

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD DECEMBER 3, 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**

**10:00 A.M. Reconvening Of Hearing Final Hearing By The Commissioners For The Ribov #620 Watershed Drainage Improvement Petition Project (Public Participation In This Hearing, Will Be Taking Place Only By Virtual Means)**

**1**  
**RESOLUTION NO. 20-1080**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD NOVEMBER 30, 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 November 30, 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              Aye              Mr. Benton              Aye

**2**  
**RESOLUTION NO. 20-1081**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1202, MEMO TRANSFERS IN BATCH NUMBERS MTAPR1202:**

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1202, memo transfers in batch numbers MTAPR1202 and Purchase Orders as listed below:

<b>PR Number</b>	<b>Vendor Name</b>	<b>Line Description</b>	<b>Line Account</b>	<b>Amount</b>
R2004910	MATRIX POINTE SOFTWARE LLC	CASE MANAGEMENT SOFTWARE - PROSECUTOR	41711436 - 5452	\$330,000.00
R2004945	AIR FORCE ONE INC	UV-C PHI UNITS	10011102 - 5260	\$9,000.00
R2004945	AIR FORCE ONE INC	UV-C PHI UNITS	40111402 - 5260	\$30,544.00
R2004947	DUDE SOLUTIONS INC	CAPITAL FORECAST	10011105 - 5320	\$7,253.45

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

**3**  
**RESOLUTION NO. 20-1082**

**IN THE MATTER OF A TRANSFER OF A LIQUOR LICENSE REQUEST FROM GRAMITY LLC TO SLICK WHISKERS DEPOT AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:**

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

WHEREAS, the Ohio Division of Liquor Control has notified the Delaware County Board of Commissioners of a

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transfer of a D1, D2, D3, D3A and D6 liquor license request from Gramity LLC to Slick Whiskers Depot located at 9999 Sawmill Pkwy, Powell, OH 43065; and

WHEREAS, the Delaware County Board of Commissioners has found no reason to file an objection;

NOW, THEREFORE, BE IT RESOLVED that the Clerk of the Board shall complete the necessary forms and notify the Ohio Division of Liquor Control that no objections are made and no hearing is requested by this Board of County Commissioners.

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

**4  
RESOLUTION NO. 20-1083**

**IN THE MATTER OF ACCEPTING THE TREASURER’S REPORT FOR THE MONTH OF OCTOBER 2020:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to accept the Treasurer’s Report for the month of October 2020.

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

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

**5  
RESOLUTION NO. 20-1084**

**IN THE MATTER OF ACCEPTING AND APPROVING THE DELAWARE COUNTY SHERIFF’S OFFICE TRANSPORT REPORT FOR THE MONTH OF OCTOBER 2020:**

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

WHEREAS, section 325.07 of the Revised Code requires the County Sheriff to submit monthly expense reports to the Board of County Commissioners; and

WHEREAS, the Delaware County Sheriff has submitted a monthly report for October 2020;

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

Section 1. The Board hereby accepts and approves the Delaware County Sheriff’s Office Transport Report for October 2020.

Section 2. The Board hereby allows the expenses contained in the monthly report.

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

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

**6  
RESOLUTION NO. 20-1085**

**IN THE MATTER OF A PROCLAMATION HONORING TRACIE DAVIES TOOT:**

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

WHEREAS, we recognize Tracie, upon her resignation, for her dedication and public service to people with developmental disabilities and the residents of Delaware County. Appointed to the Board in 2017, Tracie has served as board member of the Delaware County Board of Developmental Disabilities for 4 years; and

WHEREAS, Tracie served as chair of the Finance Committee for 4 years and was an active member of the Ethics Committee. Instrumental in approving many critical projects and policies, Tracie’s devotion to excellence consistently ensured Delaware County Board of Developmental Disabilities’ operations met the needs of the people we serve both efficiently and effectively; and

WHEREAS, Tracie fully embraced the Board’s mission to inspire, empower, and support people to achieve their full potential. Throughout her time on the Board, she made an impact on the lives of thousands of children, families, and adults right here in our community. The Delaware County Board of Developmental Disabilities will continue to build upon the path to inclusion that Tracie helped develop.

THEREFORE BE IT RESOLVED, Commissioner Benton, Commissioner Merrell, and Commissioner Lewis

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express their gratitude for the impact Tracie made not only on those with developmental disabilities but within Delaware County as well.

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

**7**

**RESOLUTION NO. 20-1086**

**IN THE MATTER OF APPROVING A LEASE AMENDMENT FOR SECURE STORAGE FACILITIES:**

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

WHEREAS, Delaware County is in need of secure storage facilities; and

WHEREAS, the Delaware County Sheriff and Staff recommend approval of the lease amendment for such facilities;

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

**SEVENTH AMENDMENT FOR STORAGE UNIT LEASE IN DELAWARE, COUNTY, OHIO  
(Effective January 2021)**

This Seventh Amendment of the Agreement for the leases of the storage units Effective January 1, 2021 through December 31, 2021 (hereinafter "AGREEMENT") by the Sheriff's Office of Delaware County, Ohio (hereinafter "LESSEE") and Cole's Investment Properties LLC (hereinafter "LESSOR").

NOW THEREFORE, IN CONSIDERATION of the foregoing facts, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree that effective January 2019, Paragraph 5, and the second to last sentence in Paragraph 6 of the AGREEMENT shall be deleted and amended to state as follows:

- 1. "Upon default Lessor may at its option take all steps, excluding denying the Lessee access without a court order, permitted by law to pursue possession of the premises and obtain all funds due hereunder."
- 12. "The Lessor acknowledges that all keys have been delivered to the possession of the Lessee. Further, Lessor agrees not to enter the leased units except with an agent and/or employee present. Upon the request to enter being made by the Lessor, the Lessee shall forthwith arrange for an agent and / or employee to accompany lessor to enter".

Paragraph 12 shall not be interpreted to be an improper contractual indemnity in favor of Lessor.

Except for the provisions amended by this document, all other provisions of the AGREEMENT shall remain in full force and effect and unchanged.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed in their names or their official acts by their respective representatives, each of whom is duly authorized to execute the same.

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

**8**

**RESOLUTION NO. 20-1087**

**IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO PREPARE A DRAFT RESOLUTION AND SEND ALL NECESSARY NOTICES RELATED TO EXEMPTIONS TO BE CONSIDERED PURSUANT TO R.C. 5709.78:**

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

WHEREAS, Ohio Revised Code Sections 5709.77 to 5709.80 (collectively, the "TIF Statutes") authorize the legislative authority of a county, by resolution, to declare the improvement to parcels of real property located within the unincorporated territory of the county to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, establish a redevelopment tax equivalent fund for the deposit of the those service payments, and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, those parcels; and

WHEREAS, Ohio Revised Code Section 5709.83 requires that notices of the proposed resolution be delivered to the Boards of Education of the Buckeye Valley Local School District and the Delaware Area Career Center;

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

Section 1. The County Administrator is hereby authorized to prepare a draft resolution and send all necessary notices related to the following exemptions to be considered pursuant to R.C. 5709.78: the Kilbourne TIF.

Section 2. This Board finds and determines that all formal actions of this Board and any of its committees concerning and relating to the passage of this Resolution were taken in an open meeting of this Board or any of its committees, and that all deliberations of this Board and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Ohio Revised Code Section 121.22.

Section 3. This Resolution shall be in full force and effect immediately upon its adoption.

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

**9**  
**RESOLUTION NO. 20-1088**

**IN THE MATTER OF APPROVING AN APPOINTMENT TO THE DELAWARE COUNTY TRANSIT BOARD:**

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

WHEREAS, on October 25, 1999, the Delaware County Board of Commissioners (the “Board of Commissioners”) created the Delaware County Transit Board (the “Transit Board”) and made the necessary appointments to the Transit Board, pursuant to section 306.01 and 306.02 of the Revised Code; and

WHEREAS, as necessary, the Board of Commissioners has made appointments to the Transit Board to fill vacancies in both unexpired and expired terms; and

WHEREAS, Kelsey Scott has applied for appointment to the unexpired term expiring on October 24, 2023;

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

Section 1. The Board of Commissioners hereby approves the appointment of the following member to the Transit Board for the term specified herein:

Position	Appointee	Term Ends
DATA 7	Kelsey Scott	October 24, 2023

Section 2. The appointment approved herein shall take effect immediately upon adoption of this Resolution.

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

**10**  
**RESOLUTION NO. 20-1089**

**IN THE MATTER OF AWARDED A BID TO AND APPROVING A CONTRACT WITH PETERSON CONSTRUCTION COMPANY FOR THE PEACHBLOW PUMP STATION IMPROVEMENTS PROJECT, CONTRACT #1-2020:**

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

WHEREAS, sealed bids for the Peachblow Pump Station Improvements Project, Contract No. 1-2020, were received at www.bidexpress.com at 10:00 a.m. Thursday, November 5, 2020; and

WHEREAS, two (2) bids were received, and the lowest and best bid received was from Peterson Construction Company; and

WHEREAS, the Sanitary Engineer recommends awarding a contract to Peterson Construction Company; and

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners hereby awards the bid for the Peachblow Pump Station Improvements Project to Peterson Construction Company. The Sanitary Engineer shall prepare the necessary Notice of Award and Contract documents, and submit them to the contractor for execution.

BE IT FURTHER RESOLVED that the Delaware County Board of Commissioners hereby approves the following agreement with Peterson Construction Company.

**AGREEMENT BETWEEN DELAWARE COUNTY BOARD OF COMMISSIONERS AND CONTRACTOR**

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FOR DCES CONTRACT 1-2020: PEACHBLOW PUMP STATION UPGRADE

This AGREEMENT is by and between Delaware County Board of Commissioners, Delaware,  
Ohio

(Owner) and Peterson Construction Co.

(Contractor).

Owner and Contractor, in consideration of the mutual covenants set forth herein, agree as follows:

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

*Construction of the new Peachblow Pump Station including construction of a new wet well and three submersible wet-pit pumps, pump station building, demolition of the existing Peachblow Pump Station, and site improvements. Also included is the construction of approximately 147 feet of forcemain and approximately 16 feet of influent gravity sewer.*

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

*Installation of new wastewater pumping facilities and appurtenances near the intersection of Avonlea Way and South Old State Road to connect to the Peachblow Forcemain Upgrade Project.*

ARTICLE 3 - ENGINEER

3.01 The Project is designated to the Delaware County Sanitary Engineer (Engineer), who is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents. All inquiries and correspondence shall be directed to Tiffany Maag, P.E., Delaware County Regional Sewer District.

The Design Engineer is HDR

Within the State of Ohio, Department of Transportation, Construction and Material Specification, wherever the word “State” occurs, it is to mean OWNER. Wherever the word “Department” occurs, it is to mean OWNER. Wherever the words “Director”, “Deputy Director” or “Engineer” occur or any other reference to a State of Ohio employee, it is to mean DELAWARE COUNTY SANITARY ENGINEER.

Within the City of Columbus, Construction and Material Specification, wherever the word “City” occurs, it is to mean OWNER. Wherever the words “Department” or “Division” occur, it is to mean OWNER. Wherever the words “Director” or “Engineer” occur or any other reference to a City of Columbus employee, it is to mean DELAWARE COUNTY SANITARY ENGINEER.

ARTICLE 4 - CONTRACT TIMES

4.01 Time of the Essence - All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Dates for Substantial Completion and Final Payment-  
Substantial Completion – 480 days from Notice to Proceed  
Final Payment/Completion – 540 days from Notice to Proceed

4.03 Liquidated Damages-\$1,000/day

ARTICLE 5 - CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraph 5.01.A below:

A. For all Work, at the prices stated in Contractor’s Bid, attached hereto as an exhibit.

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**ARTICLE 6 - PAYMENT PROCEDURES**

## 6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

## 6.02 Progress Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30<sup>th</sup> day of each month during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 15.02 of the General Conditions:

- a. 92 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, Owner, on recommendation of Engineer, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage; and
- b. 92 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 92 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 15.02.B.5 of the General Conditions and less 50 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

## 6.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.07.

**ARTICLE 7 - INTEREST**

7.01 All moneys not paid when due as provided in Article 6 of this contract shall bear interest at the rate of one percent (1.0%) per annum.

**ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS**

8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 5.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been provided in Paragraph 5.06 of the General Conditions.

E. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by

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Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.

F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

**ARTICLE 9 - CONTRACT DOCUMENTS**

9.01 Contents

A. The Contract Documents consist of the following:

1. **This Agreement (pages CF-1 to CF-9, inclusive).**
2. **Exhibits to this Agreement (enumerated as follows):**
  - a. **Contractor's Bid (page BF-X, inclusive).**
  - b. **Documentation submitted by Contractor prior to Notice of Award (Bidding Forms, inclusive).**
3. **Contract bond (pages BF-13 to BF-14, inclusive).**
4. **Legal and Fiscal Officers (page CF-10, inclusive).**
5. **Certificate of Insurance (pages CF-11 inclusive).**
6. **Addenda (numbers \_\_\_\_\_ to \_\_\_\_\_, inclusive).**
7. **Construction Drawings bearing the following general title: Peachblow Pump Station and Forcemain Upgrade Project – Pump Station**
8. **Specifications and Standard Drawings as listed in the table of contents of the Project Manual- Peachblow Pump Station and Forcemain Upgrade – Pump Station**
9. **Supplementary Conditions (if needed).**
10. **General Conditions (pages 1-62, inclusive).**
11. **The following documents, which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:**
  - a. **Notice of Award**
  - b. **Notice to Proceed**
  - c. **Work Change Directive(s).**
  - d. **Change Order(s).**

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented by change order.

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as provided in Paragraph 3.04 of the General Conditions.

E. This Agreement, along with the Contract Documents, shall constitute the entire understanding and agreement between the Owner and the Contractor, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended as provided in this Agreement.

F. In the event of a conflict between the Contract Documents, the documents shall have precedence according to the order listed in Paragraph 9.01.A of this Agreement, document number one having precedence, and so on.

**ARTICLE 10 – INSURANCE**

10.1 Insurance Coverage

Contractor shall maintain insurance as described in the General Conditions and Supplementary Conditions.

10.2 Additional Insureds

The 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 Subsection 10.1. Contractor shall require all of its subcontractors to provide like endorsements.

10.3 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 and properly executed endorsements listing the additional insured as required in Subsection 10.2. 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.

**ARTICLE 11 – INDEMNIFICATION**

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .

B. In any and all claims against Owner or Engineer or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph. A shall not extend to the liability of Engineer and Engineer's officers, directors, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

**ARTICLE 12 - MISCELLANEOUS**

12.01 Terms

A. Terms used in this Agreement will have the meanings stated in the General Conditions.

12.02 Assignment of Contract

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the

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extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

12.03 Successors and Assigns

A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

12.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

12.05 Findings for Recovery

A. Contractor certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

12.06 [NOT USED]

12.07 Contractor agrees to the following:

A. That, in the hiring of employees for the performance of work under the contract or any subcontract, Contractor, any subcontractor, or any person acting on Contractor’s or subcontractor’s behalf, by reason of race, creed, sex, disability as defined in section 4112.01 of the Revised Code, or color, shall not discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates;

B. That Contractor, any subcontractor, or any person on Contractor’s or subcontractor’s behalf, shall not, in any manner, discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability as defined in section 4112.01 of the Revised Code, or color.

C. That there shall be deducted from the amount payable to the Contractor by the Owner, under this contract, a forfeiture of twenty-five dollars for each person who is discriminated against or intimidated in violation of this contract;

D. That the contract shall be canceled or terminated by the Owner, and all money to become due hereunder may be forfeited, for a second or subsequent violation of the terms of this section of the contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in duplicate. One counterpart each has been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

This Agreement will be effective on December 3, 2020 (which is the Effective Date of the Agreement).

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

**11**

**RESOLUTION NO. 20-1090**

**IN THE MATTER OF AWARDING A BID TO AND APPROVING A CONTRACT WITH JOHN ERAMO AND SONS, INC. FOR THE PEACHBLOW FORCE MAIN IMPROVEMENTS PROJECT, CONTRACT #2-2020:**

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

WHEREAS, sealed bids for the Peachblow Force Main Improvements Project, Contract No. 2-2020, were received at www.bidexpress.com at 10:00 a.m. Thursday, November 5, 2020; and

WHEREAS, three (3) bids were received, and the lowest and best bid received was from John Eramo and Sons, Inc.; and

WHEREAS, the Sanitary Engineer recommends awarding a contract to John Eramo and Sons, Inc.; and

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners hereby awards the bid for the Peachblow Force Main Improvements Project to John Eramo and Sons, Inc. The Sanitary

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Engineer shall prepare the necessary Notice of Award and Contract documents, and submit them to the contractor for execution.

BE IT FURTHER RESOLVED that the Delaware County Board of Commissioners hereby approves the following agreement with John Eramo and Sons, Inc.

**AGREEMENT BETWEEN DELAWARE COUNTY BOARD OF COMMISSIONERS AND CONTRACTOR FOR DCES CONTRACT 2-2020: PEACHBLOW FORCEMAIN AND GRAVITY SEWER**

This AGREEMENT is by and between Delaware County Board of Commissioners, Delaware, Ohio

(Owner) and John Eramo and Sons, Inc.

(Contractor).

Owner and Contractor, in consideration of the mutual covenants set forth herein, agree as follows:

**ARTICLE 1 - WORK**

1.02 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

*Installation of approximately 6,617 linear feet of new sanitary forcemain and 1,477 linear feet of influent gravity sanitary sewer to connect to the Peachblow Pump Station Upgrade Project.*

**ARTICLE 2 - THE PROJECT**

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

*Installation of approximately 6,617 linear feet of new sanitary forcemain and 1,477 linear feet of influent gravity sanitary sewer to connect to the Peachblow Pump Station Upgrade Project.*

**ARTICLE 3 - ENGINEER**

3.01 The Project is **designated to** the Delaware County Sanitary Engineer (Engineer), who is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents. **All inquiries and correspondence shall be directed to Tiffany Maag, P.E., Delaware County Regional Sewer District.**

**The Design Engineer is HDR**

**Within the State of Ohio, Department of Transportation, Construction and Material Specification, wherever the word “State” occurs, it is to mean OWNER. Wherever the word “Department” occurs, it is to mean OWNER. Wherever the words “Director”, “Deputy Director” or “Engineer” occur or any other reference to a State of Ohio employee, it is to mean DELAWARE COUNTY SANITARY ENGINEER.**

**Within the City of Columbus, Construction and Material Specification, wherever the word “City” occurs, it is to mean OWNER. Wherever the words “Department” or “Division” occur, it is to mean OWNER. Wherever the words “Director” or “Engineer” occur or any other reference to a City of Columbus employee, it is to mean DELAWARE COUNTY SANITARY ENGINEER.**

**ARTICLE 4 - CONTRACT TIMES**

4.01 Time of the Essence - All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Dates for Substantial Completion and Final Payment-  
**Substantial Completion of Gravity Sewer – 90 days from Notice to Proceed**  
**Substantial Completion of Forcemain – 180 days from Notice to Proceed**  
**Final Payment/Completion – 240 days from Notice to Proceed**

4.03 Liquidated Damages-\$1,000/day

**ARTICLE 5 - CONTRACT PRICE**

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5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraph 5.01.A below:

- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

**ARTICLE 6 - PAYMENT PROCEDURES**

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30<sup>th</sup> day of each month during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 15.02 of the General Conditions:

- a. 92 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, Owner, on recommendation of Engineer, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage; and
- b. 92 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 92 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 15.02.B.5 of the General Conditions and less 50 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.07.

**ARTICLE 7 - INTEREST**

7.01 All moneys not paid when due as provided in Article 6 of this contract shall bear interest at the rate of one percent (1.0%) per annum.

**ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS**

8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 5.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been provided in Paragraph 5.06 of the

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General Conditions.

E. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.

F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

**ARTICLE 9 - CONTRACT DOCUMENTS**

9.01 Contents

A. The Contract Documents consist of the following:

1. **This Agreement (pages CF-1 to CF-9, inclusive).**
2. **Exhibits to this Agreement (enumerated as follows):**
  - a. **Contractor's Bid (page BF-X, inclusive).**
  - b. **Documentation submitted by Contractor prior to Notice of Award (Bidding Forms, inclusive).**
3. **Contract bond (pages BF-13 to BF-14, inclusive).**
4. **Legal and Fiscal Officers (page CF-10, inclusive).**
5. **Certificate of Insurance (pages CF-11 inclusive).**
6. **Addenda (numbers \_\_\_\_\_ to \_\_\_\_\_, inclusive).**
7. **Construction Drawings bearing the following general title: Peachblow Pump Station and Forcemain Upgrade Project – Forcemain and Gravity Sewer**
8. **Specifications and Standard Drawings as listed in the table of contents of the Project Manual- Peachblow Pump Station and Forcemain Upgrade – Forcemain and Gravity Sewer**
9. **Supplementary Conditions (if needed).**
10. **General Conditions (pages 1-62, inclusive).**
11. **The following documents, which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:**
  - a. **Notice of Award**
  - b. **Notice to Proceed**
  - c. **Work Change Directive(s).**
  - d. **Change Order(s).**

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B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented by change order, as provided in Paragraph 3.04 of the General Conditions.

E. This Agreement, along with the Contract Documents, shall constitute the entire understanding and agreement between the Owner and the Contractor, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended as provided in this Agreement.

F. In the event of a conflict between the Contract Documents, the documents shall have precedence according to the order listed in Paragraph 9.01.A of this Agreement, document number one having precedence, and so on.

**ARTICLE 10 – INSURANCE**

10.1 Insurance Coverage

Contractor shall maintain insurance as described in the General Conditions and Supplementary Conditions.

10.2 Additional Insureds

The 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 Subsection 10.1. Contractor shall require all of its subcontractors to provide like endorsements.

10.3 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 and properly executed endorsements listing the additional insured as required in Subsection 10.2. 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.

**ARTICLE 11 – INDEMNIFICATION**

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .

B. In any and all claims against Owner or Engineer or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph. A shall not extend to the liability of Engineer and Engineer's officers, directors, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

**ARTICLE 12 - MISCELLANEOUS**

12.01 Terms

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A. Terms used in this Agreement will have the meanings stated in the General Conditions.

12.02 Assignment of Contract

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

12.03 Successors and Assigns

A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

12.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

12.05 Findings for Recovery

A. Contractor certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

12.06 [NOT USED]

12.07 Contractor agrees to the following:

A. That, in the hiring of employees for the performance of work under the contract or any subcontract, Contractor, any subcontractor, or any person acting on Contractor’s or subcontractor’s behalf, by reason of race, creed, sex, disability as defined in section 4112.01 of the Revised Code, or color, shall not discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates;

B. That Contractor, any subcontractor, or any person on Contractor’s or subcontractor’s behalf, shall not, in any manner, discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability as defined in section 4112.01 of the Revised Code, or color.

C. That there shall be deducted from the amount payable to the Contractor by the Owner, under this contract, a forfeiture of twenty-five dollars for each person who is discriminated against or intimidated in violation of this contract;

D. That the contract shall be canceled or terminated by the Owner, and all money to become due hereunder may be forfeited, for a second or subsequent violation of the terms of this section of the contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in duplicate. One counterpart each has been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

This Agreement will be effective on December 3, 2020 (which is the Effective Date of the Agreement).

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

**12**  
**RESOLUTION NO. 20-1091**

**IN THE MATTER OF APPROVING A SERVICES AGREEMENT WITH LIMBACH COMPANY, LLC FOR HVAC REPAIR SERVICES:**

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with Limbach Company, LLC, for HVAC Repair Services;

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

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hereby approves the following agreement with Limbach Company, LLC:

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

This Agreement is made and entered into this 3<sup>rd</sup> day of December, 2020, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Limbach Company, LLC, 822 Cleveland Ave., Columbus, Ohio 43201 (“Contractor”), hereinafter collectively referred to as the “Parties.”

**1 SERVICES PROVIDED BY CONTRACTOR**

- 1.1 The Contractor will provide HVAC repair services for Delaware County Sewer District facilities, including, but not limited to, repairs to equipment, refrigeration, installation of equipment, service calls not requiring service or repair of equipment, and replacing condensers (the “Services”).
- 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 more fully described in and shall be rendered by the Contractor in accordance with *Exhibit A*, 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 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 For all Services described in Exhibit A, the fees paid to Contractor shall be in accordance with the Contractor’s Standard Service Rates attached hereto and, by this reference, fully incorporated herein.
- 4.2 Total compensation under this Agreement shall not exceed Fifty Thousand Dollars and Zero Cents (\$50,000.00) 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 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: Delaware County Regional Sewer District

Name: Cory Smith

Address: 10333 Olentangy River Road, Powell, OH. 43065

Telephone: 740-833-2230

Email: csmith@co.delaware.oh.us

Contractor: Limbach Company

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Name of Principal: Leah Richie

Address of Firm: 822 Cleveland Ave.

City, State, Zip: Columbus, OH. 43201

Telephone: 614-607-8048

Email: leah.richie@limbachinc.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 *Exhibit A*.

6.2 Invoices shall be submitted to the Sanitary Engineer by the Contractor on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Contractor shall promptly submit documentation as needed to substantiate said invoices.

6.3 The County shall pay invoices within thirty (30) days of receipt.

**7 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 Exhibit A. This Agreement shall be effective for a term of three (3) years from January 1, 2021.

7.2 Contractor shall not proceed with any Services 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 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 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 only be effective if approved in a writing signed by both Parties.

**10 INDEMNIFICATION**

10.1 The Contractor shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all direct damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property, to the proportionate extent caused by any negligent acts, errors or omissions of the 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.

10.2 Notwithstanding the foregoing subsection, and to the fullest extent permitted by law, neither party shall be liable to the other for any incidental, indirect or consequential damages arising out of or connected in any way to the Services or this Agreement. This mutual waiver shall include, but not be limited to, loss of profit, loss of business or income, or any other consequential damages that either party may have incurred from any cause of action whatsoever.

**11 INSURANCE**

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- 11.1 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.
- 11.2 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.
- 11.3 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.
- 11.4 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 11.1 and 11.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 11.5 Proof of Insurance: Prior to the commencement of any Services 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 Services under this Agreement.

**12 MISCELLANEOUS TERMS AND CONDITIONS**

- 12.1 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.
- 12.2 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.**
- 12.3 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.
- 12.4 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.
- 12.5 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.
- 12.6 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.
- 12.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 12.8 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.

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- 12.9 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.
- 12.10 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.
- 12.11 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.

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

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

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

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

**13**  
**TIFFANY MAAG,**  
**DIRECTOR OF ENVIRONMENTAL SERVICES AND REGIONAL SEWER DISTRICT**  
**MONTHLY SANITARY APPROVAL UPDATE TO BOARD OF COMMISSIONERS**

- 15**  
**ADMINISTRATOR REPORTS**  
Mike Frommer, County Administrator  
-Update on the Historic Courthouse: 1<sup>st</sup> business day at the new location (91 N Sandusky Street) is slated for January 4, 2021.  
-The budget hearing have concluded.

**14**  
**RESOLUTION NO. 20-1092**  
**IN THE MATTER OF RECONVENING THE PUBLIC HEARING TO ADDRESS THE RIBOV #620**  
**WATERSHED DRAINAGE IMPROVEMENT PETITION PROJECT:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to reconvene the hearing at 10:30 A.M..

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

**14 continued**  
**RESOLUTION NO. 20-1093**  
**IN THE MATTER OF CONTINUING THE PUBLIC HEARING TO ADDRESS THE RIBOV #620**  
**WATERSHED DRAINAGE IMPROVEMENT PETITION PROJECT TO MONDAY, JUNE 14, 2021**  
**AT 10:00A.M.:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to continue the public hearing to address Ribov #620

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD DECEMBER 3, 2020**

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Watershed Drainage Improvement Petition Project to **MONDAY, JUNE 14, 2021 at 10:00A.M.**

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

There being no further business, the meeting adjourned.

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Gary Merrell

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Barb Lewis

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Jeff Benton

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Jennifer Walraven, Clerk to the Commissioners