

**COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD JUNE 27, 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. 19-609**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JUNE 24, 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 June 24, 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. 19-610**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0626 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR0626:**

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0626, memo transfers in batch numbers MTAPR0626 and Purchase Orders as listed below:

PR Number	Vendor Name	Line Description	Account	Amount
R1903541	INDOFF INC	VAULT EXPANSION - RECORDS CENTER	41711436 - 5450	\$36,530.00

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

**4**  
**RESOLUTION NO. 19-611**

**IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, ANDREW WECKER, ESQ., ATTORNEY AT LAW, REQUESTING ANNEXATION OF 35.336 ACRES OF LAND IN LIBERTY TOWNSHIP TO THE CITY OF POWELL:**

It was moved by Mr. Benton, seconded by Mr. Merrell to acknowledge that on June 19, 2019, the Clerk to the Board of Commissioners received a petition requesting annexation of 35.336 acres from Liberty Township to the City of Powell.

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

**5**  
**RESOLUTION NO. 19-612**

**IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:**

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

The Commissioners' Communications Department is requesting that Jane Hawes and Marisa Stith attend MORPC PIO's Conference in Columbus, Ohio July 17, 2019; at the cost of \$81.60 (fund number 10011139)

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The Facilities Department is requesting that Gregg Rittenshouse, Kevin Miller, Robert VanHorn attend an Electrical Hazard Recognition and Abatement training in Garfield Heights, Ohio August 12-15, 2019; at the cost of \$1,300.00 (fund number 10011105).

The Emergency Medical Services department is requesting that Captain Joe Farmer, Lieutenant Jen Ransom and Lieutenant Julie Webb attend a Controversies at The Shoe in Columbus, Ohio at no cost.

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

**6  
RESOLUTION NO. 19-613**

**IN THE MATTER OF ACCEPTING THE SHERIFF'S OFFICE BUDGET ESTIMATING THE COST OF OPERATING THE JAIL AND FEEDING ITS INMATES FOR 2020:**

It was moved by Mr. Merrell, seconded by Mr. Benton to accept the Sheriff's Office Budget estimating the cost of operating the jail and feeding its inmates for 2020.

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

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

**7  
RESOLUTION NO. 19-614**

**IN THE MATTER OF DECLARING PERSONAL PROPERTY OBSOLETE, UNFIT, OR NOT NEEDED FOR PUBLIC USE AND THE INTENT OF SELLING SUCH PROPERTY VIA INTERNET AUCTION OR DISPOSAL OF PROPERTY OF NO VALUE:**

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

WHEREAS, Delaware County has personal property not needed for public use, obsolete, or unfit for the use for which it was acquired; and

WHEREAS, Ohio Revised Code section 307.12(E) allows, by resolution, the sale of such property by internet auction; and

WHEREAS, the Delaware County Board of Commissioners passed Resolution No. 16-749 on August 1, 2016, declaring its intent to sell such property by internet auction; and

WHEREAS, certain of such property may require a signature to transfer such property from the county to a buyer; and

WHEREAS, certain of such property may receive no bids during the internet auction and can be declared to be of no value;

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners, Delaware County, State of Ohio, that the following property listed below be sold in the manner prescribed in Resolution No. 16-749 and that items receiving no bids be considered of no value and may be discarded or salvaged at the direction of the Director of Facilities. The Director of Facilities is hereby authorized to sign any documents needed to transfer such property on behalf of the Board.

<u>Item/Asset Type</u>	<u>Make</u>	<u>Model</u>	<u>Serial Number/Asset Number</u>
Workstation	Hewlett Packard	HP Z420	2UA3400KCJ
Workstation	Hewlett Packard	HP Z420	2UA3400GR7
Workstation	Hewlett Packard	HP Z420	2UA3400GS5
Workstation	Hewlett Packard	HP Z420	2UA3400GQL
Workstation	Hewlett Packard	HP Z420	2UA3400GS2
Workstation	Hewlett Packard	HP Z420	2UA3400GR8
Workstation	Hewlett Packard	HP Z420	2UA3400GS4
Workstation	Hewlett Packard	HP Z420	2UA3400GSW
Workstation	Hewlett Packard	HP Z420	2UA3400GT2
Workstation	Hewlett Packard	HP Z420	2UA3400GRP
Workstation	Hewlett Packard	HP Z420	2UA3400GQ4
Workstation	Hewlett Packard	HP Z420	2UA3400GQV
Workstation	Hewlett Packard	HP Z420	2UA3400GR2

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Workstation	Hewlett Packard	HP Z420	2UA3400GRZ
Workstation	Hewlett Packard	HP Z420	2UA3400GRY
Workstation	Hewlett Packard	HP Z420	2UA3400KB2
Workstation	Hewlett Packard	HP Z420	2UA3400KB4
Workstation	Hewlett Packard	HP Z420	2UA3400GR0
Workstation	Hewlett Packard	HP Z420	2UA3410KX8
Workstation	Hewlett Packard	HP Z420	2UA3410KYT
Workstation	Hewlett Packard	HP Z420	2UA3410KY7
Workstation	Hewlett Packard	HP Z420	2UA3410KXX
Workstation	Hewlett Packard	HP Z420	2UA3410KXY
Workstation	Hewlett Packard	HP Z420	2UA3410KYW
Workstation	Hewlett Packard	HP Z420	2UA5122BFF
Server	Hewlett Packard	HP DL380P GEN8 8-SFF CTO Server	USE342HR9M
Server	Hewlett Packard	HP DL380P GEN8 8-SFF CTO Server	USE342HRA6
Server	Hewlett Packard	HP DL380P GEN8 8-SFF CTO Server	USE342HR8B
Server	Hewlett Packard	HP DL380P GEN8 8-SFF CTO Server	USE342HR8F
Portable Radio	Motorola	XTS 5000 II	721CDG1623
Portable Radio	Motorola	XTS 5000 II	721CFV5296
Portable Radio	Motorola	XTS 5000 II	721CFV5297
Portable Radio	Motorola	XTS 5000 II	721CFV5298
Portable Radio	Motorola	XTS 5000 II	721CFV5308
Portable Radio	Motorola	XTS 5000 II	721CFV5309
Portable Radio	Motorola	XTS 5000 II	721CFV5310
Portable Radio	Motorola	XTS 5000 II	721CFV5311
Portable Radio	Motorola	XTS 5000 II	721CFV5312
Portable Radio	Motorola	XTS 5000 II	721CFV5316
Portable Radio	Motorola	XTS 5000 II	721CFV5322
Portable Radio	Motorola	XTS 5000 II	721CFV5429
Portable Radio	Motorola	XTS 5000 II	721CFV5433
Portable Radio	Motorola	XTS 5000 II	721CFV5441
Portable Radio	Motorola	XTS 5000 II	721CFV5450
Portable Radio	Motorola	XTS 5000 II	721CFV5451
Portable Radio	Motorola	XTS 5000 II	721CFV5452
Portable Radio	Motorola	XTS 5000 II	721CFV5455
Portable Radio	Motorola	XTS 5000 II	721CFX0563
Portable Radio	Motorola	XTS 5000 II	721CFX0566

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

**8**  
**RESOLUTION NO. 19-615**

**IN THE MATTER OF APPROVING THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND M+A ARCHITECTS FOR DELAWARE COUNTY BYXBE CAMPUS PHASE II:**

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

WHEREAS, the Director of Facilities recommends approval of the Professional Services Agreement between the Delaware County Board of Commissioners and M+A Architects for Delaware County Byxbe Campus Phase II;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Professional Services Agreement between the Delaware County Board of Commissioners and M+A Architects for Delaware County Byxbe Campus Phase II:

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**PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into this 27th day of June, 2019, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 ("County"), and M+A Architects, 775 Yard Street, Suite 325, Columbus, Ohio 43212 ("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," as further defined in Section 1.3, in connection with the following "Project":  
Delaware County Byxbe Campus Phase II with options 1B and 1D, and Phase III services parts 2.1 and 2.2.
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 Services shall be rendered by the Consultant in accordance with the following documents, by this reference made part of this Agreement:  
EXHIBIT "A" TO CONTRACT AGREEMENT – May 20, 2019 (Revision #1)

**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 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 \$1,668,030.00.
- 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 lump sum specified in the Fee Proposal for said task. "If Authorized" tasks shall only be performed upon written Notice from the Project Manager. The total fee for all "If Authorized" tasks shall not exceed \$15,000.00.
- 4.4 Total compensation under this Agreement shall not exceed \$1,683,030.00 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.

Project Manager:

Name: Jon Melvin, Director of Facilities

Address: 1405 US Highway 23 North  
Delaware, OH 43015

Telephone: 740 833-2283

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Email: jmelvin@co.delaware.oh.us

Consultant:

Name of Principal in Charge: James G. Mitchell, AIA  
 Address of Firm: M+A Architects 775 Yard Street, Suite 325  
 City, State, Zip: Columbus, Ohio 43212  
 Telephone: 614-764-0407  
 Email: jimm@ma-architects.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 Project Manager and on the calculated percentage of work performed to date in accordance with the Consultant's Price Proposal.
- 6.2 Invoices shall be submitted to the Project Manager by the Consultant on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Consultant shall promptly submit documentation as needed to substantiate said invoices.
- 6.3 The County shall pay invoices within thirty (30) days of receipt.

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

- 7.1 The Consultant shall commence Services upon written Notice to Proceed ("Authorization") from the Project Manager and shall complete the Services no later than January 31, 2022.
- 7.2 Consultant shall not proceed with any "If Authorized" tasks without written Authorization.
- 7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Consultant may make a written request for time extension, and the Project Manager may grant such an extension provided that all other terms of the Agreement are adhered to.

**8 SUSPENSION OR TERMINATION OF AGREEMENT**

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

**9 CHANGE IN SCOPE OF SERVICES**

- 9.1 In the event that significant changes to the Scope of Services are required during performance of the Services, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall not take effect until approved in writing by both Parties.

**10 OWNERSHIP**

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

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

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

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

**12 INDEMNIFICATION**

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

**13 INSURANCE**

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

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

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

13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the services hereunder. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.

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

13.6 Proof of Insurance: Prior to the commencement of any 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

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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.

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

**9  
RESOLUTION NO. 19-616**

**IN THE MATTER OF APPROVING THE FIRST AMENDMENT TO THE CONTRACT BETWEEN THE KNOX COUNTY BOARD OF COMMISSIONERS AND THE DELAWARE COUNTY BOARD OF COMMISSIONERS, REGARDING RECIPROCAL JAIL INMATE HOUSING:**

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



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WHEREAS, the Sheriff and Sheriff’s Office Staff recommend approval of the First Amendment to the Contract between the Knox County Board of Commissioners and the Delaware County Board of Commissioners, regarding reciprocal jail inmate housing;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the First Amendment to the Contract between the Knox County Board of Commissioners and the Delaware County Board of Commissioners, regarding reciprocal jail inmate housing:

**First Amendment to the Contract between Delaware County and Knox County for Reciprocal Jail inmate Housing**

Delaware County ("Delaware") Knox County ("Knox"), collectively the "Parties," agree to renew their previously agreed to contract that is memorialized by Delaware County Resolution # 18-1052.

WHEREAS, the Parties previously entered into an agreement and the parties wish to renew the contract as provided in Section 11 of the agreement.

THEREFORE, on exchange of mutual consideration and the parties' mutual covenants and obligations, the parties agree as follows:

1. To renew the contract for a term beginning July 1, 2019 and ending June 30, 2021.
2. This Amendment may not be modified except by a writing signed by both parties.
3. Except as otherwise stated in this Amendment, all other terms and conditions of the Agreement remain in full force and effect.
4. In the event that the terms of the Agreement conflict with the terms of this Amendment, the terms of this Amendment shall control.

The Parties, by and through their respective and proper officers, have on behalf of themselves or those whom they represent, signed this Amendment of their own free and voluntary will and agree to the Parties being bound thereby.

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

**10  
RESOLUTION NO. 19-617**

**IN THE MATTER OF APPROVING AN INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, THE DELAWARE COUNTY AUTOMATIC DATA PROCESSING BOARD, AND THE DELAWARE COUNTY BOARD OF DEVELOPMENTAL DISABILITIES FOR INFORMATION TECHNOLOGY SERVICES:**

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

WHEREAS, the County Auditor recommends approval of an Intergovernmental Cooperation Agreement with the Delaware County Board of Developmental Disabilities for Information Technology Services;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves an Intergovernmental Cooperation Agreement between the Delaware County Board of Commissioners, the Delaware County Automatic Data Processing Board, and the Delaware County Board of Developmental Disabilities for Information Technology Services:

**INTERGOVERNMENTAL COOPERATION AGREEMENT**

**Section 1 – Parties to the Agreement**

This Agreement is made and entered into this 27th day of June, 2019, by and between the Delaware County Automatic Data Processing Board and the Delaware County Board of Commissioners, 101 North Sandusky Street, Delaware, Ohio 43015 (collectively, the “County”), and the Board of Developmental Disabilities, 7991 Columbus Pike, Lewis Center, Ohio 43035 (the “Board”), (hereinafter referred to individually as “Party” or collectively as the “Parties”).

**Section 2 – Purpose**

This Agreement is authorized by sections 9.482, 307.846, and 307.15, et seq., of the Revised Code. The Board desires to enter into an agreement with the County that allows Delaware County Information Technology staff to provide Information Technology (“IT”) services to the Board, and the County is willing and able to provide such services. This Agreement shall establish the terms and conditions for the support of Board IT services.

**Section 3 – Division of Responsibilities**



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The Board shall pay, as specified below, for IT services provided. The County, via the Delaware County Data Center Administrator, shall administer the services on behalf of the Board, supervise the work of the staff, and advise the Board regarding IT projects. By entering into this Agreement, the Board authorizes the Delaware County Automatic Data Processing Board, its Director and staff to perform any and all actions, which in his/their professional judgment, are necessary to provide the services contemplated under the terms of this Agreement.

The specific services to be provided are more fully set forth in Exhibit A, which is attached hereto and, by this reference, fully incorporated herein.

**Section 4 – Compensation**

The Board agrees to pay to the County a monthly fee of \$250.00 per virtual server and \$12.00 per user account. Board and County agree there are currently 15 virtual servers and 90 user accounts, and both Parties understand that the number of virtual servers and user accounts may increase or decrease.

The Board shall also, for all time exceeding fifteen (15) minutes in length that is spent on an individual service item, reimburse the County for the costs of personnel utilized in providing the service. This will be payable at the hourly rates set forth in Exhibit B, which is attached hereto and, by this reference, fully incorporated herein. The County shall submit monthly invoices that include the monthly fee and any reimbursable hourly charges incurred for the previous month. The Board shall pay all invoices within thirty (30) days of receipt thereof.

Notwithstanding the unit prices stated in this Section, the total amount of compensation under this Agreement shall not exceed Ninety-Two Thousand Dollars (\$92,000) for the term of this Agreement, unless this Agreement is amended in writing signed by both Parties.

**Section 5 – Records**

5.1 County and Board acknowledge and agree that Board data received by County in the course of providing the IT services under this Agreement is taken delivery of solely under the authority stated above and only to provide automatic or electronic data processing, data storage services, and/or other IT services to Board.

5.2 County and Board acknowledge and agree that this data is not a public record [as defined in R.C. Section 149.011(G)] of the County or any of its offices, agencies, etc., that County is not the keeper or person responsible for any record contained in such data or otherwise responsible for providing inspection or copies of the same, and that any records contained within the same shall at all times be considered Board records and not properly the subject of a public records request directed to the County under R.C. Section 149.43 and further limited by R.C. Section 5126.044.

5.3 However, to assist the Board in meeting its responsibilities:

- (a) County will maintain full access by Board to the Board's data stored in its system.
- (b) If County receives a public records request for Board records contained in such data, it will inform the requester that the information requested is not a public record of the County and that their request will be forwarded to the Board Communications & Public Relations Coordinator as the individual responsible for Board records. County will then immediately forward the request to the Board Communications & Public Relations Coordinator and advise them as to the circumstances of the request and its receipt.
- (c) County will provide technical assistance to the Board Communications & Public Relations Coordinator, as requested, in compiling and delivering Board data responsive to a public records request.

5.4 If the County should ever determine that it is legally compelled by any means (including public records request under R.C. 149.43, deposition, interrogatory, request for documents, subpoena, civil investigative demand, etc.) to disclose Board data received or stored under this Agreement, it must make reasonable efforts to provide Board with prompt notice of such legal requirement prior to disclosure so that Board may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained, County will: (i) furnish only that portion of the data that it is legally required to furnish; and (ii) cooperate with Board in reviewing such material for appropriate redaction prior to disclosure.

5.5 Upon termination or expiration of this Agreement, County will return all Board data to Board and shall not retain copies of all or any portion of it within its system.

5.6 The Parties agree that each shall maintain their respective public records concerning the services provided under this Agreement, pursuant to the laws of the State of Ohio pertaining to public records.

**Section 6 – Term**

This Agreement shall take immediate effect upon approval by all Parties hereto and shall continue in full force and effect for one year, whereupon this Agreement shall then automatically renew for successive one (1) year terms, unless either Party gives written notice to the other Party, at least thirty (30) days prior to the expiration of the then-current term, that it does not intend to renew the Agreement at the expiration of the then-current term. This

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Agreement may only be amended or renewed in writing with the mutual consent and agreement of the Parties. Either County or Board may terminate the Agreement upon providing thirty (30) days written notice to the other Party.

**Section 7 – Legal Contingencies**

In the event a change in law, whether by statute, judicial determination, or administrative action, affects this Agreement or the ability of the Parties to enter into, or continue to operate pursuant to, this Agreement, the Parties mutually agree to immediately institute a review of this Agreement. The Parties agree to negotiate in good faith to address any necessary modifications to this Agreement, to the extent permitted by applicable law.

**Section 8 – Personnel**

The Parties each agree to maintain control over their respective personnel, and this Agreement shall not be construed to alter the employment relationship each Party has with its respective personnel. Each Party shall be responsible for the compensation, benefits, and liabilities of its respective personnel and hereby agrees to release the other Party from any responsibility therefor. In no event shall County's employees be considered employees of the Board within the meaning or application of any federal, state or local laws or regulations and vice versa.

**Section 9 – Equipment and Facilities**

Each Party to this Agreement shall be responsible for providing its own equipment and facilities. In no way shall this Agreement be construed to require the sale or donation of equipment under the ownership and control of either Party of this Agreement.

**Section 10 – Insurance and Liability**

Each Party shall, for the life of this Agreement, maintain comprehensive general liability insurance coverage, with minimum limits in the amount of \$1,000,000.00 each occurrence or equivalent and \$2,000,000.00 in the aggregate, and shall cause the other Party to be named as an additional insured on any applicable insurance policies.

The Board acknowledges that there is a risk of disruption of service to its IT equipment and service due to damage to the fiber optic cable and other equipment or system failures beyond the control of the County. As a condition of this Agreement, the Board agrees to release the County from any liability or costs due to such disruption of service. Otherwise, the Parties acknowledge that they are political subdivisions of the State of Ohio and lack the authority to indemnify and therefore, each Party agrees to be responsible for the negligent acts of its respective employees, agents, and volunteers.

**Section 11 – Miscellaneous Terms & Conditions**

- 11.1 Entire Agreement:** This Agreement shall constitute the entire understanding and agreement between the Parties and shall supersede all prior understandings and agreements relating to the subject matter hereof. This Agreement shall not be assigned.
- 11.2 Governing Law and Disputes:** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. The Parties shall make good faith efforts to directly negotiate any disputes arising from this Agreement. If direct negotiations shall fail, the Parties agree to mediate the dispute with a mediator chosen by agreement between the Parties. If mediation shall fail, any and all legal disputes arising from this Agreement may only be filed in and heard before the courts of Delaware County, Ohio.
- 11.3 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.
- 11.4 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.
- 11.5 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 in full force and effect.

**EXHIBIT A**

Provision by County of general IT services required for Board business including but not limited to:

1. Provision of dedicated file server for Board applications and data files
2. Provision of Board email system on the existing County email server (Board will pay for licenses)

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3. Provision of antivirus software (Board will pay for licenses)
4. Provision of a 400Mb shared Internet connection with the County
5. Provision of support of Extreme Network switches at each location
6. Provision of dedicated desktop support for Board users
7. The Board shall seek prior approval of the County Chief Technology Officer for any projects outside of Exhibit A, including but not limited to custom programming, prior to engaging IT staff.

**EXHIBIT B**

Name	hourly rate	hours worked	Total	OPERS	Medicare	Health ins	Wcomp	Total empr cost
Nick Hartsock	20.67	1	\$ 20.67	\$ 2.89	\$ 0.30	\$ -	\$ 0.21	\$ 3.40
Paul Winters	20	1	\$ 20.00	\$ 2.80	\$ 0.29	\$ -	\$ 0.20	\$ 3.29
Montgomery Jason	33.04	1	\$ 33.04	\$ 4.63	\$ 0.48	\$ 11.33	\$ 0.33	\$ 16.77
Calvin Lawson	17.89	1	\$ 17.89	\$ 2.50	\$ 0.26	\$ -	\$ 0.18	\$ 2.94
Mike Massaro	23.77	1	\$ 23.77	\$ 3.33	\$ 0.34	\$ 3.78	\$ 0.24	\$ 7.69
Curry Hoffman	32.19	1	\$ 32.19	\$ 4.51	\$ 0.47	\$ 3.78	\$ 0.32	\$ 9.08
Ron Clayton	27.71	1	\$ 27.71	\$ 3.88	\$ 0.40	\$ 11.33	\$ 0.28	\$ 15.89

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

**11**

**RESOLUTION NO. 19-618**

**IN THE MATTER OF CERTIFYING AND AUTHORIZING THE ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING:**

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

WHEREAS, on February 21, 2019, the Delaware County Board of Commissioners (the “Board”) adopted Resolution No. 19-145, making request to the Ohio Development Services Agency (ODSA) for the use of Delaware County’s economic development revolving loan fund (ED RLF) for an analysis of impediments to fair housing and entering into an intergovernmental agreement between the Board and the City of Delaware; and

WHEREAS, on March 7, 2019, the Board adopted Resolution No. 19-199, certifying and authorizing the environmental review record and authorizing the request for release of funds (RROF); and

WHEREAS, on June 17, 2019, the Board adopted Resolution No. 19-575 approving an agreement with Poggemeyer Design Group to provide professional planning services for the preparation of the PY2019 Analysis of Impediments to Fair Housing for Delaware County and the City of Delaware;

WHEREAS, the Economic Development Coordinator recommends the Board approve the PY2019 Analysis of Impediments to Fair Housing.

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

Section 1: The Board hereby approves the PY2019 Analysis of Impediments to Fair Housing:

Section 2. The Economic Development Coordinator is hereby directed to forward this resolution and supporting documents to the Office of Community Development, Ohio Development Services Agency.

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

**12**

**RESOLUTION NO. 19-619**

**IN THE MATTER OF DENYING THE PETITION TO IMPROVE AND CONNECT TO PUBLIC SANITARY FACILITY AND APPORTION COSTS FOR THE IMPROVEMENTS FILED BY ANNE BRANDYBERRY AND OTHERS FOR THE RIVERBY SUBDIVISION:**

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

WHEREAS, on March 22, 2019, the Delaware County Board of Commissioners (the “Board”) received a Petition to Improve and Connect to Public Sanitary Facility and Apportion Costs for the Improvements, filed by Anne Brandyberry and others for the Riverby Subdivision (the “Petition”); and

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WHEREAS, the Petition was filed pursuant to section 6117.28 of the Revised Code, which states that the owners of all the lots and lands to be assessed for any sanitary or drainage facility improvement may file a petition requesting such improvement and assessment and waiving all legal notices otherwise required; and

WHEREAS, the Petition that was filed, while being signed by a majority of the owners of the lots and lands to be assessed, was not signed by one hundred percent of the owners;

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

Section 1. The Board hereby denies the Petition because it fails to meet the requirements of section 6117.28 of the Revised Code.

Section 2. This Resolution shall take effect immediately upon adoption.

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

**13**

**RESOLUTION NO. 19-620**

**IN THE MATTER OF GIVING NOTICE OF THE PROPOSED DETERMINATION OF THE NECESSITY OF SANITARY SEWER IMPROVEMENTS FOR THE RIVERBY SUBDIVISION:**

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

WHEREAS, on March 22, 2019, the Delaware County Board of Commissioners (the "Board") received a Petition to Improve and Connect to Public Sanitary Facility and Apportion Costs for the Improvements, filed by Anne Brandyberry and others for the Riverby Subdivision (the "Petition"); and

WHEREAS, on June 27, 2019, the Board denied the Petition because it failed to meet the requirements of section 6117.28 of the Revised Code; and

WHEREAS, despite denial of the Petition, the Board is prepared, pursuant to section 6117.251 of the Revised Code, to determine by resolution that it is necessary to provide the sanitary facility improvements requested in the Petition; and

WHEREAS, in order to proceed with the determination, the Board shall first give notice of its pendency and of the proposed determination of the necessity of the improvements, setting forth a description of the properties to be benefited by the improvements and the time and place of a hearing of objections to and endorsements of the improvements;

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

Section 1. The Board hereby fixes **Thursday July 18, 2019 at 1:00P.M.**, at the Commissioners Hearing Room, 101 North Sandusky Street, Delaware, Ohio, as the time and place for hearing on the proposed improvements.

Section 2. The Board hereby directs the Clerk to give notice of the hearing by publication in the Delaware Gazette once a week for two consecutive weeks and by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, the first publication to be made and the mailing to occur at least two weeks prior to the date set for the hearing. At the hearing, the Board shall hear all persons whose properties are proposed to be assessed and the evidence it considers to be necessary. The Board then shall determine the necessity of the proposed improvements and whether the improvements shall be made by the Board and, if they are to be made, shall direct the preparation of tentative assessments upon the benefited properties and by whom they shall be prepared.

Section 3. This Resolution shall take effect immediately upon adoption.

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

**RESOLUTION NO. 19-620 WAS NOT UTILIZED**

**15**

**RESOLUTION NO. 19-621**

**IN THE MATTER OF APPROVING A SERVICES AGREEMENT WITH POWER SOLUTIONS GROUP LTD FOR DELAWARE COUNTY ARC FLASH:**

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

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WHEREAS, the Director of Safety and Security recommends approval of the Agreement by and between the Delaware County Board of Commissioners and Power Solutions Group LTD for Delaware County Arc Flash;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Agreement with Power Solutions Group LTD for Delaware County Arc Flash:

**PSG Proposal:** 2019-3243 Delaware County -

Attention: Brian Galligher

**SCOPE:** Delaware County Arc Flash

**Part A. System Data**

Power Solutions Group shall provide an updated one-line diagram as required by NFPA 70E, 2015, and as referenced in OSHA 29 CFR 1910 Subpart S, Appendix A. Information to include nameplate data for electrical components (e.g. transformers, medium voltage switchgear, panelboards, switchboards, motor control centers, etc.) for all portions of the electrical system from the utility demarcation point to the lowest rated panelboard.

Cable sizes, types and lengths between electrical equipment components and up to date utility source data will be necessary to provide an accurate single-line representation of the electrical system. Unique characteristics of the equipment installation will need to be provided which may impact the magnitude of the potential hazard (e.g. open space versus enclosed). Overcurrent device settings will also need to be verified. Data and verifications necessary to provide an accurate arc flash analysis will either be collected by **Power Solutions Group Ltd.** or provided to them by the customer. Please see detail in quote items below as to who is responsible for the data collection.

**Part B. System Analysis**

A comprehensive analysis of Delaware County electrical system will be performed for all equipment 50VAC and higher based on the up to date single-line diagram provided from "Section A". The analysis will include the following:

1. Short Circuit Study – A short circuit analysis will be performed in accordance with ANSI standard C37 and IEEE standard 141-1993 (Red Book) for each electrical component as defined in "Section A".
  2. Coordination Study – A coordination study will be performed in accordance with IEEE 242- 2001 "Buff" to determine the proper overcurrent device settings that will balance system reliability through selective coordination while minimizing the magnitude of an electrical arc flash hazard incident.
- Incident Energy Study – An incident energy study will be done in accordance with the IEEE 1584-2015a in order to quantify the hazard for selection of personal protective equipment

Tables that assume fault current levels and clearing time for proper PPE selection will NOT be used. Power Solutions Group Ltd. will assist in selecting appropriate combination of PPE prior to the final analysis and preparation of equipment labels.

**Part C. Design Review**

Power Solutions Group Ltd. can offer a quotation to assist Delaware County with system design adjustments to optimize the results of the study as it relates to safety and reliable electrical system operation (e.g. overcurrent device settings, working distances, current limiting devices). This includes mitigation, where possible, of incident energy using alternate breaker settings or recommending different protection devices. A qualified professional engineer with power systems design experience will provide this assistance.

**Part D. Study Report**

Power Solutions Group Ltd. will supply a comprehensive report that includes:

1. Report summary with analysis methodology, findings and recommendations
2. Summary of input data for utility source, equipment and cables
3. Available fault current at each equipment location with comparison to equipment rating
4. Overcurrent device settings (e.g. pick-up, time delay, curve), "as found" and "potential system problems"
5. Incident energy level for each equipment location and recommended PPE
6. Overcurrent device coordination curves including related section of the single-line diagram for the system analyzed.
7. Complete system single-line diagram for any items included in the scope of the study

**Part E. Labels**

Based on the results of the incident energy study, Power Solutions Group Ltd. will produce and install industrial grade vinyl warning labels with the following information:

1. Flash Hazard Boundary
2. Incident Energy
3. PPE Level
4. Voltage Level
5. Glove Class
6. Limited Approach
7. Restricted Approach

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- 8. Buss/Equipment Name
- 9. Upstream Device Name
- 10. Install Date and Expiration Date
- 11. PSG Logo and contact information

**Part F. Policy Development and Safety Training**

- 1. Develop custom Delaware County Electrical Safety Program.
- 2. Perform (1) On-site NFPA 70E 4-hour training course (max 35 people/class) and safety certification for maintenance staff and supervisors. Each participant who passes test after course will receive a certificate for proof of electrical safety training.
  - Aid in the understanding and recognition of electrical workplace hazards
  - Understand what arc-flash labeling on equipment means and how to select proper PPE to meet the task-at-hand
  - Low voltage qualification of selected staff to work on or near energized electrical equipment utilizing proper PPE
- 3. Aid in selection of proper PPE for compliance with new Delaware County electrical safety policy in coordination with NFPA 70E and OSHA requirements.
- 4. Assist in development of “hot work permits” for use by Delaware County facilities and outside contractors when performing work on or near energized electrical equipment.

Notes: Proposal reflects work to be completed during the week during normal business hours.

QTY	Equipment	Asset ID	Test
1	Acr Flash	Acr Flash Report	Large Report
500	Acr Flash	Data Points for Collection	Data Collection
			Labeling modeling

Proposal overall price and breakdown price are contingent on project being awarded as a whole.

Breakdown pricing below:

- Carnegie/Commissioners Building - 2,250.00
- Hayes - \$5,850.00
- Jails - \$27,814.00
- Willis Building - \$10,085.00
- EMS & Maintenance/Facilities Building - \$2,500.00
- Training - \$1,500.00

Power Solutions Group Ltd. will be happy to answer any questions or concerns at any time.

**Arc Flash Analysis of Customer Facility (Part A-E): \$49,999.00**

**Thank You for the opportunity!**

Christopher Graham

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**STANDARD TERMS AND CONDITIONS**

Power Solutions Group Ltd. ("PSG") agrees to furnish the products ("Products") and/or services ("Services") specified in this Quotation, subject to these standard terms and conditions.

**1. Offer Period.** This Quotation is valid for a period of thirty (30) days from the date this Quotation was signed by a representative of PSG.

**2. Contract.** Acceptance of this Quotation by Purchaser, or acceptance by PSG of any purchase order submitted by Purchaser, is expressly made conditional on Purchaser's assent to these standard terms and conditions and PSG agrees to furnish and install the Products and/or Services only upon these standard terms and conditions. The Quotation and those standard terms and conditions are hereinafter referred to as the "Agreement."

**3. Additional or Different Terms.** The terms and conditions set forth herein are the only terms and conditions upon which PSG shall sell and install the Products and/or Services. Additional or conflicting terms or conditions contained in any purchase order or other document furnished by Purchaser to PSG are hereby objected to by PSG, shall not be binding upon PSG, and shall not constitute a part of the parties' agreement.

**4. Payment.**

(a) Purchaser agrees to pay PSG the sum contained in this Quotation as the full purchase price for the furnishing and installation of the Products and/or Services.

(b) Payment in full shall be due and payable thirty (30) days from the date of invoice. In the event Purchaser fails to pay PSG the purchase price within thirty (30) days of the date of invoice, Purchaser shall pay PSG interest on such delinquent payment at one and one-half percent (1.5%) per month, compounded monthly, or the highest rate permitted by law.

**5. Limited Warranty.**

(a) PSG does not provide any express or limited warranty with respect to the Products. Any warranties covering the Products are provided by the manufacturer of the Products, and are not the responsibility of PSG. PSG shall provide Purchaser with a copy of the manufacturer's warranties upon completion of the installation of the Products.

(b) PSG warrants to Purchaser that any installation of the Products and provision of the Services by PSG shall be performed in a workmanlike manner according to standard industry or PSG practices. PSG's sole obligation under this warranty is the correction of any defect in the installation of the Products or provision of the Services performed by PSG which is reported to PSG within the applicable warranty period and which, upon examination by PSG, proves to be defective.

(c) The applicable warranty period, measured from the date that the installation of the Products or provision of the Services is substantially completed, shall be as set forth in this Quotation.

(d) This warranty does not cover and PSG shall not be liable for the following: (1) corrections required because of defective installation or Services performed by any person other than PSG; (2) corrections required because of misuse, abuse, negligence, alteration, accident, acts of God or tampering; or (3) charges by anyone for adjustments, repairs, or other work performed upon or in connection with the Products and/or Services which is not expressly authorized in writing in advance by PSG.

(e) No person or firm is authorized to create for PSG any other obligation or liability in connection with the Products and/or Services.

(f) **THIS WARRANTY IS PSG'S ONLY WARRANTY AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. PSG MAKES NO IMPLIED WARRANTIES OF ANY KIND, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. THIS WARRANTY, IF APPLICABLE, IS LIMITED TO THE CORRECTION OF ANY DEFECTIVE INSTALLATION OF THE EQUIPMENT OR DEFECTIVE PROVISIONS OF THE SERVICES PERFORMED BY PSG. THIS WARRANTY AND THE REMEDIES SPECIFIED HEREIN ARE THE SOLE REMEDIES OF PURCHASER, WHETHER UNDER THEORIES OF BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY.**

**6. Change in Schedule.** PSG shall perform work in substantial accordance with the schedule of Purchaser to be established at the beginning of the project. Any schedule change must be mutually agreed upon by PSG and Purchaser.

**7. Risk of Loss.** The risk of loss, theft, destruction, or damage to the Products shall pass to Purchaser upon delivery of the Products by PSG to Purchaser.

**8. Taxes.** The purchase price does not include sales, use, excise, or similar taxes. Consequently, in addition to the purchase price specified in this Quotation, the amount of any present or future sales, use, excise, or other tax applicable to the sale or use of the Products and/or Services



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sold hereunder shall be paid by Purchaser, or in lieu thereof, Purchaser shall provide PSG with a tax-exemption certificate acceptable to the taxing authorities. Purchaser shall hold PSG harmless from all such taxes.

**9. Limitation of Liability.** PSG's liability for any claim of any kind, including negligence and breach of warranty, for any loss or damage resulting from, arising out of, or connected with this Agreement, or from the performance or breach thereof, shall in no case exceed the purchase price allocable to the Products or Services which give rise to the claim. **PSG SHALL NOT BE LIABLE FOR ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, LOSS OF USE, AND COST OF COVER. PURCHASER ACKNOWLEDGES AND AGREES THAT ANY FAILURE OF THE ESSENTIAL PURPOSE OF PURCHASER'S WARRANTY SHALL NOT VOID OR OTHERWISE EFFECT THE DISCLAIMERS SET FORTH HEREIN.**

**10. Indemnity and Insurance.** PSG agrees to indemnify, defend, and hold Purchaser, its officers, directors, and employees harmless, from and against any

claims, damages, losses, and costs (including but not limited to attorney fees), including damage to property and injury to person (including death), arising out of or relating to PSG's performance of the Services. PSG shall maintain commercial general liability insurance and automobile liability insurance in sufficient amounts to protect PSG and Purchaser. Purchaser shall be additional insured in the liability policies required herein. PSG shall also maintain workers compensation insurance as required by the laws of the State of Ohio. PSG shall provide certificates of insurance for all policies required herein.

**11. Force Majeure.** PSG shall not be liable for any actions or failure to act due to causes beyond its reasonable control, or due to acts of God, acts of Purchaser, acts of civil or military authority, priorities, fires, strikes, floods, epidemics, quarantine restrictions, war, riots, delays in transportation, car shortages, and inability due to causes beyond its reasonable control to obtain necessary labor, materials, or processing facilities.

**12. Termination, Reduction in Quantity, Rescheduling Delivery.** In the event Purchaser desires to terminate any part or all of its purchase order, reduce the quantity of the Products and/or Services ordered, or reschedule the delivery or performance, fair compensation shall be made to PSG which shall take into account, among other things, expenses incurred and commitments already made by PSG, reasonable costs and expenses incurred by PSG in making settlement hereunder, and the increased costs incurred by PSG by reason of a revision in the delivery or performance schedule, and PSG's lost profit.

**13. Assignment.** Neither Party shall assign, transfer, pledge, or otherwise dispose of this Agreement or any interest herein without the prior written consent of the other Party. Any attempt to do so without prior written consent shall be void and of no effect.

**14. Remedies.** In the event of Purchaser's default of this Agreement, PSG shall have available all rights and remedies at law or in equity. No waiver by PSG of any default shall constitute a waiver by PSG of any additional or subsequent default.

**15. Statute of Limitations.** Any action by Purchaser against PSG arising out of or relating to this Agreement, or the breach or non-performance of any provision hereof, regardless of the theory upon which the action is brought, must be brought within eighteen (18) months following substantial completion of delivery of the Products or performance of the Services, as determined by PSG, or forever be barred.

**16. Entire Agreement.** All agreements and understandings of any character heretofore made between PSG and Purchaser are embodied in this Agreement, and no changes shall be made to this Agreement unless the same shall be in writing and duly signed by an authorized representative of both PSG and Purchaser. No terms or provisions contained in any purchase order submitted by Purchaser shall apply.

**17. Severability.** In the event any provision of this Agreement is held or determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions hereof shall remain in full force and effect.

**18. Governing Law.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Ohio without reference to conflict of law principles. PSG hereby submits to the exclusive jurisdiction of courts of competent jurisdiction in Delaware County, Ohio with respect to any claim or controversy arising out of or relating to this Agreement, or the breach or non-performance of any provision hereof.

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

**16**

**ADMINISTRATOR REPORTS**

Mike Frommer, County Administrator

-Attended the Ohio Water Environment Association conference this week. Two of Sanitary Engineer employees presented at the conference.

-Jeff Fishel will start on Monday, July 1, 2019 as the EMS Director.

**16**

**COMMISSIONERS' COMMITTEES REPORTS**

Commissioner Merrell

-Attended the Agricultural meeting on Tuesday at Leeds Farm.

-Attended the Faith-Based Initiative meeting yesterday.

-Tomorrow will be Bob Horrock's last day before retiring from SourcePoint.

-Dawn Huston's birthday is tomorrow. Happy Birthday!

Commissioner Benton

-The Investment Committee meeting was this morning. The interest/investment rates are on an "inverted yield curve" which means the short term rates are better than the long term.

-Regional Planning will meet tonight.

-Will be attending a CEBCO special meeting tomorrow morning.

-Ohio Wesleyan has received approval to build a new dorm on the corner of NW Park Avenue and Liberty Street.

Commissioner Lewis

-Participated as a panelist at the Faith-Based Initiative meeting yesterday. Thank you to everyone at the Governor's office (Kathleen Young, Michelle Reynolds and Tia Ramey) for putting the meeting together. Thank you to Sarah Dinovo for getting the venue and food for the guests.

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**RESOLUTION NO. 19-622**

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

It was moved by Mr. Benton, seconded by Mr. Merrell 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 appointment; employment; compensation of a public employee or public official; for pending or imminent litigation; for collective bargaining.

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

**RESOLUTION NO. 19-623**

**IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:**

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

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

There being no further business, the meeting adjourned.

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

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

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

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