

**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020**

**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**

**Absent:**  
**Barb Lewis, Commissioner**

**1**  
**RESOLUTION NO. 20-902**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD OCTOBER 12, 2020:**

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on October 12, 2020; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

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

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

**2**  
**RESOLUTION NO. 20-903**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1014 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR1014:**

It was moved by Mr. Merrell, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1014, memo transfers in batch numbers MTAPR1014 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO' Increase</b>			
EPS (P2000055) line 3	Facilities Solid Waste Services	10011105-5320	\$5,732.00
Facilities Department	Vehicle Repairs Regional Sewer	66211900-5328	\$6,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Line Account</u>	<u>Amount</u>
R2004489	BUCKEYE RANCH INC	FCFC MSY YOUTH PLACEMENT	70161605 - 5342	\$24,508.80

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

**3**  
**RESOLUTION NO. 20-904**

**IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, PORTER R. WELCH, ATTORNEY-AT-LAW, REQUESTING ANNEXATION OF 0.803ACRES OF LAND IN BERKSHIRE TOWNSHIP TO THE VILLAGE OF SUNBURY:**

It was moved by Mr. Merrell, seconded by Mr. Benton to acknowledge that on October 6, 2020, the Clerk to the Board of Commissioners received a petition requesting annexation of 0.803 acres from Berkshire Township to the Village of Sunbury.

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

**4**  
**RESOLUTION NO. 20-905**

**IN THE MATTER OF APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN**

**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020**

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**DELAWARE-MORROW MENTAL HEALTH & RECOVERY SERVICES BOARD AND  
THE COURT OF COMMON PLEAS, DELAWARE COUNTY, OHIO FOR SPECIALIZED DOCKET  
SUBSIDY PROJECT (FY2021):**

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

WHEREAS, the Court of Common Pleas General Division and the Court of Courts Juvenile Division recommend the Memorandum of Understanding between Delaware-Morrow Mental Health & Recovery Services Board and the Court of Common Pleas, Delaware County, Ohio Specialized Docket Subsidy Project FY2021;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners approves the following Memorandum of Understanding between Delaware-Morrow Mental Health & Recovery Services Board and the Court of Common Pleas, Delaware County:

**MEMORANDUM OF UNDERSTANDING BETWEEN DELAWARE-MORROW MENTAL  
HEALTH & RECOVERY SERVICES BOARD AND  
THE COURT OF COMMON PLEAS, DELAWARE COUNTY, OHIO SPECIALIZED DOCKET  
SUBSIDY PROJECT  
FY2021**

**Background:**

The Ohio Department of Mental Health and Addiction Services ("OhioMHAS") has created the Specialized Dockets Subsidy Project (the "Project") to assist drug courts and other specialized dockets with funding to effectively manage addicted offenders in the community and to assist courts with their payroll costs for specialized court docket staff. Specialized dockets that target addicted parents charged with abuse/neglect/dependency of their minor children are also eligible for funding from OhioMHAS.

The intent of the Project is to reduce commitments to the state prison system and to reduce the number of children who are permanently removed from their homes and instead to increase the number of children who can remain in their homes with protective supervision. The Court of Common Pleas, Delaware County, Ohio, General Division, (Drug Court and Mental Health Court) and the Court of Common Pleas, Juvenile Division, (Family Drug Court), (collectively, "the Court") are eligible for funding under the Project. The Delaware-Morrow Mental Health & Recovery Services Board ("Board") will receive funding for the Project from the OhioMHAS via State General Revenue Fund #336425 and will be responsible for distributing funding to the participating Court on the basis of criteria adopted by OhioMHAS.

The parties to this Memorandum of Understanding ("MOU") wish to set forth their mutual understandings and respective obligations with respect to the Project.

**Therefore, Board and the Court of Common Pleas agree as follows:**

**1. Precondition to Receipt of Funding - Certification as Specialized Court Dockets.**

As a condition to receiving grant funding from Board, the Court (General Division and Juvenile Division) agree that each respective court docket will maintain certification as a specialized docket from the Supreme Court of Ohio during the term of this MOU.

**2. Common Pleas Court Obligations.**

- a. The Court will comply with all requirements established by the OhioMHAS for the receipt of Project funding.
- b. The Court will request funding from Board for "allowable expenses" as defined by OhioMHAS, on "Specialized Dockets Subsidy Project- Allowable Expenses", form attached hereto as Exhibit "A". For expenses other than payroll costs, funds can only be used for individuals who are under the jurisdiction of the court and have been admitted to the specialized docket, with the exception that funds may be used for diagnostic testing to determine program eligibility.
- c. If funds are to be used to pay for clinical services, including medication-assisted treatment (MAT), such services must be provided by agencies certified by OhioMHAS or have deemed status. Court may inquire of Board if any agency meets these criteria.
- d. The Court is required to furnish a mid-year (7/1/20 to 12/31/20) report due 1/31/2021 and a year-end (1/1/21 to 6/30/21) report due 7/31/2021, to OhioMHAS utilizing the Specialized Dockets Subsidy Project Report form attached hereto as Exhibit "B". Separate reports are due for each specialized docket, (Adult Drug, Mental Health and Family Drug). Copies of

**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020**

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each report shall be submitted by Court to Board following submission to OhioMHAS.

- e. The Court will submit an invoice to Board for the total reimbursement amount allowed by OhioMHAS for each specialized docket. OhioMHAS has made available \$90,000 to the Court; being \$30,000 for support of each of three specialized dockets.
- f. Based upon the invoice submitted by the Court to the Board pursuant to Sec. 2(e) of this MOU, direct payment of the amount received by the Court from the Board pursuant to such invoice, divided into equal shares for each of the Court's specialized dockets named in this MOU, shall be made by memo transfer to each of such specialized dockets.
- g. Questions regarding allowable expenses, reporting process and grant amounts should be directed to OhioMHAS.

**3. Board Obligations.**

- a. Board will draw-down funds once available for Project from OhioMHAS and will notify Court that funds are being processed.
- b. Board will make payment to the respective Court Division for the applicable docket expenses after funds are received from OhioMHAS.
- c. Board will not be responsible for any payments under this MOU other than amounts made available to Board by OhioMHAS for payment to the Court under the Project.

**4. Memorandum Term.**

This MOU shall be effective on the date the last party signs this MOU, with services retroactive to July 1, 2020, and shall continue until June 30, 2021.

**5. Information and Audits.**

Both parties shall retain all documentation and public records pursuant to the laws of the State of Ohio related to the provision of funding under this MOU and make such documentation available to the other party upon request as necessary for the requesting party to fulfill its administrative and legal requirements.

**6. Relationship of the Parties.**

The parties are fully autonomous and neither party is an agent, representative, employee or partner of the other. This MOU shall not be interpreted or construed to create an association, agency, employment, joint venture or partnership between the parties or to impose any liability attributable to such a relationship upon either party.

**7. Compliance with Legal Requirements.**

The parties agree to perform their respective obligations under this MOU in accordance with all applicable federal, state and local laws and requirements.

**8. Entire Agreement.**

It is acknowledged by the parties that this MOU represents the entire agreement between the parties and supersedes any and all previous written or oral agreements between the parties concerning the subject matter of this MOU.

**9. Amendment.**

No change, amendment or modification of any provision of this MOU shall be valid unless set forth in a written instrument and signed by the parties.

The undersigned agree to this MOU evidenced by the signatures of their duly authorized representatives.

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

**5  
RESOLUTION NO. 20-906**

**IN THE MATTER OF APPROVING AND ADDENDUM TO THE CONSULTING AGREEMENT  
WITH CELL SITE CAPITAL, LLC:**

**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020**

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

WHEREAS, the Board of Delaware County Commissioners approved a consulting agreement with Cell Site Capital, LLC, per Resolution No. 18-1324; and

WHEREAS, the Delaware County Economic Development Director recommends approving an addendum to the consulting agreement with Cell Site Capital, LLC;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners approves the following addendum to the consulting agreement with Cell Site Capital, LLC:

**WIRELESS MARKETING ADDENDUM TO CONSULTING AGREEMENT**

This Wireless Marketing Addendum ("WMA") to the Consulting Agreement dated November 29, 2018, is made and entered into on October 15, 2020 (the "Effective Date") by and between the Delaware County Board of Commissioners ("Client") and Cell Site Capital, LLC, an Ohio limited liability company ("CSC") (each a "Party" and collectively the "Parties"), with reference to the following background information, which the Parties agree are true and correct to the best of their knowledge and belief:

**BACKGROUND:**

- A. Client has certain real property interests in fee simple ("Client Property"), with and without improvements, that may be attractive to certain wireless service providers ("Wireless Service Providers" as defined below) in further developing for new technology and gigabit connectivity.
- B. For reasons of aesthetics, economic fairness to its citizens, life safety, and improved voice and data communications for the entire community, Client desires to work with CSC as an independent contractor to help it seek and evaluate proposals from these Wireless Service Providers.
- C. CSC desires to work with Client to optimize use of Client Property and Client Rights of Way to improve both the quality of life and business competitiveness of Client to retain and recruit employers.
- D. Client desires to work with CSC to increase technology and gigabit connectivity in Delaware County and maximize the amount of revenue received from Wireless Service Providers.

**NOW, THEREFORE**, in consideration of the foregoing background recitals, which are incorporated into the operative provisions of this WMA by this reference, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**1. Term.** This WMA shall be effective on the date it is executed by all Parties and shall run concurrent with the Consulting Agreement, of which this WMA is made a part ("**WMA Term**"), provided, however, that with regard to any revenue streams generated from Client Property beyond the WMA Term, CSC's right to receive compensation under Section 4 hereof with regard to CSC Marketed Sites (as defined in Section 4) shall continue for so long as such sites were generating revenue streams, whether under the original term generated by CSC or any extensions or renewals.

**2. Scope and Nature of Services.** CSC shall provide the services described in this section ("**Services**") to identify potential third-party wireless companies who may wish to negotiate an agreement with the Client to use or lease Client assets, including but not limited to tower(s), pole(s), building(s), fiber, conduit(s), data room(s), street furniture, and any structure(s) or object(s) of any kind or character not otherwise particularly mentioned herein ("**Client Assets**"). CSC shall develop a wireless plan to promote Client Property and as locations for wireless voice and data communication equipment ("**Wireless Telecommunications Facilities**"), but CSC shall have no right to locate any such Wireless Telecommunication Facilities for itself or for any third party unless and until a separate third party agreement is entered in writing with the Client. In its sole discretion, Client shall identify or ask CSC to identify a list ("**Asset List**") of Client Assets to be included in services provided by CSC. Client may elect to add or remove one or more assets from the Asset List at any time by notifying CSC in writing. Subject to Section 4 on Compensation:

**a. Consulting Services.** CSC shall provide Client the following consulting services at no up-front cost to Client: (i) identify key areas of multiple wireless broadband service provider coverage needs ("**Coverage Needs**"), (ii) identify available Client Assets that would satisfy or partially satisfy Coverage Needs. For the duration of the Term, CSC shall also provide, on written request, a written update summarizing technology changes, financial gains and provider plans, and other consultation specific to Wireless Service Providers.

**b. Marketing Services.** At no up-front cost to Client, CSC shall market the Approved Client Assets to wireless carriers, cable companies, internet service providers (ISPs), street light providers, and Internet of Things (IoT) companies, ("**Wireless Service Providers**") to obtain their feedback and interest in locating and/or collocating on any existing and/or proposed site(s). Client grants CSC the exclusive right to market Client Assets for the development of Wireless Telecommunications Facilities. Notwithstanding the foregoing sentence, no provision of this Addendum shall be interpreted to prohibit the Client or its employees from directly marketing Client Assets for the

**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020**

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development of Wireless Telecommunications Facilities or any other purpose. CSC shall market the Approved Asset List to all Wireless Service Providers equally, and without any discrimination and/or favoritism between Wireless Service Providers, with a goal of ensuring that residents, visitors, and businesses within Client's properties receive the maximum benefit of all available services from all existing Wireless Service Providers.

**c: Construction Management.** During the WMA Term, CSC may recommend that Client make Client Assets available for the installation of Wireless Telecommunications Facilities. Client may, in its sole discretion, accept the recommendation from CSC and enter into negotiations with a land reutilization corporation, community improvement corporation, port authority, or other similar entity (collectively referred to herein as a "**Partner Agency**") to facilitate the construction, installation, and financing of the Wireless Telecommunications Facilities. CSC shall, upon Client's request, assist Client in any negotiation with a Partner Agency, and CSC shall be permitted to contract with a Partner Agency to construct, or serve as construction manager for the construction of, any Wireless Telecommunications Facilities subject to an agreement entered into by and between Client and a Partner Agency.

**d. Exclusions.**

- i. This WMA shall not require or allow CSC to market, license, sublicense, place easements and/or construct Wireless Telecommunications Facilities on Client Assets that are not on the Asset List.
- ii. This WMA shall not require or allow the provision of Services by CSC for facilities licensed to any municipal, county, district, agency, state or Federal government for stations designated for Homeland Security or Law Enforcement communications or the necessary assets to support such facilities ("**Excluded Services**"). This WMA shall not limit, control, or govern the provision of the Excluded Services by Client.
- iii. The Client shall have the exclusive right, in its sole discretion, to determine whether to enter into, continue, amend, renew, suspend, not renew, or terminate any lease, license, right of use, or any other agreement with Wireless Service Providers as contemplated in this WMA.

**3. Right of Entry Agreement.** CSC shall have the right to analyze the suitability of the Client Property designated by Client for the intended use. Client and CSC shall enter into a Right of Entry Agreement for CSC and its employees, agents, contractors, engineers, and surveyors to have the right to enter upon Client Property, upon reasonable written notice to Client, to inspect, conduct, perform and examine soil borings, drainage testing, material sampling, surveys and other geological or engineering tests or studies of Client Property and to do those things on or off the designated Client Property that are necessary to determine the physical condition of designated Client Property, the environmental history of the designated Client Property, and the feasibility or suitability of the designated Client Property ("**Due Diligence Investigation**"). Activities conducted in connection with CSC's Due Diligence Investigation shall be at the sole expense and cost of CSC or entity wanting to locate on Client Property for Wireless Telecommunication Facilities. The Right of Entry Agreement shall grant CSC access to the designated Client Property for a defined and specific period of time as set forth in the Right of Entry Agreement.

**4. Compensation.** CSC shall be entitled to the following compensation for **CSC Marketed Sites**. For CSC Marketed Sites, Client shall be entitled to seventy percent (70%) of gross payments that are received by the Client from licensees on new Wireless Telecommunications Facilities that are on Client Assets successfully marketed by CSC pursuant to this WMA, and CSC shall be entitled to the remaining thirty percent (30%). On these CSC Marketed Sites, the Parties agree and acknowledge that CSC's services are limited to managing relationships with Wireless Service Providers as end users paying to locate Wireless Telecommunication Facilities. CSC shall be under no obligation or responsibility to install, construct, upgrade, maintain, refurbish or take any other action with regard to any real property improvements, fixtures or other tangible property.

**a. Fees for Lease Buyout Deals.**

In the event Client sells, assigns, sets over, conveys and transfers, to a third party, its rights title and interest in a Lease or License agreement previously procured by CSC, then CSC shall be entitled to thirty (30%) percent of the gross receipts of the transaction as paid to and when received by the Client, whether one lump sum at the time of closing and/or installments post- closing.

**5. Construction, Engineering, and Other Costs.** Client shall have no financial responsibility for planning, construction, and engineering costs associated with the implementation of this WMA. CSC may recover from Wireless Service Providers construction costs, installation costs, utilities, or other expenses incurred by CSC, to the extent said reimbursement does not reduce the rent to be paid by Wireless Service Providers, and such recovered sums shall not be included in the computation of compensation hereunder.

**6. Default.** If there is a default by either PARTY to this WMA, the PARTY claiming a default of any term or condition of this WMA shall provide the defaulting PARTY with written notice of the default pursuant to the provisions contained in Section 13(f) of this WMA. After receipt of such notice, the defaulting PARTY shall have thirty (30) days in which to cure any monetary default and sixty (60) days in which to cure a non-monetary default. If a non-monetary default reasonably requires more than a sixty (60) day cure period, the

**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020**

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defaulting PARTY shall have such extended period provided that the defaulting PARTY commences the cure within the sixty (60) day period and thereafter continuously and diligently pursues the cure to completion.

**7. Right to Audit.** During the Term of this WMA the PARTIES shall maintain originals, or when originals are not available copies, of all records, books, papers and documents relating to this WMA and all accompanying License and Lease Agreements between the PARTIES. At all reasonable times, the PARTIES shall allow each other to have access to examine, copy, and audit such records. Additionally, CSC shall allow Client, and Client shall have the right annually, to have access to and examine, copy and audit records, books, papers and documents relating to or evidencing CSC's efforts to obtain licenses as such records, books, papers and documents may or may not exist in the normal course of CSC's business.

**8. Indemnification.** Up to the limits of the required insurance, minus any deductible, CSC shall indemnify, defend, and hold harmless Client, its elected and appointed officials, officers, employees, agents, and contractors, from and against liability, claims, demands, losses, damages, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, and the costs and expenses incurred in connection therewith, including reasonable attorneys' fees and costs of defense, to the extent directly or proximately resulting from CSC's activities undertaken pursuant to this WMA, except to the extent arising from or caused by the negligence or willful misconduct of Client, its elected and appointed officials, officers, employees, agents, or contractors. Client shall promptly notify CSC of any claim, action or proceeding covered by this section.

**9. Insurance.** At the time CSC signs and delivers this WMA to Client, as well as at all times during the WMA Term, CSC shall maintain, at a minimum, the insurance required in the Consulting Agreement. This WMA's insurance provisions shall be separate and independent from the indemnification and defense provisions of Section 8 of this WMA and shall not in any way limit the applicability, scope or obligations of the indemnification defense provisions in Section 8.

**10. Compliance With Local Ordinances.** CSC shall comply with all local resolutions and ordinances pertaining to Wireless Telecommunications Facilities, and all such additional regulations that are consistent with such resolutions and ordinances (such ordinances and regulations are collectively referred to hereinafter as the "Ordinance").

**11. Intellectual Property.**

- a. Ownership of Services.** CSC retains all right, title, and interest in any proprietary business practices, contacts and relationships with Wireless Service Providers, and underlying data and software subject to the limitations set forth in this WMA.
- b. License.** CSC hereby grants to Client a limited, non-exclusive, nontransferable license during the term of this WMA to use the Services for the purposes of offering, promoting, managing, and tracking the development and use of Wireless Telecommunications Facilities on Client Property by Wireless Service Providers.
- c. Exclusivity.** During the term of this WMA, CSC will be the sole and exclusive provider of Services. Client expressly understands and agrees that the exclusivity set forth in this WMA is consideration in exchange for the pricing and other benefits being provided to Client hereunder.

**12. Governing Law.** This WMA shall be governed by the laws of the State of Ohio. Any and all disputes arising hereunder shall only be filed in and heard before the courts of Delaware County, Ohio.

**13. General Provisions.**

- a. Independent Contractor.** CSC shall, during the WMA Term, be construed as an independent contractor and not an employee of Client. This WMA is not intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow Client to exercise discretion or control over the professional manner in which CSC performs the Services which are the subject matter of this WMA; however, the Services to be provided by CSC shall be provided in a manner consistent with all applicable standards and regulations governing such Services. CSC shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to employees and shall be responsible for all applicable withholding taxes.
- b. Authorizations.** All individuals executing this WMA on behalf of the respective PARTIES certify and warrant that they have the capacity, and have been duly authorized to so execute this WMA on behalf of the entity so indicated.
- c. Counterparts.** This WMA may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- d. Entire Agreement and Amendment** This WMA is incorporated into the Consulting Agreement between the PARTIES and captures all terms, agreements, and understandings of the PARTIES with respect to the content and purposes stated in this WMA. This WMA supersedes any prior promises, representations, agreements, warranties or undertakings by any of the PARTIES, either oral or written, of any character or nature binding except as stated herein. This WMA may be modified, altered or amended only by an instrument in writing, executed by the PARTIES to this WMA, and by no other means. Each PARTY waives its right to claim, contest or assert that this WMA was modified, canceled, superseded or changed by any oral agreement, course of conduct, waiver or estoppel.
- e. Good Faith.** The PARTIES agree to exercise good faith efforts to effectuate all the terms and conditions of this WMA, and to execute such further instruments and documents as are necessary or appropriate to

COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020

effectuate all of the terms and conditions of this WMA.

**f. Notices.** All notices, approvals, acceptances, demands and other communication required or permitted under this WMA, to be effective, shall be in writing and, unless otherwise provided herein, shall be deemed validly given on the date either: (1) personally delivered to the address indicated below; or (2) on the third business day following deposit, postage prepaid, using certified mail, return receipt requested, in any U.S. Postal mailbox or at any U.S. Post Office; or (3) one business day after the dispatch date by overnight delivery service. All notices, demands, or requests shall be addressed to the following:

If to Client: Delaware County Board of Commissioners  
Attn: Mike Frommer, County Administrator 101 North Sandusky Street  
Delaware, OH 43015  
740-833-2100

With copy to:  
Aric Hochstettler, Esq. Staff Attorney  
101 North Sandusky Street Delaware, OH 43015  
740-833-2118

If to CSC: Christopher Bland  
Cell Site Infrastructure, LLC 1491 Polaris Parkway, Ste. 190  
Columbus, OH 43240  
(844) 235-5748

With copy to:  
Andrew Wecker, Esq.  
Manos, Martin & Pergram Co., LPA 50 North Sandusky  
Street  
Delaware, OH 43015  
740-363-1313

Any PARTY may change its address by giving the other PARTIES written notice of its new address as provided above.

**g. Successors.** This WMA shall be binding on and shall inure to the benefit of the parties and their respective successors.

**14. Waiver.** No waiver of any provision of this WMA, or consent to any action, shall constitute a waiver of any other provision of this WMA, or consent to any other action. No waiver or consent shall constitute a continuing waiver or consent or commit a PARTY to provide a waiver or consent in the future except to the extent specifically stated in writing. No waiver shall be binding unless executed in writing by the PARTY making the waiver, based on a full and complete disclosure of all material facts relevant to the waiver requested.

**15. Signatures.** The individuals executing the WMA represent and warrant that they have the right, legal capacity, and authority to enter into and to execute this WMA on behalf of the respective legal entities of CSC and the Client. This WMA shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement on the day and year first above written.

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

**6**  
**RESOLUTION NO. 20-907**

**IN THE MATTER OF AWARDING THE BID TO AND APPROVING THE CONTRACT WITH PROPERTY WORX, LLC FOR ITB #20-02 – SNOW REMOVAL SERVICES FOR DELAWARE COUNTY:**

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

WHEREAS, the Delaware County Board of Commissioners (the “Board”) received bids for snow removal services for the Delaware County (ITB #20-02) on September 30, 2020; and

WHEREAS, after carefully reviewing the bids received, the Director of Facilities has determined that the apparent low bidder submitted a non-responsive bid that should be disqualified and that the bid submitted by Property Worx, LLC is the lowest and best bid for snow removal services; and

WHEREAS, the Director of Facilities recommends awarding the bid to and approving the contract with Property

**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020**

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Worx, LLC;

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

Section 1. The Board hereby accepts the determinations and recommendation of the Director of Facilities and hereby determines that the bid submitted by Property Worx, LLC, for ITB #20-02 snow removal Services for Delaware County is the lowest and best bid and awards the bid to Property Worx, LLC.

Section 2. The Board hereby approves the following contract with Property Worx, LLC:

**SERVICES AGREEMENT**

This Agreement is made and entered into this 15<sup>th</sup> day of October, 2020, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Property Worx, LLC, 4495 Marysville Rd., Delaware, OH 43015 (“Contractor”), hereinafter collectively referred to as the “Parties.”

**1 SERVICES PROVIDED BY CONTRACTOR**

- 1.1 The Contractor will provide snow removal services for the County (the “Services”).
- 1.2 Services shall be defined in and rendered by the Contractor in accordance with the following documents, by this reference made part of this Agreement:  
ITB #20-02 Snow Removal Services bid documents and electronic bid forms.
- 1.3 In the event of a conflict between the terms and conditions stated in this Agreement, consisting of pages 1 through 6, and any of the documents incorporated by reference herein, the terms and conditions stated herein shall take precedence.

**2 SUPERVISION OF SERVICES**

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

**3 AGREEMENT AND MODIFICATIONS**

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

**4 FEES AND REIMBURSABLE EXPENSES**

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Bid Documents and Contractor’s Bid noted in Section 1.2.
- 4.2 For all Services, the estimated per “snow event” fee based on the unit pricing in the bid documents shall be \$4,945.00.
- 4.3 Total compensation under this Agreement shall not exceed \$197,800.00 without subsequent modification.
- 4.4 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the scope of Services.

**5 NOTICES**

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

County:

Name: Jon Melvin, Director of Facilities

Address: 1405 US Highway 23 North, Delaware, OH 43015



**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020**

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Telephone: 740 833-2283

Email: jmelvin@co.delaware.oh.us

Contractor:

Name of Principal in Charge: Seth Anthony

Address of Firm: 4495 Marysville Rd.

City, State, Zip: Delaware, OH 43015

Telephone: 614-375-0020© 740-417-4826(O)

Email: santhony@propertyworxohio.com

**6 PAYMENT**

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

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

- 7.1 The Contractor shall commence Services upon written Notice to Proceed ("Authorization") from the Project Manager and shall complete the Services in accordance with the Bid Documents.
- 7.2 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Contractor may make a written request for time extension, and the Project Manager may grant such an extension provided that all other terms of the Agreement are adhered to.

**8 SUSPENSION OR TERMINATION OF AGREEMENT**

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

**9 INDEMNIFICATION**

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

**10 INSURANCE**

- 10.1 General Liability Coverage: Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 10.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.

**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020**

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- 10.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 10.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 10.1 and 10.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 10.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Agreement.

## **11 MISCELLANEOUS TERMS AND CONDITIONS**

- 11.1 Prohibited Interests: Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 11.2 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 11.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 11.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 11.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 11.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 11.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 11.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 11.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County

COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020

reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.

- 11.10 Drug-Free Workplace: The Contractor agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 11.11 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

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

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

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

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

**7**

**RESOLUTION NO. 20-908**

**IN THE MATTER OF AMENDING RESOLUTION NO. 20-157 FOR THE PURCHASE OF A MOTOR VEHICLE FOR THE USE OF THE DELAWARE COUNTY EMERGENCY MEDICAL SERVICES DEPARTMENT:**

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

WHEREAS, pursuant to Resolution No. 20-157, the Board of Commissioners (the "Board") approved the purchase of one (1) 2020 4DR AWD Police 3.3L V6 Engine Ford Explorer at a total cost of \$33,584.00 from Lebanon Ford, Lebanon, Ohio; and

WHEREAS, Resolution No. 20-157 also approved the purchase and accompanying purchase orders for Parr Public Safety Equipment, LLC, and Vasu Communications; and

WHEREAS, it has been determined that resolution did not include the correct cost of the necessary radio communications equipment from Vasu Communications; and

WHEREAS, the Director of the Delaware County Emergency Medical Services Department is requesting to amend the purchase price of the radio communications equipment from Vasu Communications to a total price of \$2,123.76;

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

Section 1. The Board hereby amends Section 4 of Resolution No. 20-157 to read as follows:

The Board hereby approves the purchase and accompanying purchase order for the necessary graphics package, installation of electronics and emergency safety warning equipment, equipment mounts, and radio prep from Parr Public Safety Equipment, LLC, at a cost not to exceed \$11,894.00, and the purchase and accompanying purchase order for the necessary radio communications equipment from Vasu Communications, at a cost not to exceed \$2,123.76.

Section 2. All other sections of Resolution No. 20-157 shall remain in force.

Section 3. This Resolution shall be effective immediately upon adoption.

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

**8**

**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020**

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**RESOLUTION NO. 20-909**

**IN THE MATTER OF ADOPTING A DELAWARE COUNTY NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM PARTICIPATION POLICY:**

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

**DELAWARE COUNTY  
NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM  
PARTICIPATION POLICY**

Subject	Effective	Supersedes	This Sheet	Total
National Urban Search and Rescue Response System Participation Policy	10/08/2020	New	1	2

**1.0 Background Information**

The Federal Emergency Management Agency (“FEMA”) established the National Urban Search and Rescue Response System (“System” or “US&R”), pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the “Act”) and other applicable federal laws, regulations, and executive orders. The purpose of the System is to provide specialized lifesaving assistance during major disasters or emergencies that the President of the United States declares under the Act. In furtherance of this purpose, the Department of Homeland Security has entered into memoranda of agreement with Sponsoring Agencies that establish “task forces” to respond to disasters or emergencies as a part of the System. In the State of Ohio, the Miami Valley Fire/EMS Alliance serves as a Sponsoring Agency for the System and has established Ohio Task Force One as a US&R task force. Delaware County is a Participating Agency by virtue of a memorandum of understanding with the Miami Valley Fire/EMS Alliance, pursuant to which Delaware County has agreed to provide personnel and/or equipment and materials in support of Ohio Task Force One. Participation in the System promotes intense training, provides invaluable experience, and supports partner agencies in the federal government, this state, and other states. Accordingly, Delaware County encourages its qualified employees to participate in the System, pursuant to this Policy. This Policy incorporates by reference 44 CFR Part 208, as the same may be amended from time to time, and the capitalized terms used herein shall have the definitions in the applicable section of 44 CFR Part 208.

**2.0 Purpose**

This Policy provides for Delaware County employees to participate in the System and establishes procedures for compensation of System participants and reimbursement of Delaware County for the costs of participation.

**3.0 Scope and Distribution**

Offices, Departments, and Employees of the Delaware County Board of Commissioners

**4.0 System Participation by Employees**

Delaware County employees with the requisite skills, knowledge, experience, or expertise to participate in the System are encouraged to contact their department director to discuss participation in the System. Any participation is voluntary, and selection shall be subject to the discretion and control of the Sponsoring Agency, not Delaware County. If a Delaware County employee qualifies as a System participant, the employee shall at all times remain an employee of Delaware County and shall not be considered an employee of the Sponsoring Agency or Ohio Task Force One. Participation in System training or deployment shall be subject to approval by the employee’s department director with due consideration to the operational needs of Delaware County. During System training, a Delaware County employee shall be compensated at their regular rate of pay for the time devoted to the training in accordance with applicable Delaware County policies for travel and training.

If a Delaware County employee is authorized to be deployed as a US&R System Member, the Delaware County employee shall still be considered an employee of Delaware County and shall comply with all Delaware County policies, in addition to the policies, rules, and regulations applicable to the System. The employee shall be compensated by Delaware County in accordance with 44 CFR section 208.39, which is considered a “portal-to-portal” pay, including 24 hours of pay for each day that the System Member is deployed, from their arrival at the Point of Assembly until their release from duty and any mandatory post-deployment rest period.

**5.0 Reimbursement for Costs of Deployment**

FEMA reimburses Sponsoring Agencies for the costs incurred by the Sponsoring Agency or Participating Agency in support of a US&R deployment. This includes the compensation of the System

**COMMISSIONERS JOURNAL NO. 73 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD OCTOBER 15, 2020**

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Member as described in Section 4 of this Policy, as well as backfill expenses incurred as a result of the System Member’s deployment. In order to fully alleviate the financial burden of a US&R deployment on Delaware County, any participating Delaware County employee shall comply with all federal, state, and local rules and regulations in regard to reimbursement and shall fully cooperate with Delaware County, the Sponsoring Agency, and Ohio Task Force One to ensure that all expenses are accurately documented and reported in a timely manner. The participating System Member’s department director or designee shall ensure that all reimbursement documentation is complete and promptly submitted to the Sponsoring Agency.

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

**9**

**ADMINISTRATOR REPORTS**

Mike Frommer, County Administrator  
-No reports.

**10**

**COMMISSIONERS’ COMMITTEES REPORTS**

Commissioner Merrell  
-Attended a 7:30 AM virtual Education Council meeting.  
-Met with Marisa, Brian Galligher and Harold Wolford concerning the Veterans Day ceremony to be held on the front plaza of the Historic Courthouse. November 11, 2020 at 11:00 AM.

Commissioner Benton  
-Looking forward to the Veterans Day event.  
-Will be attending today’s Third Thursday luncheon featuring Alex Fisher.  
-Today is the groundbreaking event for MainStreet Delaware’s new location.

There being no further business, the meeting adjourned.

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

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

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

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