

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JANUARY 21, 2021**

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

Present:
Gary Merrell, President
Barb Lewis, Vice President

Absent:
Jeff Benton, Commissioner

1
RESOLUTION NO. 21-27

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JANUARY 14, 2021:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on January 14, 2021; 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 Absent

2
RESOLUTION NO. 21-28

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0120, MEMO TRANSFERS IN BATCH NUMBERS MTAPR0120 AND PROCUREMENT CARD PAYMENTS IN BATCH NUMBER PCAPR0120:

It was moved by Mrs. Lewis, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0120, memo transfers in batch numbers MTAPR0120, Procurement Card Payments in batch number PCAPR0120 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>		
PO' Increase					
P2100638 (line 2)	PNC Card Economic Development	21011113-5300	\$20,000.00		
P2100638 (line 1)	PNC Card Economic Development	21011113-5200	\$ 500.00		
PR Number	Vendor Name	Line Description	Line Account	Amount	
R2100527	MOBILE HEALTH RESOURCES	EMS SURVEYS	10011303 - 5301	\$8,460.00	0001
R2100612	HEALING PATHWAYS TRANSITIONAL	PLACEMENT CARE	22511607 - 5342	\$13,500.00	0001
R2100616	NATIONAL YOUTH ADVOCATE PROGRAM INC	PLACEMENT CARE	22511607 - 5342	\$75,000.00	0001
R2100950	THE WALDREN GROUP LLC	SMALL BUSINESS PROTECTION PROGRAM GRANT	10011102 - 5601	\$15,000.00	0001
R2100951	TRANSITION INTO NUTRITION LLC	SMALL BUSINESS PROTECTION PROGRAM GRANT	10011102 - 5601	\$15,000.00	0001
R2100952	VIDYA YOGA LLC	SMALL BUSINESS PROTECTION PROGRAM GRANT	10011102 - 5601	\$15,000.00	0001
R2101041	ORANGE TOWNSHIP TRUSTEES	ORANGE TOWNSHIP MEDIC 3 LEASE 10 10 20-10 19 21	10011303 - 5335	\$8,640.00	0001
R2101276	PETERSON CONSTRUCTION CO	PEACHBLOW PUMP STATION IMPROVEMENTS	66711900 - 5410	\$2,809,680.00	0001
R2101282	TREASURER,DELAWARE COUNTY	RETAINAGE - PEACHBLOW PUMP STATION	66711900 - 5410	\$244,320.00	0001

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IMPROVEMENTS					
R2101289	JOHN ERAMO & SONS INC	PEACHBLOW FORCE MAIN IMPROVEMENTS	66711900 - 5415	\$3,460,649.00	0001
R2101290	TREASURER,DELAWARE COUNTY	RETAINAGE - PEACHBLOW FORCE MAIN IMPROVEMENTS	66711900 - 5415	\$300,926.00	0001
R2101295	LIMBACH COMPANY LLC	HVAC PM-MMA CONTRACT - RSD	66211900 - 5328	\$44,492.00	0001
R2101296	LIMBACH COMPANY LLC	HVAC REPAIRS CONTRACT - RSD	66211900 - 5328	\$25,000.00	0001
R2101300	MENARD INC	OPERATING SUPPLIES - RSD	66211900 - 5201	\$15,000.00	0001
R2101302	M TECH COMPANY	EQUIPMENT PARTS GAPVAC TRUCK - RSD	66211900 - 5228	\$2,500.00	0001
R2101302	M TECH COMPANY	EQUIPMENT REPAIRS - GAPVAC TRUCK	66211900 - 5328	\$5,000.00	0002
R2101302	M TECH COMPANY	SHIPPING FOR EQUIPMENT	66211900 - 5331	\$1,000.00	0003
R2101304	OHIO EDISON CO	ELECTRIC LOWER SCIOTO AND PACKAGE PLANTS	66211900 - 5338	\$180,000.00	0001
R2101306	NCL OF WISCONSIN INC	LAB SUPPLIES - RSD	66211900 - 5201	\$11,000.00	0001
R2101308	OHIGRO INC	FERTILIZER-PESTICIDES RSD	66211900 - 5241	\$2,500.00	0001
R2101308	OHIGRO INC	SALT AND ICE MELT FOR PARKING LOTS	66211900 - 5285	\$4,000.00	0002
R2101309	OHIO CAT	SERVICE ON GENERATORS - RSD	66211900 - 5328	\$10,000.00	0001
R2101311	OHIO UTILITIES PROTECTION	ANNUAL ASSESSMENT FEES AND SAFETY CALLOUTS	66211900 - 5301	\$9,760.00	0001
R2101316	POLYDYNE INC	CHEMICAL - POLYMER	66211900 - 5290	\$150,000.00	0001
R2101330	REPUBLIC WASTE SERVICES INC	TRASH PICK UP - OECC CMF	66211900 - 5338	\$7,000.00	0001
R2101332	DOMESTIC RELATIONS COURT	REMAINING 2020 IV-D CONTRACT BILLING	23711630 - 5360	\$6,671.00	0001
R2101339	RUBBERTEC INDUSTRIAL PROD	OPERATING SUPPLIES - RSD	66211900 - 5201	\$6,000.00	0001
R2101342	NORTHWOODS CONSULTING PARTNERS INC	COMPUTER SERVICES CONTRACT	23711630 - 5320	\$9,650.00	0001
R2101345	STAPLES BUSINESS ADVANTAGE	OFFICE SUPPLIES	23711630 - 5201	\$5,000.00	0001
R2101345	STAPLES BUSINESS ADVANTAGE	LETTERHEAD ENVELOPES	23711630 - 5313	\$1,000.00	0002
R2101347	OHIO CSEA DIRECTORS ASSOC INC	ANNUAL DUES	23711630 - 5308	\$6,255.00	0001
R2101347	OHIO CSEA DIRECTORS ASSOC INC	MEMBERSHIP DUES	23711630 - 5308	\$60.00	0002
R2101347	OHIO CSEA DIRECTORS ASSOC INC	REGISTRATION FEES	23711630 - 5305	\$300.00	0003
R2101350	SHERIFF'S OFFICE	2020 IV-D CONTRACT BILLING	23711630 - 5301	\$13,035.00	0001
R2101352	RUMPKE CONSOLIDATED COMPANIES	TRASH PICK UP - ALUM CREEK LOWER SCIOTO	66211900 - 5338	\$6,900.00	0001
R2101353	RUMPKE CONSOLIDATED COMPANIES	LANDFIL SLUDGE DISPOSAL - RSD	66211900 - 5380	\$100,000.00	0001
R2101366	QUASAR ENERGY GROUP	SLUDGE DISPOSAL - RSD	66211900 - 5380	\$15,485.00	0001
R2101369	QUASAR ENERGY GROUP	SLUDGE HAULING - RSD	66211900 - 5380	\$250,000.00	0001
R2101386	TRACTOR SUPPLY COMPANY	OPERATING SUPPLIES - RSD	66211900 - 5201	\$3,000.00	0001
R2101386	TRACTOR SUPPLY COMPANY	PPE - CLOTHING	66211900 - 5225	\$4,500.00	0002

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R2101387	HD SUPPLY FACILITIES MAINT LTD	OPERATING LAB SUPPLIES - RSD	66211900 - 5201	\$16,000.00	0001
R2101387	HD SUPPLY FACILITIES MAINT LTD	EQUIPMENT PARTS - RSD	66211900 - 5228	\$5,000.00	0002
R2101387	HD SUPPLY FACILITIES MAINT LTD	CHEMICALS - CHLORINATION TABLETS	66211900 - 5290	\$500.00	0003
R2101394	TREASURER,STATE OF OHIO	ANNUAL DISCHARGE FEES AND ANNUAL SLUDGE FEES - RSD	66211900 - 5316	\$15,000.00	0001
R2101447	MCNAUGHTON MCKAY INC	EQUIPMENT PARTS - RSD	66211900 - 5228	\$15,000.00	0001
R2101475	XYLEM WATER SOLUTIONS USA INC	EQUIPMENT PARTS - REPAIR KITS RSD	66211900 - 5328	\$20,000.00	0001
R2101484	NECCO LLC	MSY21 FCFC PLACEMENT	70161605 - 5342	\$15,000.00	0001
R2101485	KEYSTONE RICHLAND CENTER LLC	MSY21 FCFC PLACEMENT	70161605 - 5342	\$14,500.00	0001
R2101486	VILLAGE NETWORK,THE	MSY21 FCFC PLACEMENT	70161605 - 5342	\$24,000.00	0001
R2101487	OHIO DEPARTMENT OF MEDICAID	MSY FUNDS REIMBURSEMENT	70161605 - 5342	\$6,000.00	0001
R2101488	HITTLE HOUSE	MSY21 FCFC PLACEMENT	70161605 - 5342	\$14,500.00	0001
R2101489	YOUTH INTENSIVE SERVICES INC	MSY21 FCFC PLACEMENT	70161605 - 5342	\$13,500.00	0001
R2101531	GLW INC	OUTSOURCE COMMERCIAL PLAN REVIEW SERVICE	10011301 - 5301	\$24,999.00	0001
R2101616	ACCENT DRAPERY CO INC	HISTORIC COURTHOUSE BLINDS	42011438 - 5410	\$19,550.00	0001
R2101642	CONSOLIDATED ELECTRIC COOPERATIVE INC	ELECTRIC UTILITY	10011105 - 5338	\$30,000.00	0001

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

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RESOLUTION NO. 21-29

IN THE MATTER OF A PROCLAMATION HONORING ROGER VAN SICKLE:

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

WHEREAS, the Commissioners of Delaware County, Ohio, wish to recognize and extend their sincere gratitude to Roger M. Van Sickle for his 40-plus years of public service to the citizens of Delaware Township, Delaware County and the Central Ohio region; and

WHEREAS, Roger M. Van Sickle, a veteran of the Ohio National Guard, has made his home in Delaware Township for 45 years with his wife Shirley and their sons Chad and Nate;

WHEREAS, Roger M. Van Sickle has served Delaware Township as a Trustee since 1986, as Township Clerk from 1980 to 1985, and as a Zoning Board member from 1980 to 1984; and

WHEREAS, Roger M. Van Sickle has served on numerous boards and organizations, including the Delaware County Regional Planning Commission, SourcePoint, the Delaware Area Transit Authority, the Delaware County Jury Commission, the Tri-Township Fire Department, Grady Memorial Hospital, Habitat for Humanity, the Delaware County Cultural Arts Center, the Delaware County Historical Society, the Delaware Area Chamber of Commerce, the Delaware County Farm Bureau and Oak Grove Cemetery.

THEREFORE, BE IT RESOLVED, that the Delaware County Board of Commissioners hereby honors and expresses its gratitude to Roger M. Van Sickle for his dedication, commitment and years of outstanding service to the people of Delaware County.

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

4

RESOLUTION NO. 21-30

IN THE MATTER OF APPROVING SPECIFICATIONS AND SETTING THE COMPETITIVE SEALED PROPOSALS OPENING DATE AND TIME FOR THE PROJECT KNOWN AS THE DELAWARE FIBER EXTENSION PROJECT:

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

WHEREAS, the County Auditor and the Chief Technology Officer recommend approval of the Specifications and Setting the Competitive Sealed Proposals Opening Date and Time for the Project Known as the Delaware Fiber Extension Project;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Specifications and Setting the Competitive Sealed Proposals Opening Date and Time for the Project Known as the Delaware Fiber Extension Project:

Public Notice
Request for Competitive Sealed Proposals
Delaware Fiber Extension Project

The Delaware County Board of Commissioners is seeking competitive sealed proposals for the project known as the Delaware Fiber Extension Project, intended to provide fiber optic connectivity to various public facilities. Sealed proposals will be received by the Delaware County Board of Commissioners, c/o Steve Lewis, Chief Technology Officer, 10 Court Street, Delaware, Ohio 43015, until 10:00 A.M. on February 19, 2021. At that time, proposals will be opened publicly in a manner to avoid public disclosure of contents; however, only names of offerors will be read aloud. One (1) fully and properly executed original is to be included. Submittals pursuant to this request will not be received after the hour and date stated above.

The Delaware Fiber Extension Project includes the installation and development, and potential management and maintenance, of fiber optic cabling connecting at various points to an existing fiber link.

This Public Notice and the complete Request for Proposals are posted on the Delaware County website, <https://co.delaware.oh.us/media-room/bids/>, and may be viewed or downloaded. Copies are also available from the Delaware County Data Center Office, 10 Court Street, Delaware, Ohio 43015, during normal business hours, 8:30 A.M. to 4:30 P.M., Monday through Friday, at a cost of Five Dollars (\$5.00).

The proposals must be made in the form required in the Request for Proposals and shall be submitted in sealed, opaque envelope plainly marked as "SEALED PROPOSAL FOR DELAWARE FIBER EXTENSION PROJECT." Any proposals submitted are to be prepared at the offeror's expense. Delaware County reserves the right to reject any and all proposals in whole or in part. Acceptance of a proposal shall not constitute an agreement between the offeror and Delaware County. Delaware County shall have no liability whatsoever to any offeror whose proposal is not accepted. The decision to award a contract is within the sole discretion of the Board of Commissioners. If an award is made, it shall be to the offeror whose proposal is determined to be the most advantageous to Delaware County, Ohio.

Any proposal submitted shall be accompanied by bond or certified check, cashier's check, or money order on a solvent bank or savings and loan association in the amount of Five Hundred Dollars (\$500.00). If a contract is awarded, a performance and payment bond in the amount of 100% of the project cost will be required.

Delaware Gazette Advertisement Date: Friday, January 22, 2021

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

5
RESOLUTION NO. 21-31

IN THE MATTER OF APPROVING A SERVICES AGREEMENT BY AND BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, DELAWARE COUNTY EMERGENCY MEDICAL SERVICES, AND CARDIOTRONIX, LLC FOR ANNUAL PREVENTATIVE MAINTENANCE AND SERVICE OF DURABLE MEDICAL EQUIPMENT:

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

WHEREAS, the Delaware County Director of Emergency Medical Services and staff recommend approval of a services agreement by and between the Delaware County Board of Commissioners, Delaware County Emergency Medical Services, and Cardiotronix, LLC for Annual preventative maintenance and service of durable medical equipment;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the services agreement by and between the Delaware County Board of Commissioners, Delaware County Emergency Medical Services, and Cardiotronix, LLC for Annual preventative maintenance and service of durable medical equipment:

SERVICES AGREEMENT

This Agreement is made and entered into this 11th day of January, 2021, by and between the Delaware County

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Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Cardiotronix, LLC, P.O. Box 2863, Kennesaw, Georgia 30144 (“Contractor”), hereinafter individually referred to as a “Party” and collectively referred to as the “Parties.” This Agreement shall supersede the existing agreement between the Parties, dated May 12, 2020, which shall terminate as of the effective date of this Agreement.

1 SERVICES PROVIDED BY CONTRACTOR

- 1.1 The Contractor shall perform the services specified in this Subsection 1.1 and in the IPM Device Quote attached hereto as Exhibit A, which is, by this reference, fully incorporated herein (the “Services”). The Services shall consist of the following repair services and IPM services on the equipment identified, at the location described, and for the rates set forth in Exhibit A: (a) repair service due to malfunction as required; (b) cost of OEM replacement parts as required on a new or exchanged basis; (c) labor to repair the equipment; (d) perform annual IPM service, as scheduled by Contractor, to include general device inspection, review of equipment operation, investigation of service logs, calibration as required, specific parameter device testing, and other remedial maintenance of a non-critical nature; (e) testing and recertification of the equipment; and (f) documentation of service work performed. Replaced parts become the property of the Contractor and will be removed from the site.
- 1.2 The Services shall not include the following: (a) servicing of the equipment not listed in Exhibit A; (b) providing any service specifically excluded herein; (c) providing or paying the cost for any rigging, facility, structural alterations, or accessory incident to the IPM services or equipment; (d) servicing any equipment if the equipment or site is contaminated with blood or other possible infectious substances; (e) software upgrades or reloads unless specifically outlined herein; (f) any removal or relocation of equipment; (g) repair due to any alteration or improper storage, handling, use or maintenance of the equipment by anyone other than Contractor; (h) repair due to damage caused by an external source; (i) repair due to neglect or misuse of the equipment. If it is necessary to remove equipment for repair, then the Parties shall mutually agree upon the costs and expenses the County shall pay for such removal.
- 1.3 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. Unless otherwise set forth in Exhibit A, the Contractor shall perform the scheduled Services Monday through Friday, 8:00AM to 5:00PM, local time, excluding any legal holidays.
- 1.4 The County shall do all of the following during the term of this Agreement: (a) assure that its sites containing the equipment are maintained in a clean and sanitary condition and that the equipment is cleaned and decontaminated after contact with blood or other potentially infectious material; (b) dispose of any hazardous or biological waste generated as a result of Contractor servicing a device; (c) maintain the equipment site and environment in a condition suitable for proper operation of the equipment (e.g., temperature, humidity, power quality, and fire protection); and (d) provide Contractor’s personnel full and free access to the equipment at the scheduled time for the Services. The County’s failure to provide access at the scheduled time shall constitute a waiver of the scheduled Services and is grounds for Contractor charging a demand service rate for all time Contractor’s personnel spends waiting for access.

2 SUPERVISION OF SERVICES

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

3 AGREEMENT AND MODIFICATIONS

- 3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the 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 COMPENSATION

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with Exhibit A. Additional Services shall only be performed upon written modification signed by both Parties and shall be subject to the rate specified in Exhibit A.

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4.2 Total compensation under this Agreement shall not exceed Thirty One Thousand Seven Hundred and Ninety Eight Dollars (\$31,798) without subsequent modification in writing.

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 as set forth herein.

5 PAYMENT

5.1 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 Exhibit A.

5.2 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.

5.3 The County shall pay invoices within thirty (30) days of receipt. The County shall pay interest on any amount not paid when due at the rate of 1.5% per month or the maximum rate permitted by applicable law, whichever is lower.

6 TERM; DELAYS

6.1 This Agreement shall be effective as of the date first written above and shall continue until December 31, 2023.

6.2 The Contractor shall be excused from performing the Services when the delay is caused by events beyond Contractor's control, including, but not limited to, acts of God, acts of third parties, acts of the County, acts of civil or military authority, fire, flood, war, terrorism, embargoes, labor disputes, acts of sabotage, riots, accidents, delays of carriers, subcontractors, or failure of the County to comply with Section 1.4 hereof.

7 INDEMNIFICATION; LIABILITY; WARRANTIES

7.1 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.

7.2 In no event shall Contractor be liable for any indirect, punitive, incidental, consequential, or special damages, including, but not limited to, lost revenues or profits or cost of substitute services.

7.3 The Contractor's full contractual obligations are stated in this Agreement, and Contractor provides no warranties hereunder. All Services are provided as is, and no warranty of merchantability or fitness for a particular purpose applies to the Services provided by Contractor.

8 INSURANCE

8.1 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.

8.2 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.

8.3 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.

8.4 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 8.1 and 8.2. Contractor shall require all of its subcontractors to provide like endorsements.

8.5 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

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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.

9 MISCELLANEOUS TERMS AND CONDITIONS

- 9.1 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.**
- 9.2 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.
- 9.3 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 9.4 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 9.5 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 9.6 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 9.7 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.
- 9.8 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.
- 9.9 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.
- 9.10 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.

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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.

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

6
RESOLUTION NO. 21-32

IN THE MATTER OF AWARDING A BID TO AND APPROVING A CONTRACT WITH BEHELER EXCAVATING, INC. FOR THE LOWER ALUM CREEK RELIEF PUMP STATION AND FORCEMAIN PROJECT, FORCEMAIN CONTRACT TC-142-FM:

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

WHEREAS, sealed bids for the Lower Alum Creek Relief Pump Station And Forcemain Project, Forcemain Contract TC-142-FM, were received at www.bidexpress.com at 10:00 a.m. Thursday, December 17, 2020; and

WHEREAS, eleven (11) bids were received, and the lowest and best bid received was from Beheler Excavating, Inc.; and

WHEREAS, the Sanitary Engineer recommends awarding a contract to Beheler Excavating, Inc.; and

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners hereby awards the bid for the Lower Alum Creek Relief Pump Station Forcemain Project to Beheler Excavating, Inc., and directs the Sanitary Engineer to 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 Beheler Excavating, Inc.:

**AGREEMENT BETWEEN DELAWARE COUNTY BOARD OF COMMISSIONERS AND CONTRACTOR
FOR DCES CONTRACT TC-142-FM: LOWER ALUM CREEK RELIEF PUMP STATION AND FORCEMAIN PROJECT – FORCEMAIN CONTRACT**

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

(Owner) and Beheler Excavating, Inc.

(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:

The Bidder shall furnish all labor and material to construct approximately 8,000 LF of 24" forcemain and 2,100 LF of 30" gravity sewer to connect to Lower Alum Creek Relief Pump Station; 8'x7' box culvert replacement; and all associated improvements as shown in the contract documents.

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 8,000 LF of 24" forcemain and 2,100 LF of 30" gravity sewer to connect to Lower Alum Creek Relief Pump Station; 8'x7' box culvert replacement; and all associated improvements as shown in the contract documents.

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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 ms consultants, inc.

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 – 360 days from Notice to Proceed
Final Payment/Completion – 390 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.

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 30th 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 100 percent of Engineer's estimate of the value of

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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 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 (00 52 00, inclusive).
2. Exhibits to this Agreement (enumerated as follows):

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- a. Contractor's Bid (00 41 00, inclusive).
- b. Documentation submitted by Contractor prior to Notice of Award (Bidding Forms, inclusive).
3. Contract bond (00 43 00, inclusive).
4. Certification of Owner's Attorney (00 54 01, inclusive).
5. Certificate of Insurance (00 62 16 inclusive).
6. Addenda (numbers 1 to 2, inclusive).
7. Construction Drawings bearing the following general title: Lower Alum Creek Relief Pump Station and Forcemain Project, Forcemain Contract, TC-142-FM
8. Specifications and Standard Drawings as listed in the table of contents of the Lower Alum Creek Relief Pump Station and Forcemain Project, Forcemain Contract, TC-142-FM
9. Supplementary Conditions (00 73 00, inclusive).
10. General Conditions (00 72 00, 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. 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)

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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 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.

12.07 Contractor agrees to the following:

A. That, in the hiring of employees for the performance of work under the contract or any subcontract, Contractor,

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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 January 21, 2021 (which is the Effective Date of the Agreement).

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

7

RESOLUTION NO. 21-33

**IN THE MATTER OF AWARDING A BID TO AND APPROVING A CONTRACT WITH
PETERSON CONSTRUCTION COMPANY FOR THE LOWER ALUM CREEK RELIEF PUMP
STATION AND FORCEMAIN PROJECT, PUMP STATION CONTRACT DCES TC-142-PS:**

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

WHEREAS, sealed bids for the Lower Alum Creek Relief Pump Station And Forcemain Project, Pump Station Contract TC-142-PS, were received at www.bidexpress.com at 10:00 a.m. Thursday, December 17, 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 Lower Alum Creek Relief Pump Station Project to Peterson Construction Company and directs the Sanitary Engineer to 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
FOR DCES CONTRACT TC-142-PS: LOWER ALUM CREEK RELIEF PUMP STATION AND
FORCEMAIN PROJECT – PUMP STATION CONTRACT**

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

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

All labor and material to construct the 14 MGD pump station and all associated improvements as shown in the contract documents.

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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:

All labor and material to construct the 14 MGD pump station and all associated improvements as shown in the contract documents.

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 ms consultants, inc.

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 – 600 days from Notice to Proceed
Final Payment/Completion – 630 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.

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 30th 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:

c. 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

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that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage; and

- d. 98 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 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.

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ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (00 52 00, inclusive).
2. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (00 41 00, inclusive).
 - b. Documentation submitted by Contractor prior to Notice of Award (Bidding Forms, inclusive).
3. Contract bond (00 43 00, inclusive).
4. Certification of Owner's Attorney (00 54 01, inclusive).
5. Certificate of Insurance (00 62 16 inclusive).
6. Addenda (numbers 1 to 2, inclusive).
7. Construction Drawings bearing the following general title: Lower Alum Creek Relief Pump Station and Forcemain Project, Pump Station Contract, TC-142-PS
8. Specifications and Standard Drawings as listed in the table of contents of the Lower Alum Creek Relief Pump Station and Forcemain Project, Pump Station Contract, TC-142-PS
9. Supplementary Conditions (00 73 00, inclusive).
10. General Conditions (00 72 00, 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, 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

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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 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.

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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.

12.07 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 January 21, 2021 (which is the Effective Date of the Agreement).

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

9

RESOLUTION NO. 21-34

IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH HAZEN AND SAWYER FOR ENGINEERING SERVICES RELATED TO TREATMENT AND PERFORMANCE EVALUATION AT THE NORTHSTAR WATER RECLAMATION FACILITY:

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with Hazen and Sawyer for engineering services related to treatment and performance evaluation at the Northstar Water Reclamation Facility;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio, hereby approves the following agreement with Hazen and Sawyer:

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into this 21st day of January, 2021, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Hazen and Sawyer, 150 E. Campus View Boulevard, Suite 200, Columbus, OH 43235 (“Consultant”), hereinafter collectively referred to as the “Parties”, and shall be known as the “Agreement.”

1 SERVICES PROVIDED BY CONSULTANT

- 1.1 The Consultant will provide professional engineering services related to a treatment and performance evaluation of the County’s Northstar Water Reclamation Facility (the “Services”).
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 The Services are more fully defined in, and shall be rendered by the Consultant in accordance with, the following documents, by this reference made part of this Agreement:
Exhibit A — Scope of Services and Exhibit B — Fee Proposal.

2 SUPERVISION OF SERVICES

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
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- 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 or her designee shall have authority to review and order changes, commencement, suspension or termination of the Services performed under this Agreement

3 AGREEMENT AND MODIFICATIONS

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

4 FEES AND REIMBURSABLE EXPENSES

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Fee Proposal noted in Section 1.3.
- 4.2 Total compensation under this Agreement shall not exceed Forty Six Thousand Five Hundred dollars (\$46,500) 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.

Sanitary Engineer:

Name: Delaware County Sanitary Engineer’s Office
Attn: Erik McPeek

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: (740) 833-2240

Email: emcpeek@co.delaware.oh.us

Consultant:

Name of Principal in Charge: Hazen and Sawyer
ATTN: Scott Phipps, PE

Address of Firm: 150 E. Campus View Blvd, Suite 200

City, State, Zip: Columbus, Ohio 43235

Telephone: 614-396-8745

Email: sshipps@hazenandsawyer.com

6 PAYMENT

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

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

- 7.1 The Consultant shall commence Services upon written Notice to Proceed (“Authorization”) from the Sanitary Engineer and shall complete the Services no later than September 30, 2021.
- 7.2 Consultant shall not proceed with any “If Authorized” tasks without written Authorization.
- 7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Consultant may make a written request for time extension, and the 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 Consultant shall immediately suspend or terminate Services, as ordered by the County.
- 8.2 In the case of termination, the Consultant shall submit a final invoice within sixty (60) days of receiving Notice of termination for Services completed up to the date of termination. The County is not liable for payment for Services performed after the date of termination.

9 CHANGE/ADDITIONS IN SCOPE OF SERVICES

- 9.1 In the event that significant changes to the scope of the 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 take effect if approved in a writing signed by both Parties in accordance with Section 3.1.

For any additional services in addition to those included in Section 1 as authorized or “if authorized”, a scope and fee shall be negotiated and agreed to by both Parties prior to performance of the additional services. This Agreement shall be modified or amended in writing with the mutual consent and agreement of the Parties prior to performance of the additional services.

10 OWNERSHIP

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

11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT

- 11.1 The Consultant shall immediately notify the County, in writing, of any change to key Consultant staff or sub-consultants assigned to the Services as contemplated at the time of executing this Agreement.
- 11.2 The Consultant shall not assign or transfer this Agreement, or any of the rights, responsibilities, or remedies contained herein, to any other party without the express, written consent of the County.

12 INDEMNIFICATION

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

13 INSURANCE

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

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- 13.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.
- 13.5 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 13.1 and 13.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 13.6 Proof of Insurance: Prior to the commencement of any Services under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Consultant will replace certificates for any insurance expiring prior to completion of Services under this Agreement.

14 MISCELLANEOUS TERMS AND CONDITIONS

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

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MINUTES FROM REGULAR MEETING HELD JANUARY 21, 2021

- 14.7 Findings for Recovery: Consultant certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 14.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 14.9 County Policies: The Consultant shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Consultant shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing Services under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Consultant to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 14.10 Drug-Free Workplace: The Consultant agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Consultant shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the Services being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 14.11 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of Services under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the Services to which the Agreement relates.

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

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

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

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

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

8
RESOLUTION NO. 21-35

IN THE MATTER OF APPROVING AN EASEMENT AGREEMENT WITH JAGUAR RESOURCES, LLC; ECH PATHWAYS, LLC; EAGLE LODGE, LLC; 221 HYATTS RD, LLC; AND HYATTS-COLUMBUS PIKE, LLC, IN CONJUNCTION WITH THE HYATTS ROAD PUMP STATION PROJECT:

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

WHEREAS, sanitary easements and construction easements are necessary to establish on the property owned by Jaguar Resources, LLC; ECH Pathways, LLC; Eagle Lodge, LLC; 221 Hyatts Rd, LLC; and Hyatts-Columbus Pike, LLC, in order to construct and provide access to the Hyatts Road Pump Station, force main, and gravity sewer; and

WHEREAS, the Sanitary Engineer recommends that the Easement Agreement be approved;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the following Easement Agreement with Jaguar Resources, LLC; ECH Pathways, LLC; Eagle Lodge, LLC; 221 Hyatts Rd, LLC; and Hyatts-Columbus Pike, LLC:

EASEMENT AGREEMENT

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JANUARY 21, 2021**

THIS AGREEMENT is made this 21st day of January 2021, by and among the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** (the “Buyer”) and **JAGUAR RESOURCES, LLC**, an Ohio limited liability company, **ECH PATHWAYS, LLC**, an Ohio limited liability company, **EAGLE LODGE, LLC**, an Ohio limited liability company, **221 HYATTS RD, LLC**, an Ohio limited liability company, and **HYATTS-COLUMBUS PIKE, LLC**, an Ohio limited liability company, (collectively, the “Sellers”).

WITNESSETH:

In consideration of the promises and covenants hereinafter contained, the Sellers agree to sell and convey and the Buyer agrees to purchase and to pay for Sanitary Easements, both Temporary and Permanent as hereinafter identified and incorporated by reference as if fully set out at length herein and described as follows:

OWNER	PROPERTY ADDRESS	EASEMENT TYPE	RECORDING INFORMATION
Jaguar Resources, LLC	124 & 130 Hyatts Road	Temporary Permanent	OR Book 1692, Pages 1994-1997 OR Book 1692, Pages 1990-1993
ECH Pathways, LLC	123 Hyatts Road	Temporary Permanent	OR Book 1692, Pages 2006-2009 OR Book 1692, Pages 2010-2013
Eagle Lodge, LLC	275 Hyatts Road	Temporary Permanent	OR Book 1692, Pages 1980-1984 OR Book 1692, Pages 1985-1989
221 Hyatts Rd., LLC	221 Hyatts Road	Temporary Permanent	OR Book 1692, Pages 1975-1979 OR Book 1692, Pages 1971-1974
Hyatts-Columbus Pike LLC	Vacant Ground	Temporary Permanent	OR Book 1692, Pages 2002-2005 OR Book 1692, Pages 1998-2001

In lieu of cash compensation, the Buyer and Sellers mutually agree that the purchase price of said Sanitary Easements shall be seven (7) tap credits including three (3) for commercial properties, and Sellers acknowledge that the purchase price stated herein constitutes full just compensation for the acquisition of the Sanitary Easements. The tap credit breakdown by property is as follows:

OWNER	PROPERTY ADDRESS	Tap Credit Amount
Jaguar Resources, LLC	124 Hyatts Road	\$8,100
Jaguar Resources, LLC	130 Hyatts Road	\$8,100
Jaguar Resources, LLC	New Building – Health Barn	\$30,000
ECH Pathways, LLC	123 Hyatts Road	\$30,000
Eagle Lodge, LLC	275 Hyatts Road	\$8,100
221 Hyatts Rd., LLC	221 Hyatts Road	\$8,100
Hyatts-Columbus Pike LLC	Vacant Ground	\$30,000

The tap credits granted herein may only be used by the Sellers for the cost of connection to sanitary sewer for its properties located at the addresses listed above. The three (3) commercial taps consist of a tap credit of up to \$30,000 at each property. At the time a Commercial Tap Fee Application is submitted to the Regional Sewer District, any amount above \$30,000 will be the responsibility of the owner to pay. In the event the entire \$30,000 credit is not applied, any remaining balance shall be remitted back to the Regional Sewer District and will not be transferrable to another property. The Buyer and the Sellers mutually acknowledge and agree that this grant of tap credits is intended to establish the reasonable charge for the Sellers to connect to the Buyer’s sanitary facilities, pursuant to R.C. 6117.02, in consideration of the Sellers’ private investment in the sanitary facilities, such charge being a special exception to the established charge.

This grant of tap credits shall be effective immediately upon execution of this Agreement by Buyer and Sellers. It is the intent of the Parties hereto that this Agreement will not be recorded unless by written agreement of the Parties hereto. Unless otherwise amended or modified by the Parties hereto, this document represents the full and complete agreement of the Parties to this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the dates written below, and this Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators and assigns of the parties.

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

10

RESOLUTION NO. 21-36

IN THE MATTER OF APPROVING A SERVICES AGREEMENT WITH QUASAR ENERGY GROUP, LLC FOR BIOSOLIDS DISPOSAL AND HAULING SERVICES:

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with Quasar Energy Group, LLC

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for Biosolids Disposal and Hauling Services;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio, hereby approves the following agreement with Quasar Energy Group, LLC:

SERVICES AGREEMENT

This Agreement is made and entered into this 21st day of January, 2021, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Quasar Energy Group, LLC, 8600 E Pleasant Valley Rd., Cleveland, OH 44131 (“Contractor”), hereinafter collectively referred to as the “Parties.”

1 SERVICES PROVIDED BY CONTRACTOR

- 1.1 The Contractor will provide biosolids disposal services and hauling of the biosolids for County treatment plants (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 Services shall be further described in and rendered by the Contractor in accordance with the following documents, by this reference made part of this Agreement:
Exhibit A: Delaware County – Biosolids Disposal

2 SUPERVISION OF SERVICES

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

3 AGREEMENT AND MODIFICATIONS

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

4 FEES AND REIMBURSABLE EXPENSES

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with Exhibit A.
- 4.2 Total compensation under this Agreement shall not exceed Fifty Thousand Dollars (\$50,000) 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 to 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: Erik McPeek

Address: 50 Channing Street, Delaware, OH 43015

Telephone: 740-833-2240

Email: emcpeek@co.delaware.oh.us

Contractor:

Name of Principal in Charge: Clint Pemberton

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Address of Firm: 8600 E Pleasant Valley Rd
 City, State, Zip: Cleveland, OH 44131
 Telephone: 216-401-5536
 Email: cpemberton@quasareg.com

6 PAYMENT

- 6.1 Compensation shall be paid monthly, based on invoices submitted by the Contractor and approved by the Sanitary Engineer, and shall be in accordance with Exhibit A.
- 6.2 In the event that the Contractor incurs additional costs or expenses directly attributable to the present COVID-19 pandemic, the Contractor may increase the fees set forth in Exhibit A by providing written notice of the increase to the County. Within fourteen (14) days after receipt of the written notice, the County may either accept the increase in fees or elect to suspend or terminate this Agreement.
- 6.3 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.
- 6.4 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 Sanitary Engineer and shall complete the Services in accordance with Exhibit A.
- 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 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 The Contractor, upon thirty (30) days written Notice as specified in Section 5, may terminate this Agreement for the convenience of the Contractor.
- 8.3 In the case of termination, the Contractor shall submit a final invoice within sixty (60) days of the Notice of termination for Services completed up to the date of termination. The County is not liable for payment for Services performed after the date of termination.

9 CHANGE IN SCOPE OF SERVICES

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

10 INDEMNIFICATION

- 10.1 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.

11 INSURANCE

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JANUARY 21, 2021**

- 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 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.
- 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 work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 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 work 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 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 Absent Mr. Merrell Aye Mrs. Lewis Aye

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RESOLUTION NO. 21-37

IN THE MATTER OF SETTING THE DATE AND TIME TO RECEIVE PROPOSALS FOR BIOSOLIDS HAULING AND DISPOSAL SERVICES:

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

WHEREAS, the Regional Sewer District desires to receive proposals for Biosolids Hauling and Disposal Services; and

WHEREAS, the Regional Sewer District will provide the proposal request documents, including proposal requirements, format, and forms; and

NOW, THEREFORE, BE IT RESOLVED that the Request for Proposal Documents for Biosolids Hauling and Disposal Services are hereby approved, and the Sanitary Engineer is authorized to advertise for and receive proposals on behalf of the Board in accordance with the following Request for Proposals:

Advertisement

PUBLIC NOTICE

**REQUEST FOR PROPOSALS
BOARD OF COMMISSIONERS
DELAWARE COUNTY, OHIO**

The Delaware County Commissioners are seeking competitive sealed proposals from contractors for the disposal of biosolids generated from the County’s wastewater treatment facilities, with hauling to be provided by the Delaware County Sewer District or the contractor. Proposals will be received at the Delaware County Sanitary Engineer’s Office, 50 Channing Street, Delaware, Ohio 43015, until **12:00 p.m. on Thursday, February, 25 2021**. At that time, proposals will be opened and names of offerors only will be available upon request. In-person drop off is available at the south entrance of the Sanitary Engineer’s Office; upon arrival call (740) 833-2240 and a Sewer District representative will receive your proposal. One (1) original and five (5) copies and a .pdf copy on a USB

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sports gear, arts and crafts, etc.; and

WHEREAS, these donations along with the donations of other area businesses, agencies, and area residents provided Christmas to 100 adults and 250 children and youth; and

WHEREAS, these gifts were received from the following organizations in the amounts as follows:

New Hope Church of Powell:	\$ 2,475.00
United Way of Delaware County:	\$ 3,000.00
Liberty Presbyterian Church:	\$ 5,400.00
Bourbon Brothers:	\$ 1,500.00
Schultz Family:	\$ 1,000.00
Delaware Grace Church	\$ 3,100.00
Lifepoint Church	\$ 1,700.00
Grady Hospital Surgical Team	\$ 1,000.00
Delaware Church of Christ in Christian Union:	\$ 1,000.00; and

WHEREAS, the Delaware County Board of Commissioners wishes to formally accept these donations and offer thanks to all these organizations for their generous support of the Delaware County Department of Job and Family Services and the children, families, and seniors of Delaware County;

NOW, THEREFORE, BE IT RESOLVED, that the Delaware County Board of Commissioners hereby accepts these donations for a total amount of \$20,175 to the Delaware County Department of Job and Family Services and thanks New Hope Church of Powell, United Way of Delaware County, Liberty Presbyterian Church, Bourbon Brothers, the Schultz Family, Delaware Grace Church, Lifepoint Church, Grady Hospital Surgical Team, and Delaware Church of Christ in Christian Union for their thoughtful generosity and commitment to the children and families of Delaware County.

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

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RESOLUTION NO. 21-41

IN THE MATTER OF APPROVING THE CHILD PLACEMENT SERVICES CONTRACT AND FIRST AMENDMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, AND CHILD PLACEMENT PROVIDER NECCO, INC.:

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

WHEREAS, Delaware County contracts with Child Care Placement providers in accordance with state and federal regulations; and

WHEREAS, the Director of Jobs & Family Services recommends approval of the following contract and first amendment with NECCO, Inc.;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the following contract and first amendment with NECCO, Inc for Child Care Placement:

Child Placement Service	Per diem cost and per diem reimbursement for the following categories
NECCO, Inc. 415 Glensprings Drive, Suite 201 Cincinnati, Ohio, 43015 This Agreement in effect from of 01/11/21 through 06/30/21.	A. Maintenance B. Administration C. Case Management D. Transportation E. Other Direct Services (e.g., special diets, clothing, insurance, respite care) F. Behavioral Healthcare G. Other costs - (any other cost the Agency has agreed to participate in)

**FIRST AMENDMENT TO THE AGREEMENT
FOR TITLE IV-E AGENCIES AND PROVIDERS FOR THE PROVISION OF CHILD
PLACEMENT BETWEEN DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY
SERVICES AND NECCO, INC.**

This First Amendment to the Agreement for Title IV-E Agencies and Providers for the Provision of Child Placement Between Delaware County Department of Job and Family Services (“Agency”) and NECCO, Inc. (“Provider”) (“First Amendment”) is entered into this 21ST day of January, 2021.

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Whereas, Agency and Provider have entered an Agreement for Title IV-E Agencies and Providers for the Provision of Child Placement with a term of 01/11/21 through 06/30/21 (“Agreement”); and

Whereas, Article XV of the Agreement allows the Parties to amend the Agreement via a written amendment signed by both parties; and,

Whereas, Agency and Provider desire and have agreed to amend the Agreement to include the additional terms and conditions set forth herein.

Now Therefore, the Parties agree to amend the Agreement as follows:

Section 1 – Supplemental Terms and Conditions

The following terms and conditions shall be added to and supplement the indicated sections of the Agreement:

- A. Article II.** This agreement shall have an initial service period of 01/11/21 through 06/30/21.

By mutual consent, the Agency and Provider may determine that an extension of this contract is in the best interest of all Parties. Therefore, by mutual agreement of the Parties, the contract may be extended for two (2) additional consecutive years in one (1) year period increments. There shall be no increase in transaction costs nor a decrease in services, and all other terms of this contract remain unchanged, unless amended by a separate written amendment signed by all Parties.

Extension is contingent upon the availability of funds, the terms of the grant agreement between the Agency, the state of Ohio and/or the federal government, as well as satisfactory performance by the Provider, and is subject to approval by the Agency, with renegotiation to be initiated by the Agency before the expiration of the existing service period.

- B. Article V.E.** Provider agrees to submit a monthly progress report as negotiated by the parties to the Children Services Assistant Director for each child no later than the twentieth (20th) day of each month. The progress report will be based on the child’s Individual Child Care Agreement and case plan and should include documentation of services provided to the child (visits to the child, counseling outcome(s), etc.). Failure to submit the progress reports may result in a delay of payment until such time as the Provider comes into compliance.
- C. Article V.F., G. and H.** Notification as required by these sections shall be made to the Agency’s 24/7 emergency number. The emergency number is 740-833-2340.
- D. Article V.I.** Provider also agrees to notify the Agency when and if the following safety condition exists: - The child’s medication has changed.
- E. New Article V. AA.** Provider agrees to transfer copies of the child’s records to the Agency within forty-eight (48) hours of the request, excluding weekends and holidays. Copies of the records are to be submitted electronically via email as an attachment, scanned pdf file(s), or via facsimile (fax).
- F. New Article V. BB.** Provider agrees to provide transportation for the child to subsequent placements including those outside the Provider network. Transportation shall be limited to within the State of Ohio.
- G. Article VIII. A.** There shall be no pre-defined maximum amount payable pursuant to this contract. PROVIDER agrees to accept as full payment for Services rendered in a manner satisfactory to the Agency the amount of actual expenditures made by PROVIDER for purposes of providing the Services.
- H. New Article VIII. J.** Per diem rates shall remain unchanged during the initial service period defined in Article II, Term of Agreement. Upon completion of the initial service period, Provider may update per diem rates through a mutually agreed upon contract amendment not more than once annually during each one (1) year service period extension. Provider agrees to provide written notification to the Agency of requested per diem rate changes. Written notification shall be sent electronically via email to the attention of Mr. Jeffrey Sell, Protective Services Administrator whose email address is jeffrey.sell2@jfs.ohio.gov and Mr. Steven Sikora, Fiscal Supervisor, whose email address is steven.sikora@jfs.ohio.gov. Written notification shall contain the total per diem rate and the per diem rate components (Maintenance, Administration, Transportation, Other, etc.). Per diem rate changes shall take effect the first calendar day of the month after the per diem rate change has been formally approved by the Provider and Agency in a contract amendment. Provider and Agency shall ensure service levels and per diem rates specified in an Individual Child Care Agreement (ICCA) are incorporated into the contract. In the event of a conflict between the per diem rate represented in an ICCA and the rates mutually agreed upon in the contract, rates in the contract shall prevail. In the event that an ICCA specifies a service level that is not yet included in the per diem rate schedule in the contract, Provider shall not provide the services for or bill the Agency for the services until the service level and related per diem rate has been incorporated into the contract through a contract amendment.

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I. Article XII.D. Independent Contractor Acknowledgement/No Contribution to OPERS

Agency, Board, and Delaware County, Ohio (for purposes of this section collectively “County”) are public employers as defined in R.C. § 145.01(D). The County has classified the Provider as an independent contractor or another classification other than public employee. As a result, no contributions will be made to the Ohio Public Employees Retirement System (“OPERS”) for or on behalf of Provider and/or any of its officers, officials, employees, representatives, agents, and/or volunteers for services and/or deliverables rendered and/or received under or pursuant to this Agreement. Provider acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed it of such classification and that no contributions will be made to OPERS. If Provider is an individual or has less than five (5) employees, Provider, in support of being so informed and pursuant to R.C. § 145.038, agrees to and shall complete and shall have each of its employees complete an OPERS Independent Contractor/Worker Acknowledgement Form (“OPERS Form”). The OPERS Form is attached to this First Amendment as Exhibit 1. The Agency shall retain the completed OPERS Form(s) and immediately transmit a copy(ies) of it/them to OPERS.

If Provider has five (5) or more employees, Provider, by signature of its authorized representative below, hereby certifies such fact in lieu of completing the OPERS Form:

Signature	Date
Printed Name	
Title	

- J. Article XX.A.** Agency agrees to waive the requirement for One Hundred Thousand Dollars (\$100,000.00) coverage in legal liability fire damage.
- K. Article XX.D.** In lieu of the coverage amount indicated in the Agreement, Provider agrees to procure and maintain Umbrella and Excess liability insurance coverage of at least Two Million Dollars (\$2,000,000.00) per occurrence and in the aggregate above the commercial general and business auto primary policies.
- L. Article XX.F.** The Delaware County Board of Commissioners (Board”) shall be listed as the Certificate Holder.

Section 2 - Miscellaneous

- A. Exhibits to Agreement.**
 - 1. Exhibit 1 – Scope of Work. This exhibit is referenced throughout the Agreement. It does not exist.
 - 2. Exhibits II and III. The Agreement was not competitively bid. These exhibits do not exist.
 - 3. Exhibit IV – Rate Schedule. This is exhibit is also referenced as “Schedule A.” It is attached to the Agreement labeled “Title IV-E Schedule A Rate Information.”
- B. Attachments to First Amendment.** The following are attached to this First Amendment and by this reference are incorporated into this First Amendment:
 - 1. OPERS Independent Contractor/Worker Acknowledgement.
- C. Conflicts.** In the event of a conflict between the terms of the Agreement and this First Amendment, the terms of this First Amendment shall prevail.
- D. Other Terms and Conditions Unchanged.** All terms and conditions of the Agreement not changed by this First Amendment remain the same, unchanged, and in full force and effect.
- E. Signatures.**
 - 1. Unless otherwise stated and unless the Agreement is otherwise signed by the Board or, where authorized, the Delaware County Administrator (“Administrator”) on behalf of the Board, the signatures of the Board or Administrator below shall be approval of both the Agreement and this First Amendment.
 - 2. Any person executing this First Amendment in a representative capacity hereby warrants that he/she has authority to sign this First Amendment or has been duly authorized by his/her principal to execute this First Amendment on such principal’s behalf and is authorized to bind such principal.
- F. Auditor’s Certification.** The Auditor’s Certification attached to this First Amendment shall serve as the Auditor’s Certification for the Agreement.

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

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ADMINISTRATOR REPORTS

Mike Frommer, County Administrator
-No reports.

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COMMISSIONERS' COMMITTEES REPORTS

Commissioner Lewis
-Today is a historic day for the Commissioners' office. This is our first session in the Historic Courthouse.

Commissioner Merrell
-Taped a BIA speech on Tuesday.
-The Land Bank met yesterday. We have selected a broker to list the Old Jail for sale.
-Read a personal statement.

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RESOLUTION NO. 21-42

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

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

WHEREAS, pursuant to section 121.22(G) of the Revised Code, a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the matters specified in section 121.22(G)(1)-(7) of the Revised Code; and

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

Section 1. The Board hereby adjourns into executive session for consideration of appointment; employment of a public employee or public official; to consider the purchase of property for public purposes; for collective bargaining.

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

RESOLUTION NO. 21-43

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

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

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

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

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Jennifer Walraven, Clerk to the Commissioners