

**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL JUNE 1, 2020**

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

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

**1**  
**RESOLUTION NO. 20-457**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD MAY 28, 2020:**

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on May 28, 2020; and

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

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

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

**2**  
**RESOLUTION NO. 20-458**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0529, CMAPR0601 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR0529:**

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0527, CMAPR0601, memo transfers in batch numbers MTAPR0529, and Purchase Orders as listed below:

PR Number	Vendor Name	Line Description	Line Account	Amount
R2003374	COUNTY RISK SHARING AUTHORITY	Birko closed claim	60111901 - 5370	\$8,752.86

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

**3**  
**RESOLUTION NO. 20-459**

**IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, CHRIS BRADLEY, REQUESTING ANNEXATION OF 9.435 ACRES OF LAND IN LIBERTY TOWNSHIP TO THE CITY OF POWELL:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to acknowledge that on May 21, 2020, the Clerk to the Board of Commissioners received a petition requesting annexation of 9.435 acres from Liberty Township to the City of Powell.

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

**4**  
**RESOLUTION NO. 20-460**

**IN THE MATTER OF APPROVING A SERVICES AGREEMENT WITH ANDRITZ SEPARATION, INC. FOR D4LL CENTRIFUGE SERVICE:**

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with Andritz Separation, Inc. for D4LL centrifuge service;

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

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**DIVISION OF ENVIRONMENTAL SERVICES  
REGIONAL SEWER DISTRICT  
SERVICES AGREEMENT**

This Agreement is made and entered into this 1<sup>st</sup> day of June, 2020, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and **Andritz Separation Inc.**, 1010 Commercial Blvd. S., Arlington, TX 76001 (“Contractor”), hereinafter collectively referred to as the “Parties.”

**1 SERVICES PROVIDED BY CONTRACTOR**

- 1.1 The Contractor will provide service to the D4LL centrifuge while at the Andritz Scott Depot Service Center (the “Services”). Delaware County will take the centrifuge to the service center and will pick it up when the service is done.
- 1.2 The Contractor 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 The Services are described in and shall be rendered by the Contractor in accordance with Contractor’s Proposal No. 20697348, dated May 21, 2020, which is attached hereto and, by this reference, fully incorporated herein.

**2 SUPERVISION OF SERVICES**

- 2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Sanitary Engineer (“Sanitary Engineer”) as the Project Manager and agent of the County for this Agreement.
- 2.2 The Sanitary Engineer 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 Services, 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 Contractor’s Proposal.
- 4.2 For all Services, except “If Authorized” tasks, the total fees shall be \$32,616.00.
- 4.3 For all services identified as “If Authorized” tasks, the fee for each authorized task shall be as set forth in the Contractor's Proposal. “If Authorized” tasks shall only be performed upon mutual written modification of this Agreement and written Notice from the Sanitary Engineer.
- 4.4 Total compensation under this Agreement shall not exceed \$50,000.00 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 Services.

**5 NOTICES**

- 5.1 “Notices” issued under this Agreement shall be served on the individuals 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: Marshall Yarnell

Address: 10333 Olentangy River Road, Powell, Ohio 43065

Telephone: 740-833-2228

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Email: [myarnell@co.delaware.oh.us](mailto:myarnell@co.delaware.oh.us)

Contractor: Andritz Separation Inc

Name of Principal: Matthew Stuart

Address of Firm: 1010 Commercial Blvd. S.

City, State, Zip: Arlington, TX 76001

Telephone: (817) 419-1732

Email: [Matthew.Stuart@andritz.com](mailto:Matthew.Stuart@andritz.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 Article 4 of this Agreement and the Contractor's 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 OF SERVICES, DELAYS AND EXTENSIONS**

- 7.1 The Contractor shall commence Services upon written Notice to Proceed ("Authorization") from the Sanitary Engineer and shall complete the Services in accordance with the Proposal.
- 7.2 Contractor 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 Contractor may make a written request for time extension, and the Sanitary Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

**8 CHANGE IN SCOPE OF SERVICES**

- 8.1 In the event that significant changes to the scope of Services are required during performance of the Services, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall only be effective if approved in a writing signed by both Parties.

**9 OWNERSHIP**

- 9.1 Upon completion or termination of the Agreement, the Contractor shall return any copies, if so requested, to the County of all documents or electronic files provided to Contractor by the County under this Agreement.
- 9.2 The County shall maintain ownership of said documents.
- 9.3 This section does not require unauthorized duplication of copyrighted materials.

**10 CHANGE OF KEY CONTRACTOR STAFF; ASSIGNMENT**

- 10.1 The Contractor shall immediately notify the County, in writing, of any change to key Contractor staff or subcontractors assigned to the Services as contemplated at the time of executing this Agreement.
- 10.2 The Contractor 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.

**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. To the extent permissible by law, Contractor further agrees that it will not

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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.
- 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 Services 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 Services 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 Services 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 Services 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 Services 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.

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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            Mrs. Lewis            Aye            Mr. Benton            Aye

*Other Business*

**RESOLUTION NO. 20-461**

**IN THE MATTER OF APPROVING A PROPOSAL FROM MSD ENVIRONMENTAL SERVICES, INC. FOR RENTAL OF A 1.7 METER TRAILER MOUNTED BELT PRESS:**

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

WHEREAS, the Sanitary Engineer recommends approval of a proposal from MSD Environmental Services, Inc. for rental of a 1.7 meter trailer mounted belt press;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio, hereby approves the following proposal from MSD Environmental Services, Inc.:



May 28, 2020

Jeff Hall  
Operations Superintendent  
Delaware County Regional Sewer District  
(740) 833-2226 x5102  
[jhall@co.delaware.oh.us](mailto:jhall@co.delaware.oh.us)

**RE: Proposal for Rental of a 1.7 Meter, Trailer Mounted Belt Press**

Dear Jeff,

Thank You for taking the time to go over your facility with me yesterday. It was a pleasure meeting with You and Marshall.

MSD Environmental Services, Inc. is pleased to provide you with the following quotation for the rental of a belt filter press and associated equipment for your upcoming project. Please review the following:

**Equipment Description**

The proposed press is a trailer mounted, 1.7 meter unit (2 belt unit). The following items are included with the unit:

- 1 - Reconditioned Ashbrook mobile belt press. Complete with starters & VFD's. Includes all press and pump controls.
- 1 - Venturi mixing valve with 4 point injection ring.
- 1 - Wash water booster pump.
- 1 - Positive displacement sludge feed pump maximum of 200 GPM.
- 1 - SNF emulsion polymer system with 10 GPH progressive cavity polymer pump
- 1 - Hydraulic power unit.
- 1 - 48' Curtainside trailer with office in front. Includes AC/heat unit.

**Scope of Work**

**MSD will perform/provide the following:**

- Supply unit as described
- Test run machine prior to shipment
- Start-up and training

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**Under the terms of this proposal the Customer will need to provide the following:**

1. All required electrical services – 480 volt, 3 phase, 80 amps, within 100' of unit.
2. Potable or non-potable water source for belt washing with a 2" camlock connection and water at 60 psi and flow rate of 65 gallons per minute.
3. Filtrate receiving point via gravity flow from press, capable of handling desired filtrate flow and additional filtrate hose (4" cam lock).
4. Set up, maintenance and repairs of unit, as outlined in the O&M manual.
5. Accessibility to the site for delivery, set up, teardown and operations.
6. Hoses or fittings needed that are not provided with press.
7. **Certificate of Insurance:** A certificate of Insurance providing the following:
  - a. Property coverage for the value of the rental unit and including MSD as a loss payee. Value: \$325,000
  - b. Liability coverage for no less than \$1,000,000 per occurrence for bodily injury and/or property damage and \$2,000,000 aggregate.
  - c. Cancellation provision to give 30 days notice to Certificate Holder
  - d. Certificate holder to read: MSD Environmental Services, Inc., 1000 US 127 South, Eaton, OH 45320
8. Competent operation of the unit.
9. Polymer required for optimum operation.
10. Daily cleaning of the unit after operation has ceased.
11. During this agreement the customer will be responsible for any repair costs to the equipment caused by operator negligence or other damage in excess of ordinary wear and tear. All rental equipment must be kept clean, and returned in excellent condition. Customer will be responsible for all maintenance and any cleaning charges. Customer will also be responsible to pay for any damage to the unit while in Customer's possession. Customer is responsible to pay for missing parts or items. MSD reserves the right to inspect the equipment at any time, during normal working hours.

#### Rental Pricing

**Trailer Mounted Press \$14,500.00 per month** rental cost.

(1 month minimum rental term)

Price is based on 72 hours per week of operation. Any additional hours in excess of 72 hours per week will be billed at **\$40.00 per hour** based on the reading from the hour meter on the control panel.

**Portable Conveyor is \$1,000.00 per month.**

The rental rate starts the day the unit is picked up. The rental rate stops when unit returns to our shop. It is the responsibility of the Customer to pay for pickup and delivery return transportation of the unit(s) to our Eaton, Ohio location at the conclusion of the rental period.

#### Start Up & Training

Start up and training services if needed are **\$2,300.00** for 2 days of training. Any additional on-site support is \$1,000 per day plus, travel and per diem costs.

#### Delivery

**Press Delivery** is estimated at **\$700.00**. **Press pickup and return** is estimated at **\$700.00** as well.

**Conveyor delivery** is estimated at **\$500.00**. **Pickup and return cost** is estimated at **\$500.00** as well.

#### Payment Terms

The first month's rent is due prior to delivery of the equipment. The following net invoice amounts shall be due in full within fifteen (15) days from the invoice date.

**Taxes and Other Charges:** Any use tax, sales tax, excise tax, duty, custom, or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority, on or measured by the transaction between Seller and Buyer shall be paid by Buyer in addition to the price quoted or invoiced. Buyer shall provide Seller at the time the Contract is submitted an exemption certificate or other document acceptable to the authority imposing the tax, fee or charge. **However, in the event any governmental authority subsequently requires Seller to pay any such tax, fee or charge, then Buyer shall be responsible for and shall promptly reimburse Seller for the full amount that Seller is required to pay.**

#### Equipment Availability

Currently, this unit is immediately available. As with any inventoried equipment, the unit is available on a "first come-first serve" basis. If the unit is sold prior to your purchase, MSD can provide quotes on additional equipment.

Thank you for the opportunity to extend this proposal. We would be glad to give you quotes on other units if you are interested. If you have any questions or concerns, don't hesitate to call me at 937-903-5733.



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Sincerely,  
Dave Deaton  
MSD Environmental Services, Inc.

**LIMITATION OF LIABILITY**

In no event and under no circumstances shall MSD Environmental Services, Inc. be liable to the customer for consequential, incidental, indirect, special or punitive damages, whether due to delay, breach of contract, tort (including without limitation negligence) or any other cause. In no event shall MSD Environmental Services, Inc. liability hereunder exceed the value to this contract regardless of legal theory. MSD Environmental Services, Inc. is not responsible for any accidents or injuries related to the equipment, and Customer agrees to release MSD Environmental Services, Inc. from liability for any and all accidents, injuries, losses and liabilities Customer may incur as a result thereof.

**Non Hazardous Certification**

Customer hereby certifies that none of the residuals to be provided to MSD Environmental Services, Inc. under this agreement shall constitute hazardous waste under federal, state or local law. Customer further certifies that it will not combine or mix hazardous waste with the residuals to be provided to MSD Environmental Services, Inc.

**CHOICE OF FORUM AND APPLICABLE LAW**

This Agreement shall be construed under and governed by the laws of the State of Ohio. The Customer submits and consents to the jurisdiction of the Preble County Common Pleas Court, State of Ohio as the sole and exclusive forum, court and venue to hear any lawsuit or other cause of action regarding this Agreement including, but not limited to, its enforceability, interpretation, validity, damages and issuance of restraining orders, injunctions, both temporary and permanent.

**FINDINGS FOR RECOVERY**

MSD Environmental Services, Inc., certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.

**ACCEPTANCE OF THIS PROPOSAL:**

We accept the terms and conditions of this proposal as prepared and presented to Delaware County Regional Sewer District this 1<sup>st</sup> day of June, 2020 for the following:

**Rental of an Ashbrook 1.7 Meter Trailer Mounted Belt Press**

By signing the acceptance of this proposal, the individuals warrant that they have the authority to bind the respective parties in this agreement.

MSD Environmental Services, Inc.

Delaware County Regional Sewer District

FURTHERMORE, BE IT RESOLVED that the Board of County Commissioners of Delaware County, Ohio approves a purchase order with MSD Environmental Services, Inc. in the amount of \$25,000.00 from org key 66211900-5335.

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

**RESOLUTION NO. 20-462**

**IN THE MATTER OF APPROVING GENERAL ENGINEERING SERVICES AGREEMENT 2020-1 WITH CRAWFORD, MURPHY & TILLY, INC.:**

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

WHEREAS, the County Engineer recommends approval of General Engineering Services Agreement No. 2020-1 between the Delaware County Board of Commissioners and Crawford, Murphy & Tilly, Inc.;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the following professional services agreement:

**PROFESSIONAL SERVICES AGREEMENT  
General Engineering Services**

This Agreement is made and entered into this 1<sup>st</sup> day of June, 2020, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 ("County"), and Crawford, Murphy & Tilly, Inc., 8101 North High Street, Suite 150, Columbus Ohio, 43235

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("Consultant"), hereinafter collectively referred to as the "Parties."

**1 SERVICES PROVIDED BY CONSULTANT**

- 1.1 The Consultant will provide general engineering services (the "Services") to the County.
- 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 further described in and rendered by the Consultant in accordance with the following documents, to be retained and on file with each Party, and by this reference made part of this Agreement:  
Delaware County General Engineering Services 2020-1 Scope of Services dated 2-9-2020.

**2 SUPERVISION OF SERVICES**

- 2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Engineer 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 and other documents enumerated in Section 1.3.
- 4.2 The Project Manager may authorize partial lump sum payments for itemized tasks in "If Authorized Services" with written consent of the Consultant when the Project Manager determines the necessity therefor.
- 4.3 Total compensation under this Agreement shall not exceed Three Hundred Thousand Dollars and no cents (\$300,000.00) 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 on the individuals 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 Engineer:

Name: Delaware County Engineer  
Attn: Ryan J. Mraz, Chief Deputy Design Engineer

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: 740-833-2400

Email: Rmraz@co.delaware.oh.us

Consultant:

Name of Principal in Charge: Scott A. Knebel, PE

Address of Firm: 8101 North High Street, Suite 150

City, State, Zip: Columbus, Ohio 43235



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Telephone: (614) 408-1215

Email: [sknebel@CMTeng.com](mailto:sknebel@CMTeng.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 County Engineer, and shall be based on the calculated percentage of Services 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; DELAYS AND EXTENSIONS**

- 7.1 The Consultant shall commence Services upon written Notice to Proceed ("Authorization") by the Project Manager and shall complete the Services by June 1, 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 unless and until approved in a written modification signed 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**

- 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

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destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Consultant, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

**13 INSURANCE**

- 13.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the 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 Services 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 Services under this Agreement.

**14 MISCELLANEOUS TERMS AND CONDITIONS**

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

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- 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 Services 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 Services 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 Services 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 Services 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.

Equal Opportunity and will not discriminate.

**GENERAL ENGINEERING SERVICES  
DELAWARE COUNTY ENGINEER'S OFFICE  
DELAWARE, OHIO**

**Scope of Services**

Delaware County General Eng Serv 2020-1  
Scope of Services Date: 2-9-2020  
PID No. Various

The consultant may be required to perform miscellaneous design tasks, plan review, and environmental investigations on a task order type basis. Basic services may include, but are not limited to, the following:

Roadway Design  
Plan Review  
Intersection Design  
Bridge Design  
Bridge Inspection (not including Underwater Bridge Inspection)  
Surveying Services

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Traffic Studies  
Preparation of Right of Way Descriptions/Plans  
Lighting Design  
Traffic Signal Design  
Structural Design and Review Services

All work shall be performed on an actual cost basis or by negotiated lump sum fee per task order, to be determined by the Department. The consultant shall maintain a project cost accounting system that will segregate costs for individual task orders.

The duration of the agreement will be 24 months from authorization.

The total amount of this agreement shall not exceed \$300,000.00.

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

**6**

**RESOLUTION NO. 20-463**

**IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH TEAM FISHEL FOR UTILITY COORDINATION & DUCT BANK FOR THE PROJECT KNOWN AS DEL-TR114-1.51 ~ ORANGE ROAD PHASE 2:**

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

WHEREAS, the Engineer recommends approving a Professional Services Agreement with Team Fishel for utility coordination and duct bank for the project known as DEL-TR114-1.51 ~ Orange Road Phase 2;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Professional Services Agreement with Team Fishel for the project known as DEL-TR114-1.51 ~ Orange Road Phase 2 Utility Coordination & Duct Bank:

**PROFESSIONAL SERVICES AGREEMENT  
DEL-TR114-1.51 ~ Orange Road Phase 2 Utility Coordination & Duct Bank  
Contract #E1112-UT1**

This Agreement is made and entered into this 1<sup>st</sup> day of June, 2020, by and between the **Delaware County Board of Commissioners**, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and **Team Fishel**, 1366 Dublin Road, Columbus, Ohio 43215, (“Consultant”), hereinafter collectively referred to as the “Parties”, and shall be known as the “Prime Agreement.”

**1 SERVICES PROVIDED BY CONSULTANT**

1.1 The Consultant will provide “Services” in connection with the following “Project”:  
Orange Road Phase 2 Utility Coordination & Duct Bank (DEL-TR114-1.51)

Consulting/engineering design and contracting services for the relocation of any local exchange carriers or other telecommunication entities identified as in conflict with the proposed Orange Road Phase 2 project.

1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.

1.3 Services shall be rendered by the Consultant in accordance with the following documents, to be retained and on file with each Party, and by this reference made part of this Agreement:

1.3.1 Proposal dated March 2, 2020

**2 SUPERVISION OF SERVICES**

2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Engineer 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

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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 and other documents enumerated in Section 1.3 and as follows:
- a. For all services described in the Proposal as “Utility Coordination and Consultation”, the lump sum fee shall be **\$32,914.42**.
  - b. For all services described in the Proposal as “Design Engineering Services and Right-of-Way Permitting”, the lump sum fee shall be **\$28,986.74**.
  - c. Additional services not described in the Proposal, but determined to be necessary to complete the work, will be billed at the hourly rates provided in the Proposal and as authorized by the Project Manager. Payment shall be made based on hours authorized by the Project Manager for each authorized task, the total of which shall not exceed **\$13,098.84**.
- 4.2 Total compensation under this Agreement shall not exceed **\$75,000.00** without subsequent modification by both Parties.
- 4.3 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 Engineer:

Name: Delaware County Engineer  
Attn: Joe Warner

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: 740-833-2400

Email: jwarner@co.delaware.oh.us

Consultant:

Name of Principal in Charge: Mark Blackburn

Address of Firm: 1366 Dublin Road

City, State, Zip: Columbus, Ohio 43215

Telephone: 614-274-8100

Email: mblackburn@teamfishel.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 County Engineer, and shall be based on the calculated percentage of Services 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; DELAYS AND EXTENSIONS**

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- 7.1 The Consultant shall commence Services upon written Notice to Proceed (“Authorization”) by the Project Manager.
- 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 be approved 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**

- 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 including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Consultant, its employees, agents, subcontractors, and their employees and agents’ subcontractors and their employees or any other person for whose acts any of them may be liable.

**13 INSURANCE**

- 13.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.3 Workers’ Compensation Coverage: Consultant shall maintain workers’ compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3)

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



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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 Services 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 Services 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 Services 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                      Mrs. Lewis              Aye              Mr. Merrell              Aye              Mr. Benton              Aye

**7**

**RESOLUTION NO. 20-464**

**IN THE MATTER OF AWARDING A BID AND APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND LINDSAY PRECAST FOR THE 2020 CULVERT SUPPLY BID – DELAWARE COUNTY:**

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

**2020 Culvert Supply Bid – Delaware County  
Bid Opening of May 5, 2020**

WHEREAS, as the result of the above referenced bid opening, the Engineer recommends that a bid award be made to Lindsay Precast, the only bidder for the project; and

WHEREAS, the County Engineer recommends approval of the Contract between the Delaware County Commissioners and Lindsay Precast for the project known as 2020 Culvert Supply Bid – Delaware County;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners awards the bid to and approves the contract with Lindsay Precast for the 2020 Culvert Supply Bid - Delaware County:

**CONTRACT**

THIS AGREEMENT is made this 1<sup>st</sup> day of June, 2020 by and between **Lindsay Precast, 6845 Erie Avenue, Canal Fulton, Ohio 44614**, hereinafter called the “Contractor” and the Delaware County Commissioners, hereinafter called the “Owner”.

The Contractor and the Owner for the considerations stated herein mutually agree as follows:

**ARTICLE 1. Statement of Work**

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services, and perform and complete all work required for the construction of the improvements embraced in the project named “**2020 Culvert Supply Bid – Delaware County**”, and required supplemental work for the project all in strict accordance with the Contract Documents.

**ARTICLE 2. The Contract Price**

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The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed *One Hundred Forty-Seven Thousand Thirteen Dollars and Seventy-Four Cents (\$147,013.74)* subject to additions and deductions as provided in the Contract Documents.

**ARTICLE 3. Contract**

The executed Contract Documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation to Bid
- d. Instructions to Bidders
- e. Signed copy of bid
- f. Work Specifications (including all plans, drawings, etc.)
- g. Specifications – General Provisions
- h. Federal and State Requirements

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern except as otherwise specifically stated.

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

**8**

**RESOLUTION NO. 20-465**

**IN THE MATTER OF AWARDING A BID AND APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND THE SHELLY COMPANY FOR DEL-CR21-3.85/DEL-CR72-3.45, AFRICA ROAD AND CHESHIRE ROAD WIDENING PROJECT REBID – DELAWARE COUNTY:**

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

**DEL-CR21-3.85/DEL-CR72-3.45, Africa Road and Cheshire Road Widening Project Rebid – Delaware County  
Bid Opening of May 12, 2020**

WHEREAS, as the result of the above referenced bid opening, the Engineer recommends that a bid award be made to The Shelly Company, the low bidder for the project; and

WHEREAS, the County Engineer recommends approval of the Contract between the Delaware County Commissioners and The Shelly Company for the project known as DEL-CR21-3.85/DEL-CR72-3.45, Africa Road and Cheshire Road Widening Project Rebid – Delaware County;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners awards the bid to and approves the contract with The Shelly Company for the DEL-CR21-3.85/DEL-CR72-3.45, Africa Road and Cheshire Road Widening Project Rebid – Delaware County:

**CONTRACT**

THIS AGREEMENT is made this 1<sup>st</sup> day of June, 2020 by and between **The Shelly Company, 80 Park Drive, Thornville, Ohio 43076**, hereinafter called the “Contractor” and the Delaware County Commissioners, hereinafter called the “Owner”.

The Contractor and the Owner for the considerations stated herein mutually agree as follows:

**ARTICLE 1. Statement of Work**

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services, and perform and complete all work required for the construction of the improvements embraced in the project named “**DEL-CR21-3.85/DEL-CR72-3.45, Africa Road and Cheshire Road Widening Project Rebid – Delaware County**”, and required supplemental work for the project all in strict accordance with the Contract Documents.

**ARTICLE 2. The Contract Price**

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed *Five Million Seven Hundred Forty-*

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*One Thousand Three Hundred Twelve Dollars and Seventeen Cents (\$5,741,312.17)*, subject to additions and deductions as provided in the Contract Documents.

**ARTICLE 3. Contract**

The executed Contract Documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation to Bid
- d. Instructions to Bidders
- e. Signed copy of bid
- f. Work Specifications (including all plans, drawings, etc.)
- g. Specifications – General Provisions
- h. Federal and State Requirements

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern except as otherwise specifically stated.

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

**9  
RESOLUTION NO. 20-466**

**IN THE MATTER OF APPROVING THE PLATS OF SUBDIVISION FOR WILLIAMS CAD AND ZAGHLOOL CAD:**

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

**Williams CAD**

WHEREAS, Richard W. Williams and Susan L. Williams have submitted the Plat of Subdivision (“Plat”) for Williams CAD, including related development plans (“Plans”) and requests approval thereof by the Board of Commissioners of Delaware County; and

WHEREAS, the Trenton Township Zoning Officer has reviewed said Plat and Plans for conformance with Township Zoning Regulations and approved said Plat on April 3, 2020; and

WHEREAS, the Delaware County General Health District has reviewed said Plat and Plans for conformance with its rules and regulations and approved said Plat on April 6, 2020; and

WHEREAS, Del-Co Water Company has reviewed said Plat and Plans for conformance with its rules and regulations and approved said Plat on April 6, 2020; and

WHEREAS, the Delaware County Sanitary Engineer has reviewed said Plat and Plans for conformance with the Rules, Regulations, Standards and General Procedures Governing Sewerage in Delaware County and approved said Plat on April 10, 2020; and

WHEREAS, the Delaware County Engineer has reviewed said Plat and Plans for conformance with Delaware County Engineering and Surveying Standards and approved said Plat on April 10, 2020; and

WHEREAS, the Delaware County Regional Planning Commission has reviewed said Plat and Plans for conformance with Delaware County Subdivision Regulations and approved said Plat on May 18, 2020;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the Plat of Subdivision for Williams CAD.

**Williams CAD:**

Situated in the State of Ohio, County of Delaware, Township of Trenton, and being part of Farm Lot 20, Section 4, Township 4, Range 16. Being a subdivision of 7.99 acre original parcel conveyed to Richard W. Williams and Susan L. Williams in Official Record 738, Pages 1229 through 1230 in the Delaware County Recorder’s Office. Cost: \$6.00

**Zaghlool CAD**

WHEREAS, David & Heather Zaghlool, Trustees, have submitted the Plat of Subdivision (“Plat”) for Zaghlool CAD, including related development plans (“Plans”) and requests approval thereof by the Board of

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Commissioners of Delaware County; and

WHEREAS, the Liberty Township Zoning Officer has reviewed said Plat and Plans for conformance with Township Zoning Regulations and approved said Plat on April 3, 2020; and

WHEREAS, the Delaware County General Health District has reviewed said Plat and Plans for conformance with its rules and regulations and approved said Plat on April 6, 2020; and

WHEREAS, Del-Co Water Company has reviewed said Plat and Plans for conformance with its rules and regulations and approved said Plat on April 6, 2020; and

WHEREAS, the Delaware County Sanitary Engineer has reviewed said Plat and Plans for conformance with the Rules, Regulations, Standards and General Procedures Governing Sewerage in Delaware County and approved said Plat on April 10, 2020; and

WHEREAS, the Delaware County Engineer has reviewed said Plat and Plans for conformance with Delaware County Engineering and Surveying Standards and approved said Plat on April 13, 2020; and

WHEREAS, the Delaware County Regional Planning Commission has reviewed said Plat and Plans for conformance with Delaware County Subdivision Regulations and approved said Plat on May 18, 2020;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the Plat of Subdivision for Zaghlool CAD.

**Zaghlool CAD:**

Situated in the State of Ohio, County of Delaware, Township of Liberty, and being part of Farm Lot 10, Section 3, Township 4, Range 19 USML. Being a subdivision of 14.500 acre original parcel conveyed to David & Heather Zaghlool, Trustees, in Official Record 1646, Page 2373 in the Delaware County Recorder’s Office. Cost: \$9.00

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

**10**

**RESOLUTION NO. 20-467**

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

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

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

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

<b>Permit #</b>	<b>Applicant</b>	<b>Location</b>	<b>Type of Work</b>
UT20-0083	Aspire Energy	County Line Road	Provide single customer service
UT20-0084	Spectrum	Miller Paul Road	Place cable in ROW
UT20-0085	Spectrum	N. Central Drive	Place fiber in ROW
UT20-0086	Frontier	Kilbourne Road	Place fiber on existing pole

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

**11**

**RESOLUTION NO. 20-468**

**IN THE MATTER OF APPROVING A DITCH MAINTENANCE PETITION AND DITCH MAINTENANCE ASSESSMENTS FOR OLENTANGY LOCAL SCHOOL DISTRICT NEW ELEMENTARY SCHOOL NO. 1:**

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

WHEREAS, on June 1, 2020, a Ditch Maintenance Petition for Olentangy Local School District New Elementary School No. 1 (the “Petition”) was filed with the Board of Commissioners of Delaware County (the “Board”); and

WHEREAS, the Petition sets forth the drainage improvements that have been or will be constructed within

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Olentangy Local School District New Elementary School No. 1 located off of North Road in Berlin Township; and

WHEREAS, the petitioners have requested that the drainage improvements be accepted into the Delaware County Drainage Maintenance Program and that an annual maintenance assessment be collected with the real estate taxes for the improvements in the subject lot to cover the cost of current and future maintenance of the improvements; and

WHEREAS, the petitioners represent 100% of the property owners to be assessed for maintenance related to this drainage improvement and have waived their rights to a public viewing and hearing; and

WHEREAS, based on a review of the Petition and all accompanying documents, the Board has determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program;

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

Section 1. The Board hereby grants the Petition, the Board having found and determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program.

Section 2. The Board hereby approves the maintenance assessments, in accordance with the Petition, as follows:

The cost of the drainage improvements is \$128,974.10 for the benefit of the lot(s) being created in the subject site. The developed area of 13.94 acres will receive benefits (cost) of the project on a per acre basis. The basis for calculating the assessment for each lot is therefore \$9,252.09 per acre. An annual maintenance fee equal to 2% of this basis (\$185.04) will be collected for the developed school lot. It is understood that the basis for calculating the maintenance assessment will be reviewed and possibly revised every 6 years. The first year's assessment for all of the lots in the amount of \$2,579.46 has been paid to Delaware County, receipt of which is hereby acknowledged.

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

12

**RESOLUTION NO. 20-469**

**IN THE MATTER OF APPROVING THE OWNER'S AGREEMENT FOR LIBERTY GRAND SECTION 1, PHASES A, B & C:**

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

WHEREAS, the Engineer recommends approving the Owner's Agreement for Liberty Grand Section 1, Phases A, B & C;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Owner's Agreement for Liberty Grand Section 1, Phases A, B & C:

**OWNER'S AGREEMENT**  
**PROJECT NUMBER: 9066**

**THIS AGREEMENT**, executed on this 1<sup>st</sup> day of June, 2020 between **LIBERTY GRAND, LLC**, hereinafter called '**OWNER**' and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **LIBERTY GRAND COMMUNITIES SECTION 1, PHASES A, B & C**, further identified as Project Number 9066, but not including the roadway improvements and terms addressed by the Agreement for Traffic Improvements Associated with the Liberty Grand Communities Development as approved by the **COUNTY COMMISSIONERS** with Resolution No. 20-337 passed April 9, 2020, is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

**OPTIONS:**

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.



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**OWNER** hereby elects to use Option 2 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

**All public improvement construction** shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** further agrees that any violations of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **COUNTY** shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **SIXTY THOUSAND DOLLARS (\$60,000)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

**Upon completion of construction**, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

**Acceptance of the project** into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

**Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer** during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**.

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within Delaware County and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County**.

**Should the OWNER become unable to carry out the provisions of this AGREEMENT**, the **OWNER'S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.

**In consideration whereof**, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants the **OWNER** or his agent, the right and privilege to make the improvements stipulated herein.

**EXHIBIT "A"**

CONSTRUCTION COST ESTIMATE	\$5,623,200
CONSTRUCTION BOND AMOUNT	\$ N/A
MAINTENANCE BOND AMOUNT	\$ 562,300
INSPECTION FEE DEPOSIT	\$ 60,000

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

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**RESOLUTION NO. 20-470**

**IN THE MATTER OF DECLARING NECESSITY TO IMPROVE TOWNSHIP ROAD NUMBER 119, "OLD" SAWMILL PARKWAY, AND APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH STRAND ASSOCIATES, INC., FOR THE PROJECT KNOWN AS DEL-TR119-0.54 ~ "OLD" SAWMILL PARKWAY & PRESIDENTIAL ROUNDABOUT:**

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

WHEREAS, section 5555.022 of the Revised Code provides that a board of county commissioners may find by a majority vote that the public convenience and welfare require the improving of any part of any public road, may fix the route and termini of the improvement and may authorize such improvement; and

WHEREAS, the County Engineer has determined that Township Road Number 119, "Old" Sawmill Parkway at Presidential, requires improvements to include construction of a single lane modern roundabout and resurfacing and re-striping of Presidential Parkway (the "Improvement"); and

WHEREAS, section 305.15 of the Revised Code provides that when the services of an engineer are required with respect to roads, turnpikes, ditches, bridges, or any other matter, a board of county commissioners may enter into contracts with any person, firm, partnership, association, or corporation qualified to perform engineering services in the state; and

WHEREAS, the County Engineer has selected Strand Associates, Inc., through a qualifications based selection process, has negotiated a scope and fee for the required engineering services, and recommends entering into an agreement for said engineering services associated with the Improvement;

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

Section 1. The Improvement is required for the safety and welfare of the traveling public.

Section 2: The costs for the Improvement will be paid for from any funds appropriated for road and bridge construction, and no special levies or assessments shall be made to pay for the Improvement.

Section 3: The following agreement is approved for the providing of services for the Improvement:

**PROFESSIONAL SERVICES AGREEMENT  
DEL-TR 119-0.56 ~ "Old" Sawmill & Presidential Roundabout**

This Agreement is made and entered into this 1<sup>st</sup> day of June, 2020, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 ("County"), and Strand Associates, Inc., 4433 Professional Parkway, Columbus, Ohio 43215 ("Consultant"), hereinafter collectively referred to as the "Parties", and shall be known as the "Agreement."

**1 SERVICES PROVIDED BY CONSULTANT**

1.1 The Consultant will provide Services in connection with the following "Project":  
DEL-TR 119-0.56 ~ "Old" Sawmill & Presidential Roundabout PID# 111806

Construction of a single lane modern roundabout and resurfacing and re-striping of Presidential Parkway in conformance with the Safety Study and the Conceptual Plan. Services include preparation of construction and right of way plans.

1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.

1.3 Services are defined in and shall be rendered by the Consultant in accordance with the following documents, by this reference made part of this Agreement:  
Scope of Services and Price Proposal May 15, 2020

**2 SUPERVISION OF SERVICES**

2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Engineer 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**



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- 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 Scope of Services and Price Proposal noted in Section 1.3.
- 4.2 For all services described in the Scope of Services and Price Proposal, the total fee shall be \$229,024.09, which amount shall not be exceeded without subsequent modification.
- 4.3 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: Delaware County Engineer  
Attn: Ryan J. Mraz (Chief Deputy Design Engineer)

Address: 50 Channing Street, Delaware, OH 43015

Telephone: (740) 833-2400

Email: Rmraz@co.delaware.oh.us

Consultant:

Name of Principal in Charge: James D. Hise, P.E.

Address of Firm: 4433 Professional Parkway

City, State, Zip: Columbus, Ohio 43215

Telephone: (614) 815-0460, Ext. 5018

Email: james.hise@strand.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") by the Project Manager and shall complete the Services in a timely manner.
- 7.2 Consultant shall not proceed with any "If Authorized" tasks without written Authorization.

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- 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 be approved 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**

- 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 including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Consultant, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

**13 INSURANCE**

- 13.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3)

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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 Services 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 Services under this Agreement.

**14 MISCELLANEOUS TERMS AND CONDITIONS**

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

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representatives, agents, and/or volunteers performing Services 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 Services 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 Services 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 Services 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 Services 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                      Mrs. Lewis              Aye              Mr. Merrell              Aye              Mr. Benton              Aye

**14**

**ADMINISTRATOR REPORTS**

Mike Frommer, County Administrator

-The meeting restriction remain in place until July 1, 2020.

**15**

**COMMISSIONERS' COMMITTEES REPORTS**

Commissioner Merrell

-No reports.

Commissioner Lewis

-Read a statement thanking local jurisdiction police forces and about the peaceful protest in Delaware for George Floyd's death.

-May marked the five year anniversary for the Stepping Up program in Delaware County.

Commissioner Benton

-Attended the virtual Regional Planning meeting Thursday evening.

**16**

**RESOLUTION NO. 20-471**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL; TO CONSIDER THE SALE OF PROPERTY AT COMPETITIVE BIDDING; FOR PENDING OR IMMINENT LITIGATION:**

It was moved by Mrs. Lewis, 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:

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Section 1. The Board hereby adjourns into executive session for consideration of appointment of a public employee or public official; to consider the sale of property at competitive bidding; for pending or imminent litigation.

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

**RESOLUTION NO. 20-472**

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

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

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

There being no further business, the meeting adjourned.

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

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

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

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