS FOR THE DELAWARE COUNTY TRAIL ASSISTANCE PROGRAM:

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

WHEREAS, the following entities have requested Trail Assistance Program funds from the Delaware County Board of Commissioners (the "Board"):

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019**

CENTRAL OHIO MOUNTAIN BIKING ORGANIZATION	19,811.50
BERKSHIRE TOWNSHIP	20,000.00
CITY OF DELAWARE/LIBERTY TOWNSHIP	24,997.50
VILLAGE OF SHAWNEE HILLS	34,000.00

WHEREAS, the Trail Committee recommends approval of the applications submitted by Berkshire Township, City of Delaware/Liberty Township, and the Village of Shawnee Hills;

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

Section 1. The Board hereby approves the applications for Trail Assistance Program funds as follows:

BERKSHIRE TOWNSHIP	20,000.00
CITY OF DELAWARE/LIBERTY TOWNSHIP	24,997.50
VILLAGE OF SHAWNEE HILLS	34,000.00

Section 2. The Board hereby approves the Recreational Trail Grant Agreements with the Berkshire Township Board of Trustees, City of Delaware/Liberty Township Board of Trustees, and the Village of Shawnee Hills.

Section 3. The Board hereby approves purchase orders and vouchers from 10011102-5601 as follows:

BERKSHIRE TOWNSHIP	20,000.00
CITY OF DELAWARE/LIBERTY TOWNSHIP	24,997.50
VILLAGE OF SHAWNEE HILLS	34,000.00

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

10

RESOLUTION NO. 19-328

IN THE MATTER OF APPROVING A SERVICES AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND BENCHMARK LANDSCAPE CONSTRUCTION, INC. FOR 2019 FACILITIES TURF MOWING:

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

WHEREAS, the Director of Facilities recommends approval of an agreement with Benchmark Landscape Construction, Inc.;

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners approves the following agreement with Benchmark Landscape Construction, Inc.:

SERVICES AGREEMENT

This Agreement is made and entered into this 11th day of April, 2019, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Benchmark Landscape Construction, Inc., 9600 Industrial Parkway, Plan City, OH 43064 (“Contractor”), hereinafter collectively referred to as the “Parties.”

1 SERVICES PROVIDED BY CONTRACTOR

- 1.1 The Contractor will provide “Services” in connection with the following “Project”:
2019 Facility Turf Mowing
- 1.2 Services shall be defined in and rendered by the Contractor in accordance with the following documents, by this reference made part of this Agreement:
2019 Facility Turf Mowing dated 1/4/19
- 1.3 In the event of a conflict between the terms and conditions stated in this Agreement, consisting of pages 1 through 6, and any of the documents incorporated by reference herein, the terms and conditions stated herein shall take precedence.

2 SUPERVISION OF SERVICES

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

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019**

3 AGREEMENT AND MODIFICATIONS

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

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 1.2 and as follows:
- 4.2 For all services described in the Scope of Services and Fee Proposal, the annual lump sum fee shall be \$29,975.00.
- 4.3 Total compensation under this Agreement shall not exceed \$29,975.00 without subsequent modification.
- 4.4 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Services.

5 NOTICES

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

County:

Name: Jon Melvin, Director of Facilities
 Address: 1405 US Highway 23 North, Delaware, OH 43015
 Telephone: 740 833-2283
 Email: jmelvin@co.delaware.oh.us

Contractor:

Name of Principal in Charge: Devon Stanley
 Address of Firm: 9600 Industrial Parkway
 City, State, Zip: Plain City, Ohio 43064
 Telephone: 614-462-8080
 Email: dstanley@benchmarkohio.com

6 PAYMENT

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

7 NOTICE TO PROCEED, COMPLETION, DELAYS AND EXTENSIONS

- 7.1 The Contractor shall commence Services upon written Notice to Proceed ("Authorization") from the Project Manager and shall complete the Services in accordance with the Proposal.

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019**

- 7.2 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Contractor may make a written request for time extension, and the Project Manager may grant such an extension provided that all other terms of the Agreement are adhered to.

8 SUSPENSION OR TERMINATION OF AGREEMENT

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

9 INDEMNIFICATION

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

10 INSURANCE

- 10.1 General Liability Coverage: Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 10.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 10.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 10.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 10.1 and 10.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 10.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Agreement.

11 MISCELLANEOUS TERMS AND CONDITIONS

- 11.1 Prohibited Interests: Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 11.2 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 11.3 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.

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019**

- 11.4 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.

- 11.5 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.

- 11.6 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.

- 11.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.

- 11.8 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.

- 11.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing 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 Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.

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

- 11.11 Non-Discrimination/Equal Opportunity: Contractor 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.

Contractor further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of 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.

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

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

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

**11
RESOLUTION NO. 19-329**

IN THE MATTER OF APPROVING AMENDMENT NO. 1 TO THE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND COMMERCIAL EXPRESS BUILDING SERVICES, INC. FOR ITB #17-01 JANITORIAL SERVICES FOR DELAWARE COUNTY:

COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019

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

WHEREAS, the Clerk of Courts and the Director of Facilities recommend approving Amendment No. 1 to the Contract with Commercial Express Building Services, Inc.;

NOW, THEREFORE, BE IT RESOLVED the Board of Commissioners of Delaware County approves the following contract amendment No. 1 with Commercial Express Building Services, Inc.:

**Amendment No. 1 to Contract for
ITB #17-01 Janitorial Services**

The Contract for Delaware County ITB #17-01 Janitorial Services, entered into on July 27, 2017, by and between Commercial Express Building Services, Inc., 981 Gray Dr., Pickerington, OH 43147 (the "Contractor") and the Delaware County Board of Commissioners (the "Owner"), is hereby amended, pursuant to Section 4.1 of the Contract, as follows:

ARTICLE 1

1.1 The Contractor shall additionally provide Janitorial Services as described in the Bid Documents one day per week for the Delaware County Clerk of Courts' Satellite Title Office at NorthPointe Shopping Center, 8647 Columbus Pike, Lewis Center, OH 43035. The Contractor shall also provide janitorial supplies for this location.

1.2 The compensation to be paid to Contractor for the additional Janitorial Services provided for in Section 1.1 shall be One Hundred Dollars (\$100.00) per week.

ARTICLE 2

2.1 All remaining provisions of the Contract shall remain in full force and effect, except as specifically amended herein.

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

**12
RESOLUTION NO 19-330**

IN THE MATTER OF AWARDING A BID TO AND APPROVING A CONTRACT WITH EVOQUA WATER TECHNOLOGIES, LLC. FOR THE 2019-2020 CALCIUM NITRATE CHEMICAL SUPPLY CONTRACT FOR THE DELAWARE COUNTY REGIONAL SEWER DISTRICT, DCRSD CONTRACT #19-01:

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

WHEREAS, sealed bids for the 2019-2020 Calcium Nitrate Chemical Supply Contract were received at the Office of the Delaware County Sanitary Engineer at 10:00 a.m. Friday, March 15, 2019; and

WHEREAS, one (1) bid was received, and the lowest and best bid received was from Evoqua Water Technologies, LLC; and

WHEREAS, the Sanitary Engineer recommends awarding a contract to Evoqua Water Technologies, LLC;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners hereby awards the bid for the 2019-2020 Calcium Nitrate Chemical Supply Contract to Evoqua Water Technologies, LLC. The Sanitary Engineer shall prepare the necessary Notice of Award and Contract documents, and submit them to the contractor for execution.

BE IT FURTHER RESOLVED that the Delaware County Board of Commissioners hereby approves the following agreement with Evoqua Water Technologies, LLC:

2019-2020 CALCIUM NITRATE CHEMICAL SUPPLY CONTRACT

This Agreement is made and entered into this 11th day of April, 2019, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 ("County"), and Evoqua Water Technologies LLC ("Contractor"), hereinafter collectively referred to as the "Parties", and shall be known as the "Prime Agreement."

1 SERVICES PROVIDED BY CONTRACTOR

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019**

- 1.1 The Contractor will provide “Services” in connection with the following “Project”: Delivery of calcium nitrate in accordance with the Bid Documents, which are by this reference fully incorporated herein.

2 SUPERVISION OF WORK

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

3 AGREEMENT AND MODIFICATIONS

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

4 COMPENSATION

- 4.1 Compensation shall be based upon the unit price in Contractor’s Bid.

5 NOTICES

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

County:

Name: Erik McPeek

Address: 50 Channing St. Delaware, OH 43015

Telephone: (740) 833-2240

Email: emcpeek@co.delaware.oh.us

Contractor:

Name of Principal in Charge: Jennifer Miller

Address of Firm: 2650 Tallevast Road

City, State, Zip: Sarasota, FL 34243

Telephone: 941-359-7930

Email: municipalservices@evoqua.com

6 PAYMENT

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

7 SUSPENSION OR TERMINATION OF AGREEMENT

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

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019**

- 7.3 This Agreement shall expire on December 31, 2020, with the option to extend the length of the Agreement for up to two (2) years if mutually agreeable by both Owner and Contractor.

8 INDEMNIFICATION

- 8.1 The Contractor shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.
- 8.2 The Contractor shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result breach of contract, infringement of any right to use, possess, or otherwise operate or have any owned, protected, licensed, trademarked, patented, non-patented, and/or copyrighted software, product, service, equipment, invention, process, article, or appliance manufactured, used, or possessed in the performance of the Agreement and/or in providing the Services, to the extent caused by any act, error, or omission of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

9 INSURANCE

- 9.1 General Liability Coverage: Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 9.1 and 9.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 9.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Agreement.

10 MISCELLANEOUS TERMS AND CONDITIONS

- 10.1 Prohibited Interests: Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 10.2 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 10.3 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.

COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019

- 10.4 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.
- 10.5 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.
- 10.6 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.
- 10.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 10.8 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.
- 10.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, and Contractor Safety Policy. The Contractor 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 Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 10.10 Drug-Free Workplace: The Contractor agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 10.11 Non-Discrimination/Equal Opportunity: Contractor 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.

Contractor further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of 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.

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

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

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

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

13
RESOLUTION NO. 19-331

IN THE MATTER OF AUTHORIZING PARTICIPATION IN THE ODOT WINTER CONTRACT (018-20) FOR ROAD SALT:

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019**

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

WHEREAS, the **Board of Commissioners of Delaware County, Ohio** (hereinafter referred to as the “Political Subdivision”) hereby submits this written agreement to participate in the Ohio Department of Transportation’s (ODOT) annual road salt bid (018-20) in accordance with Ohio Revised Code 5513.01(B) and hereby agrees to all of the following terms and conditions in its participation of the ODOT winter road salt contract:

- a. The Political Subdivision hereby agrees to be bound by all terms and conditions established by ODOT in the road salt contract and acknowledges that upon award of the contract by the Director of ODOT it shall be bound by all such terms and conditions included in the contract; and
- b. The Political Subdivision hereby acknowledges that upon the Director of ODOT’s signing of the road salt contract, it shall effectively form a contract between the awarded salt supplier and the Political Subdivision; and
- c. The Political Subdivision agrees to be solely responsible for resolving all claims or disputes arising out of its participation in the ODOT winter road salt contract and agrees to hold the Department of Transportation harmless for any claims, actions, expenses, or other damages arising out of the Political Subdivision’s participation in the road salt contract; and
- d. The Political Subdivision’s electronic order for Sodium Chloride (Road Salt) will be the amount the Political Subdivision agrees to purchase from its awarded salt supplier at the delivered bid price per ton awarded by the Director of ODOT; and
- e. The Political Subdivision hereby agrees to purchase a minimum of 90% of its **submitted** salt quantities from its awarded salt supplier during the contract’s effective period; and
- f. The Political Subdivision hereby agrees to place orders with and directly pay the awarded salt supplier on a net 30 basis for all road salt it receives pursuant to ODOT salt contract; and
- g. The Political Subdivision acknowledges that should it wish to rescind this participation agreement it will do so by written, emailed request by no later than **Friday, April 19 by 12:00 p.m.** The written, emailed request to rescind this participation agreement must be received by the ODOT Office of Contract Sales, Purchasing Section email: Contracts.Purchasing@dot.ohio.gov by the deadline. The Department, upon receipt, will respond that it has received the request and that it has effectively removed the Political Subdivision’s participation request. Furthermore, it is the sole responsibility of the Political Subdivision to ensure ODOT has received this participation agreement as well as the receipt of any request to rescind this participation agreement. The Department shall not be held responsible or liable for failure to receive a Political Subdivision’s participation agreement and/or a Political Subdivision’s request to rescind its participation agreement.

NOW, THEREFORE, be it resolved by the Board of Commissioners of Delaware County, Ohio that this participation agreement for the ODOT winter road salt contract is hereby approved, funding has been authorized subject to future appropriation, and the Political Subdivision agrees to the above terms and conditions regarding participation on the ODOT winter salt contract, and that the County Engineer is authorized to order up to 11,000 tons of salt and to act on behalf of the Board to administer this agreement.

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

14
RESOLUTION NO. 19-332

9:45AM PUBLIC HEARING FOR CONSIDERATION OF A PETITION FROM THE BOARD OF BERLIN TOWNSHIP TRUSTEES REQUESTING VACATION OF TOWNSHIP ROAD 123A, IN BERLIN TOWNSHIP, DELAWARE COUNTY, OHIO UNDER THE SPECIAL PROCEDURES OF R.C. 5553.045:

It was moved by Mr. Benton, seconded by Mr. Merrell to open the hearing at 9:54 AM.

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

14 continued
RESOLUTION NO. 19-333

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:

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019**

It was moved by Mr. Merrell, 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. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

14 continued

RESOLUTION NO. 19-334

IN THE MATTER OF CONTINUING THE PUBLIC HEARING FOR CONSIDERATION OF A PETITION FROM THE BOARD OF BERLIN TOWNSHIP TRUSTEES REQUESTING VACATION OF TOWNSHIP ROAD 123A, IN BERLIN TOWNSHIP, DELAWARE COUNTY, OHIO UNDER THE SPECIAL PROCEDURES OF R.C. 5553.045 UNTIL APRIL 25, 2019 AT 9:45 A.M. :

It was moved by Mr. Benton, seconded by Mr. Merrell to continue the hearing until Thursday, April 25, 2019 at 9:45 A.M.

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

15

PRESENTATION:

**Brad Lutz, Director Of Business Operations And Financial Management Department
Andrew Jones, Account Executive OpenGov
Internal Reporting, Dashboards, And Executive/Commission Performance Reports**

16

ADMINISTRATOR REPORTS

Mike Frommer, County Administrator

-The Director of the Emergency Communications Department, along with other 9-1-1 employees will be at the Panera Bread (located at 6589 Artesian Run) on Saturday, April 13th from 9-11AM for recruiting for open positions in the Emergency Communications Department.

17

COMMISSIONERS' COMMITTEES REPORTS

Commissioner Merrell

- Would like to thank all those who presented at the Community Enhancement Grant work session yesterday.
- Will be attending MORPC today.
- Will be attending the inauguration of Otterbein University's new president on Friday.
- The new Delaware City fire station will be dedicated on Saturday morning at 10:00 AM.

Commissioner Benton

- Will be attending the ribbon cutting ceremony for the Galena Trail extension on Saturday morning at 10:00 AM.
- Attended the T.I.D. meeting yesterday.
- The Masters Tournament starts today at 3:00 PM
- Had the pleasure of becoming a grandfather to a baby girl yesterday.

Commissioner Lewis

- Attended the DKMM Policy meeting yesterday afternoon.
- Will be attending an EMA meeting this afternoon.

18

RESOLUTION NO. 19-335

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF EMPLOYMENT OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL; TO CONSIDER THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSES:

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; to consider the purchase of property for public purposes.

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

COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 11, 2019

RESOLUTION NO. 19-336

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

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

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

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners