

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MARCH 1, 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
Jeff Benton, Commissioner

1
RESOLUTION NO. 21-140

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD FEBRUARY 25, 2021:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on February 25, 2021; and

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

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

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

2
RESOLUTION NO. 21-141

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0226:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0226 and Purchase Orders as listed below:

PR Number	Vendor Name	Line Description	Account	Amount
R2102307	OUTSIDER	VIDEO PRODUCTION	10011139 -	\$25,000.00
	ENTERTAINMENT LLC	SERVICES	5301	
R2102313	PROSECUTORS	IV-D CONTRACT SERVICES	23711630 -	\$42,587.54
			5301	
R2102350	BENCHMARK	HISTORIC COURTHOUSE	42011438 -	\$10,323.20
	WOODWORKS CO INC	RADIATOR COVERS	5410	
R2102354	DELHI LANDSCAPE INC	MATERIAL & SUPPLIES FOR	10011105 -	\$ 2,707.36
		PAVER AREA	5201	
R2102354	DELHI LANDSCAPE INC	SOD CUTTER	10011105 -	\$ 150.00
			5335	
R2102354	DELHI LANDSCAPE INC	REPAIR PAVERS HAYES	10011105 -	\$ 5,000.00
		BUILDING	5328	

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

3
RESOLUTION NO. 21-142

IN THE MATTER OF APPOINTING DONALD E. RANKEY, JR., ACTING TREASURER FOR DELAWARE COUNTY:

It was moved by Mrs. Lewis, seconded by Mr. Benton to adopt the following resolution:

WHEREAS, by virtue of Delaware County Treasurer Mike Ringle's resignation, effective on February 26, 2021, the office of Delaware County Treasurer is vacant; and

WHEREAS, pursuant to section 305.02(F) of the Revised Code, the Board of County Commissioners may appoint a person to hold the office of County Treasurer as an acting officer and to perform the duties thereof between the occurrence of the vacancy and the time when the officer appointed by the central committee qualifies and takes the office; and

WHEREAS, given the time that will elapse before the central committee makes an appointment to fill the open office of Delaware County Treasurer and the need to have a person perform the statutory and administrative duties and responsibilities of County Treasurer, the Board of Commissioners has determined that it is necessary and proper to appoint an acting officer to perform said duties and responsibilities; and

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WHEREAS, Donald E. Rankey, Jr., was elected to the office of County Treasurer at the general election held on November 3, 2020, and his term will commence on September 6, 2021; and

WHEREAS, due to Mr. Rankey being the Treasurer-Elect, the Board of County Commissioners considers him the most appropriate candidate to serve as the acting officer and fill the current vacancy;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY, OHIO:

Section 1. Donald E. Rankey, Jr., is hereby appointed to hold the office of County Treasurer as an acting officer to perform the duties thereof between the effective date of this Resolution and the time when the County Treasurer appointed by the central committee qualifies and takes the office.

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

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

4
RESOLUTION NO. 21-143

IN THE MATTER OF A TRANSFER OF A LIQUOR LICENSE REQUEST FROM CHILLY’S PLACE, INC. TO 3120 OLENTANGY RIVER ROAD, LLC (BOTH DBA GABBY’S PLACE) AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

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

WHEREAS, the Ohio Division of Liquor Control has notified the Delaware County Board of Commissioners of a transfer of a D1 and D2 liquor license request from Chilly’s Place, Inc. to 3120 Olentangy River Road, LLC (Both DBA Gabby’s Place) located at 3120 Olentangy River Road, Delaware, Ohio 43015 ; and

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

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

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

5
RESOLUTION NO. 21-144

IN THE MATTER OF A NEW LIQUOR LICENSE REQUEST FROM 3120 OLENTANGY RIVER ROAD, LLC (DBA GABBY’S PLACE) AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

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

WHEREAS, the Ohio Division of Liquor Control has notified the Delaware County Board of Commissioners of a new D3 and D3A liquor license request from 3120 Olentangy River Road, LLC (DBA Gabby’s Place) located at 3120 Olentangy River Road, Delaware, Ohio 43015; and

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

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

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

6
RESOLUTION NO. 21- 145

IN THE MATTER OF RECOGNIZING MARCH AS AMERICAN RED CROSS MONTH:

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

WHEREAS, March is American Red Cross Month, a special time to honor the kindness of our neighbors who aid families in need every day in Central Ohio, across the United States and around the world. Their dedication touches millions of lives each year as they carry out the organization’s 140-year mission of preventing and alleviating suffering.

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WHEREAS, during the trying times of the coronavirus pandemic, people have stepped up to help others in need, whether it was responding to this year’s record-breaking disasters across the country or rolling up their sleeves to give blood when our country faced a severe blood shortage.

WHEREAS, here in Central Ohio, local families have relied on **Greater Columbus Chapter volunteers for comfort and hope while coping with COVID-19**, single family house fires, tornadoes, floods, and other emergencies. Last year, 1000 Greater Columbus Chapter humanitarians trained locally and deployed nationally to support operations across the country while ensuring high standards of disaster preparedness and readiness in their own communities. Volunteers also helped 488 people affected by 353 home fires in Greater Columbus by addressing their urgent needs like food, lodging and recovery support.

WHEREAS, Greater Columbus Chapter volunteers have supported local families in other ways too. Last year in Central Ohio the Red Cross collected more than 143,000 units of blood, taught over 20,000 CPR/AED/First Aid, aquatics and babysitting classes, connected 850 Service to the Armed Forces critical communication cases, and installed nearly 1000 smoke alarms making homes safer.

WHEREAS, this lifesaving work is vital to strengthening our community’s resilience. Nearly 200 years since the birth of American Red Cross founder Clara Barton, we dedicate this month of March 2021 to all those who continue to advance her noble legacy, and we ask others to join in their commitment to care for people in need.

THEREFORE, BE IT RESOLVED that the Delaware County Commissioners recognize the critical work of the American Red Cross and its Greater Columbus Chapter; AND

BE IT FURTHER RESOLVED that the Delaware County Commissioners designate the month of March 2021 as American Red Cross Month in Delaware County, and we encourage our residents to support the humanitarian mission of the American Red Cross.

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

**7
RESOLUTION NO. 21-146**

IN THE MATTER OF GRANTING ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, REBECCA A. KELLEY, ESQ., ATTORNEY-AT-LAW, REQUESTING ANNEXATION OF 6.073 ACRES OF LAND IN BERKSHIRE TOWNSHIP TO THE VILLAGE OF GALENA:

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

WHEREAS, on January 28, 2021, the Clerk to the Board of the Delaware County Commissioners received an annexation petition filed by Rebecca A. Kelley, Esq., Attorney-at-Law, agent for the petitioner, of 6.073 acres, more or less, in Berkshire Township to the Village of Galena; and

WHEREAS, pursuant to section 709.023 of the Revised Code, if the Municipality or Township does not file an objection within 25 days after filing of the annexation petition, the Board at its next regular session shall enter upon its journal a resolution granting the proposed annexation; and

WHEREAS, 25 days have passed and the Clerk of the Board has not received an objection from the Village of Galena or the Township of Berkshire;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners grants the petition requesting annexation of 6.073 acres, more or less, from Berkshire Township to the Village of Galena.

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

**8
RESOLUTION NO. 21-147**

IN THE MATTER OF ACCEPTING THE TREASURER’S REPORT FOR THE MONTH OF JANUARY 2021:

It was moved by Mrs. Lewis, seconded by Mr. Benton to accept the Treasurer’s Report for the month of January 2021.

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

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

**9
RESOLUTION NO. 21-148**

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IN THE MATTER OF SETTING THE TIME AND DATE FOR, AND PROVIDING NOTICE OF, A PUBLIC HEARING TO CONSIDER CHANGING THE NAME OF EAGLE’S LANDING DRIVE, ONLY EAST OF LIBERTY GRAND BOULEVARD, A TOWNSHIP ROAD IN THE UNINCORPORATED AREA OF LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO:

It was moved by Mr. Benton, and seconded by Mrs. Lewis to adopt the following:

WHEREAS, pursuant to section 5541.04 of the Revised Code, the board of county commissioners of any county, on its own motion or on petition by a person owning a lot in the unincorporated area of said county praying that the name of a county or township road in the immediate vicinity of such lot be changed, upon hearing, and upon being satisfied that there is good cause for such a change of name, that it will not be detrimental to the general interest, and that it should be made, may, by resolution declare the change of the name of such road; and

WHEREAS, on February 16, 2021 the Delaware County Board of Commissioners (the “Board”) received a petition from Liberty Grand LLC, landowner, requesting the change of name of Eagle’s Landing Drive, only East of Liberty Grand Boulevard, to Community Way; and

WHEREAS, the Board desires to hold a public hearing to consider the petition requesting changing the name of Eagle’s Landing Drive, only East of Liberty Grand Boulevard, a township road in the unincorporated area of Liberty Township, Delaware County, Ohio, to Community Way;

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

Section 1. The Board hereby sets **10:00A.M. on Monday, April 5, 2021** as the time and date for a public hearing to consider changing the name of Eagle’s Landing Drive, only East of Liberty Grand Boulevard, a township road in the unincorporated area of Liberty Township, Delaware County, Ohio, to Community Way. The public hearing shall be held at the Board’s Hearing Room, 91 North Sandusky Street Delaware, Ohio 43015.

Section 2. The Clerk of the Board is hereby directed to send written notice, via certified U.S. Mail, to all owners of lots abutting the road in question, and to the Liberty Township Board of Trustees, and to publish a notice of the public hearing once in the Delaware Gazette at least thirty (30) days prior to the public hearing.

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

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

10
RESOLUTION NO. 21-149

IN THE MATTER OF APPROVING ESTIMATE, BID SPECIFICATIONS, AND SETTING BID OPENING DATE AND TIME FOR THE PROJECT KNOWN AS ITB #21-002 TESTING AND INSPECTION SERVICES FOR THE DELAWARE COUNTY BYXBE CAMPUS PROJECT:

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

WHEREAS, the Director of Facilities recommends approval of the estimate, bid specifications, and bid opening date and time for the project known as ITB #21-002 Testing and Inspection Services for the Delaware County Byxbe Campus Project;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the estimate, bid specifications, and bid opening date and time for the project known as ITB #21-002 Testing and Inspection Services for the Delaware County Byxbe Campus Project:

**Delaware County Board of Commissioners
PUBLIC NOTICE
INVITATION TO BID**

Bids shall be submitted electronically through the www.bidexpress.com web service until 10:00 AM on Wednesday, March 24, 2021, at which time they will be publicly received and read aloud for the following:

**ITB #21-002 TESTING AND INSPECTION SERVICES
FOR THE DELAWARE COUNTY BYXBE CAMPUS PROJECT**

All proposals shall be submitted electronically through the web service www.bidexpress.com. A Bid Guaranty must be submitted with each bid, pursuant to the requirements of O.R.C. 307.88.

To access this Project through the electronic bidding service, you must first register at www.bidexpress.com by

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clicking on the "REGISTER FOR FREE" button and following the instructions. In order to bid, you must create and enable a digital ID within the service. This process requires the submission of notarized paperwork and may take up to five business days to complete. There are no fees to register, create and enable a digital ID, or to download bid documents. There is a small expense on a monthly or per bid basis to submit a bid. The electronic bidding service offers customer support that may be reached at 888.352.2439 or via email at support@bidexpress.com.

Bid award shall be to the lowest and best bidder as determined by Delaware County. Delaware County reserves the right to reject any and all bids, in whole or in part, to waive any defect in any or all bids. Each bid shall contain the full name and address of the bidder and all interested parties. No bid shall be withdrawn for a period of sixty (60) days after being publicly opened and read.

Notice to Bidders are posted on the Internet and may be viewed on Delaware County's web site at www.co.delaware.oh.us under the heading "Public Notices and Bids".

Delaware Gazette Advertisement Dates:

March 4, 2021

INSTRUCTIONS TO BIDDERS

**ITB #21-002 TESTING AND INSPECTION SERVICES
FOR THE DELAWARE COUNTY BYXBE CAMPUS PROJECT**

Please direct all Pre-Bid questions to the project site on the www.BidExpress.com webservice.

1. Legal Framework: This Invitation to Bid (ITB) is issued under the provisions of the Ohio Revised Code (ORC) Sections 307.86 to 307.92. All bids submitted in response to this ITB shall comply with Ohio law. The laws of the State of Ohio will govern any disputes arising under this ITB and subsequent contract.

2. Receipt and Opening of Bids: The Delaware County Board of Commissioners invites bids through the www.bidexpress.com web service. All portions of the bid must be appropriately filled in. Bids will be received online until **Wednesday, March 24, 2021, 10:00 AM EST** at which time they shall be publicly received, opened and read aloud. The Board of Commissioners may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within sixty (60) days after the actual date of the opening thereof.

3. Bid Bond Requirements: Section 307.88 of the Ohio Revised Code governs the requirements of bid bonds. A bid bond or a certified check, cashier's check, or money order on a solvent bank or savings and loan association (any other form of bond, including Company or Personal Checks shall be rejected and the bid will be disqualified) in the amount of **Five Hundred dollars (\$500.00)** payable to Delaware County Board of Commissioners shall accompany each bid as a guarantee that, if a bid is accepted, a contract shall be entered into and its performance properly secured. Said bid security must be included with each bid or the bid will be disqualified. Said bid security will be returned to all successful and unsuccessful bidders within thirty (30) days of contract execution unless otherwise notified.

4. Submission Guidelines for Bids: By submitting a bid, the bidder will be held accountable to know the specifications and conditions under which the resulting contract will be accomplished. This includes the contents of all bid documents, regulations, and applicable laws.

Each bid will be submitted through www.bidexpress.com. All portions of the bid must be filled in.

Any bid submitted to Delaware County is to be prepared at the bidder's expense. Acceptance of a bid shall not constitute an agreement between the bidder and Delaware County. Delaware County shall have no liability whatsoever to any bidder whose bid is not accepted.

5. Addenda and Interpretations: No official interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any bidder orally.

During the bid process, contractors may be furnished certain amendments covering additions or deletions to the ITB documents. Amendments will be included in the scope of work and will become a part of contract documents.

Amendments may be issued up to seventy-two (72) hours preceding the bid opening date, excluding weekends and holidays. Delaware County reserves the right to postpone the bid opening for its convenience.

Any prospective bidder desiring an explanation or interpretation of the ITB or specifications must request it in writing to Director of Facilities, Delaware County Facilities, 1405 US Highway 23 North, Delaware, Ohio 43015 and to be given consideration, must be received at least five (5) business days prior to the date fixed for the bid opening. Any information given a prospective contractor concerning the ITB will be furnished promptly to all other prospective contractors as an amendment, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective contractors.

6. Bidder's Signature: The firm, corporate or individual name of the bidder must be completed in the electronic signature portion of the bid. Electronic signature shall consist of the verified user completing and properly submitting the bid through the user's authorized web service account. In the case of a corporation, the title of the

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officer signing must be stated and such officer must be thereunto duly authorized. In the case of the partnership, the signature of at least one of the partners must follow the firm name, using the term "member of the firm". In the case of an individual, use the terms "doing business as", or "sole owner". The bidder shall further state in his proposal the name and address of each person or corporation interested therein.

7. Rejection: Ohio Revised Code sections 307.90 and 307.91 permits the County to reject all bids, waive technicalities, and to amend the original estimate and to advertise for new bids on the required items, products, or services. Delaware County Board of Commissioners reserves the right to reject any or all of the bids on any basis without disclosure of a reason. The failure to make such a disclosure will not result in the accrual of any right, claim or cause of action by any unsuccessful contractor against Delaware County Board of Commissioners.

8. Bid Evaluation Criteria and Award: This bid will be awarded to the lowest and best bidder whose bid meets the requirements and criteria set forth in the Invitation to Bid. Bids are typically evaluated within 60 days.

Factors that may determine the lowest and best bid include, but not limited to:

- Price.
- Quality of the bidder's product or services.
- Capability of the bidder to perform the contract.
- References (If required).
- Bid responsiveness to overall specifications.
- Corporate history, make-up, and financial condition.
- Project staffing.

9. Property Taxes: A completed, notarized affidavit regarding delinquent personal property taxes in Ohio is required to be completed before a contract is awarded. A blank copy is included with the bid package.

10. Unresolved Findings for Recovery: Per Ohio Revised Code Section 9.24 (A) No political subdivision shall award a contract for goods, services, or construction, paid for in whole or in part with state funds, to a person against whom a finding for recovery has been issued by the auditor of state, if the finding for recovery is unresolved. Before awarding a contract for goods, services, or construction, paid for in whole or in part with state funds, a state agency or political subdivision shall verify that the person to whom the state agency or political subdivision plans to award the contract does not appear in the database described in division (D) of section 9.24. Unresolved finding for recovery may result in the rejection of a bid.

11. Equal Opportunity: The contract shall contain provisions similar to those required by Section 153.59 of the Ohio Revised Code which state in part:

That in the hiring of employees for the performance of work under the contract or any subcontract no contractor or subcontractor shall, by reason of race, color, religion, sex, age, handicap, national origin or ancestry, discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the contract relates.

That no contractor, subcontractor, or any person acting on behalf of any contractor or subcontractor shall, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the contract on account of race, color, religion, sex, age, handicap, national origin, or ancestry.

12. Public Record and Treatment of Confidential and Proprietary Information: Once bids are opened, they are public records as defined in ORC §149.43 and are subject to all laws appurtenant thereto. All materials in the bid will become the property of Delaware County and may be returned only at Delaware County's discretion. Bid documents/materials submitted to Delaware County are public information as a matter of statutory law and will be made available for public inspection and copying upon request by members of the public pursuant to ORC §149.43. Any portion of the bid to be held confidential should be marked to that effect and will not be considered public record if it clearly falls within an exemption enumerated in ORC §149.43.

13. Cooperative Purchasing: Per Ohio Revised Code section 9.48, a county or township may permit one or more other counties or townships to participate in contracts into which it has entered for the acquisition of equipment, materials, supplies, or services. Contractors may receive purchase orders from other political subdivisions from a contract awarded pursuant to this bid. Contractors shall deal directly with the ordering political subdivision. Invoices shall be sent to the ordering political subdivision and not to Delaware County. The Contractor will look solely to the Political Subdivision's performance, including but not limited to payment, and will hold Delaware County harmless with regard to such orders and the Political Subdivision's performance. But Delaware County will have the right to terminate any contract and seek such remedies on termination should the Contractor fail to honor its obligations under an order from a Political Subdivision.

BID SPECIFICATIONS

**ITB #21-002 TESTING AND INSPECTION SERVICES
FOR THE DELAWARE COUNTY BYXBE CAMPUS PROJECT**

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Please direct all Pre-Bid questions to the project site on the www.BidExpress.com webservice.

The Delaware County Commissioners Office will receive bids for Testing and Inspection Services for the Delaware County Byxbe Campus project located at 1610 State Route 521, Delaware, Ohio 43015. The specifications, requirements and expectations for the bid award are as follows (all are minimum):

- A. All Technicians performing work shall be certified, fully trained, and experienced for the specific inspection and/or testing duties they will be required to perform. A brief Statement of Qualifications (SOQ) of the firm's capabilities, certifications, and qualification is to be uploaded with each bid.
- B. The Services Matrix is an estimate of the required services for the entire project (bid option C of the Delaware County Byxbe Campus General Contractor bid). The bid award will be to the lowest, best bid.
- C. Delaware County and/or the General Contractor does not guarantee that all of the services, identified in services matrix, will be performed or that additional hours or additional services will not be required at additional reimbursement. The contract will be a contract with a "not to exceed" amount and the reimbursement will be on an "as used" basis. Costs for additional services will be identified and provided to Delaware County in writing prior to the commencement of any additional services. The services identified on the Services Matrix will not be relied upon as the final quantities to be reimbursed. Reimbursement will not be tied to any expectations of the total amount of services to be provided based on the quantities in the Services Matrix rather than those actually consumed.
- D. All Testing and Inspection team personnel shall conform to the General Contractor Safety Program and Delaware County's safety requirements. All personal shall wear proper PPE and as a minimum wear 80% of the time, hard hats, eye protection, gloves, reflective safety vest and appropriate foot wear.
- E. Unless specifically requested as a separate service, charges for Project Engineers, Professional Engineers, or Overhead charges will not be reimbursed other than as included in the unit of measure shown on the Services Matrix.
- F. All Overhead and profit for the testing and inspection firm are to be included in the Unit prices. There will be no compensation for these items other than what is included in the unit prices shown on the services matrix.
- G. The General Contractor's Superintendent shall have the authority to have any Technician removed from the project site for reasons of safety, failure to bring non-compliant workmanship or materials to the attention of the General Contractor's Superintendent or other non-professional behavior. If the Technician is removed, a suitable replacement will be provided immediately by the Testing and Inspection Company at no additional charge.
- H. Overtime charge will only be permitted for Saturdays, Sundays and work after normal 8 hour day shift and shall be limited to base rate plus 50% of the base rate equating to time and a half. Overtime will not be reimbursed as Double time under any circumstances.
- I. Services are expected to start in May 2021 and complete by July 2022.
- J. These specifications and all bid documents shall become part of any awarded contract as if fully rewritten within.

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

11

RESOLUTION NO. 21-150

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

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

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

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

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Permit #	Applicant	Location	Type of Work
UT21-0038	AEP	S. Old 3 C Highway	Replace poles
UT21-0039	AEP	Worthington Road	Replace poles
UT21-0040	Frontier	Various	Provide single customer service
UT21-0041	Spectrum	Green Cook Road	Place cable in ROW
UT21-0042	Consolidated Cooperative	E. Orange Road	Place new conduit in ROW
UT21-0043	WOW!	E. Powell Road	Place conduit in ROW
UT21-0044	Spectrum	Hogback Road	Place cable in ROW
UT21-0045	Spectrum	Beacom Road	Place cable in ROW
UT21-0046	Spectrum	Corduroy Road	Place cable in ROW

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

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RESOLUTION NO. 21-151

IN THE MATTER OF APPROVING A NEW ORGANIZATIONAL KEY AND ADVANCE OF FUNDS FOR THE 2021 HSIP WORTHINGTON ROAD IMPROVEMENTS:

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

NEW ORG KEY

29440453 2021 HSIP Worthington Road Improv

ADVANCE OF FUNDS

From	To	
10040421-8500	29440453-8400	\$75,000.00
Road & Bridge Projects/Advances Out	HSIP Worthington Road Improv/Advances In	

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

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14

RESOLUTION NO. 21-152

IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH E.L. ROBINSON ENGINEERING FOR THE PROJECT KNOWN AS DEL-TR 121, SELDOM SEEN ROAD CURVE:

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

WHEREAS, section 305.15 of the Revised Code provides that a Board of Commissioners may enter into contracts with any person, firm, partnership, association, or corporation qualified to perform engineering services in the state; and

WHEREAS, the County Engineer has received proposals from engineering firms interested in providing services for the project known as DEL-TR 121, Seldom Seen Road Curve; and

WHEREAS, the County Engineer has selected the consulting firm of E. L. Robinson Engineering through a qualifications-based selection process, has negotiated a fee and agreement to provide the required services for engineering and design of the improvements, and requests that the Board enter into Contract with said firm;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio, that the following Professional Services Agreement is hereby approved:

**PROFESSIONAL SERVICES AGREEMENT
DEL-TR 121 Seldom Seen Road Curve**

This Agreement is made and entered into this 1st day of March, 2021, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015

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(“County”), and E.L. Robinson Engineering, 950 Goodale Boulevard, Suite 180, Grandview Heights, OH 43212 (“Consultant”), hereinafter collectively referred to as the “Parties”, and shall be known as the “Agreement.”

1 SERVICES PROVIDED BY CONSULTANT

- 1.1 The Consultant will provide professional design services (the “Services”) in connection with the project known as DEL-TR 121 Seldom Seen Road Curve, consisting of the modification and alignment of a substandard curve along Seldom Seen Road in Liberty Township, with work to include minor clearing and grubbing, drainage improvements, pavement reconstruction, and pavement markings.
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 Services are further defined in and shall be rendered by the Consultant in accordance with the following documents, by this reference made part of this Agreement:
Scope of Services and Price Proposal, dated February 4, 2021

2 SUPERVISION OF SERVICES

- 2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Engineer (the “County Engineer”) as the agent of the County for this Agreement.
- 2.2 The County 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 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 Scope of Services and Price Proposal noted in Section 1.3.
- 4.2 For all Services described in the Scope of Services and Price Proposal, the total fee shall be \$37,295.50, which amount shall not be exceeded without subsequent modification.
- 4.3 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Services.

5 NOTICES

- 5.1 “Notices” issued under this Agreement shall be served by U.S. Certified Mail 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.

Project Manager:

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

Address: 50 Channing Street, Delaware, OH 43015

Telephone: (740) 833-2400

Email: Rmraz@co.delaware.oh.us

Consultant:

Name of Principal in Charge: Kevin White, PhD, PE

Address of Firm: 950 Goodale Boulevard, Suite 180

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City, State, Zip: Grandview Heights, Ohio 43212

Telephone: 614-586-0642

Email: kwhite@elrobinson.com

6 PAYMENT

6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Consultant and approved by the County Engineer and on the calculated percentage of work performed to date in accordance with the Consultant's Price Proposal.

6.2 Invoices shall be submitted to the County 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.

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 County Engineer and shall complete the Services in a timely manner.

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 County 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 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 be effective unless and until the modification is approved in a writing signed by both Parties.

10 OWNERSHIP

10.1 Upon completion or termination of the Agreement, the Consultant shall provide copies, if so requested, to the County of all documents or electronic files produced under this Agreement

10.2 The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed surveys, calculations, reports, schematics, drawings and any other tangible written or electronic work produced in accordance with the Agreement.

10.3 This section does not require unauthorized duplication of copyrighted materials.

11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT

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

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

12 INDEMNIFICATION

12.1 The Consultant shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other

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liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Consultant, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

13 INSURANCE

- 13.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the services hereunder. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.
- 13.5 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 13.1 and 13.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 13.6 Proof of Insurance: Prior to the commencement of any Services under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Consultant will replace certificates for any insurance expiring prior to completion of Services under this Agreement.

14 MISCELLANEOUS TERMS AND CONDITIONS

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

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- 14.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.

- 14.7 Findings for Recovery: Consultant certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.

- 14.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.

- 14.9 County Policies: The Consultant shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Consultant shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing Services under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Consultant to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.

- 14.10 Drug-Free Workplace: The Consultant agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Consultant shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the Services being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.

- 14.11 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of Services under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the Services to which the Agreement relates.

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

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

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

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

**15
RESOLUTION NO. 21-153**

IN THE MATTER OF APPROVING A COOPERATION AGREEMENT BETWEEN THE BOARD OF COMMISSIONERS AND THE CITY OF POWELL FOR REGIONALIZATION OF CENTRAL TRAFFIC SIGNAL SOFTWARE SYSTEM (CTSSS):

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

WHEREAS, the County Engineer recommends approval of a Cooperation Agreement between the Delaware County Board of Commissioners and the City of Powell for Regionalization of Central Traffic Signal Software System (CTSSS);

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Cooperation Agreement with the City of Powell for Regionalization of Central Traffic Signal Software System (CTSSS) as follows:

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**COOPERATION AGREEMENT
BY AND BETWEEN
THE CITY OF POWELL
AND
DELAWARE COUNTY
FOR REGIONALIZATION OF CENTRAL TRAFFIC SIGNAL SOFTWARE SYSTEM (CTSSS)**

This Agreement is made and entered into this 1st day of March, 2021 by and between the Delaware County Board of Commissioners, 101 North Sandusky Street, Delaware, Ohio 43015 (the "County"), and the City of Powell, 47 Hall Street, Powell Ohio 43065 (the "City"), hereinafter referred to individually as "Party" or collectively as the "Parties".

1 AUTHORITY

- 1.1 The Parties hereto are authorized to enter into this Agreement pursuant to, *inter alia*, sections 9.482 and 307.15, *et seq.*, of the Revised Code.

2 PURPOSE

- 2.1 The City and County desire to formalize a maintenance agreement for traffic signals on the regionalized Central Traffic Signal Software System (CTSSS) used by both jurisdictions.
- 2.2 This Agreement shall establish the terms and conditions whereby the Parties will cooperate to maintain the traffic signal system timings for locations included in the CTSSS.

3 NOTICES

- 3.1 Notices served under this Agreement shall be made in writing to the representatives of each party listed below:

- 3.1.1 County:
Robert Riley, PE, PS
Chief Deputy Engineer
50 Channing Street
Delaware, Ohio 43015
Email: rriley@co.delaware.oh.us

- 3.1.2 City:

Andrew White
City Manager
47 Hall Street
Powell, Ohio 43065
email: awhite@cityofpowell.us

4 MANAGEMENT OF PROJECT

- 4.1 The County, acting through the Chief Deputy Engineer, and the City, acting through the City Manager, will mutually administer this agreement.

5 ESTIMATED COSTS

- 5.1 The estimated costs of the project are included in Exhibit A.

6 COST PARTICIPATION

- 6.1 The County shall pay all construction estimates due to the contractor upon completion of the work, including partial estimates for all work as described below.
- 6.2 The City shall reimburse the County as described below.
- 6.3 The County shall keep an accurate record of the shared project costs and submit an invoice to the City for the City's share of the Project cost, including any necessary supporting documentation to substantiate the costs, as described below.
- 6.4 The City shall pay the invoice within 30 days of receipt of the invoice.
- 6.5 The City will be responsible for the costs of the software integration on the server for the City's intersections shown in Exhibit A.

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- 6.6 The City will reimburse the County for the initial purchase cost for the intersection licenses per Exhibit A.
- 6.7 Each jurisdiction will be responsible for their portion of the Annual Subscription Fee, which includes all software maintenance and updates required for the CTSSS. The annual fee is shown in Exhibit A. On an annual basis, the County will submit an invoice to the City, and the City will reimburse the County for the City's portion of the Annual Subscription Fee.
- 6.8 The County or the City may obtain Preemption Services for the intersections under their respective jurisdiction at any time and shall be responsible for the required costs to add this service.

7 OPERATION & MAINTENANCE

- 7.1 It is understood that the day-to-day management of the CTSSS will be the responsibility of the County.
- 7.2 It is understood that the City shall continue to provide all maintenance for the signal(s) within the corporation limits of the City. This includes but is not limited to: call outs for signal malfunctions and burned out lamps; repair and replacement of malfunctioning signal components or those damaged either by accident or deterioration which includes replacing the controller with the same model as installed; maintenance of pre-emption systems; and replacement or repair of damaged detectors, or pedestrian features. The controller installed in the cabinet is to remain at the intersection indefinitely until this Agreement is terminated.
- 7.3 The City shall also be responsible for any traffic studies and for any changes to the existing equipment at the City intersections by additions or alterations necessitated by changing traffic conditions. (e.g., changing lane usage, adding lanes, signal heads, or turn phases).
- 7.4 The City shall remain responsible for the cost of all electrical energy charges for the operation of the signal(s) within the corporation limits of the City.
- 7.5 If after the installation of the CTSSS and coordination of the traffic signals, either Party determines or believes that modified timing or coordination of the equipment at the City intersections is necessary to improve the flow of traffic at a particular City intersection, the Parties shall consult on the modification felt necessary and, to the extent reasonably possible, shall agree on the modifications to be made and the payment of the costs attendant thereto, if any. If the Parties do not agree, the County reserves the right to alter the signal timing as it deems necessary to best serve the motoring public.
- 7.6 Additional signalized locations may be added to the CTSSS upon mutual agreement of both the City and the County.

8 RIGHT OF ENTRY

- 8.1 The City does hereby grant the County and its employees and contractors the Right of Entry to operate and maintain the CTSSS equipment and appurtenances located within the corporation limits of the City. Access to the signal cabinets and equipment shall be continuously provided to the County by the City for the purpose of maintaining or troubleshooting the CTSSS operation. The County agrees to provide 24 hours advance notice to the City prior to undertaking maintenance or troubleshooting activities.

9 TERM

- 9.1 This Agreement shall take immediate effect upon approval by all Parties hereto and shall continue in full force and effect until deactivation of the CTSSS system, unless and until modified, superseded, or terminated in accordance with this Section, or unless one or both of the Parties at any time determines not to proceed with the Project.
- 9.2 This Agreement may only be amended in writing with the mutual consent and agreement of the Parties.
- 9.3 The parties agree to negotiate in good faith to update this Agreement every two (2) years starting in 2022, and no modifications of this Agreement shall be effective unless and until approved by both Parties in writing. If no changes are made, the most recent version of the Agreement shall remain in effect.

10 LEGAL CONTINGENCIES

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

11 INSURANCE AND LIABILITY

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- 11.1 The Parties are both political subdivisions and lack authority to indemnify.
- 11.2 Each Party shall, for the life of this Agreement, maintain comprehensive general liability insurance coverage, with minimum limits in the amount of \$1,000,000.00 each occurrence or equivalent and \$2,000,000.00 in the aggregate, and shall cause the other Party to be named as an additional insured on any applicable insurance policies.

12 MISCELLANEOUS TERMS & CONDITIONS

- 12.1 Entire Agreement: This Agreement shall constitute the entire understanding and agreement between the Parties and shall supersede all prior understandings and agreements relating to the subject matter hereof. This Agreement shall not be assigned.
- 12.2 Governing Law and Disputes: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. The Parties shall make good faith efforts to directly negotiate any disputes arising from this Agreement. If direct negotiations shall fail, the Parties agree to mediate the dispute with a mediator chosen by agreement between the Parties. If mediation shall fail, any and all legal disputes arising from this Agreement may only be filed in and heard before the courts of Delaware County, Ohio.
- 12.3 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.
- 12.4 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.
- 12.5 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue in full force and effect.
- 12.6 Consideration: Each Party to this Agreement recognizes that the rights and benefits received by the respective parties to this Agreement are valuable and substantial; enforcement of this Agreement cannot be challenged for lack of consideration.

This Agreement shall be binding upon and inure to the benefit of the Parties, their respective successors and assigns.

**EXHIBIT A
COOPERATION AGREEMENT
BY AND BETWEEN
THE CITY OF POWELL
AND
DELAWARE COUNTY
FOR REGIONALIZATION OF CENTRAL TRAFFIC SIGNAL SOFTWARE SYSTEM (CTSSS)**

1 LOCATIONS

- 1.1 The following signalized locations, located within the City of Powell, owned and maintained by the City of Powell, are included:
- Sawmill Parkway/North Hampton Drive
 - Sawmill Parkway/Presidential Parkway
 - Sawmill Parkway/Galloway Drive
 - Sawmill Parkway/Rutherford Road
 - Sawmill Parkway/Village Club Drive
 - Sawmill Parkway/O'Connell Street
 - Sawmill Parkway/Home Road
 - Sawmill Parkway/Royal Belfast Boulevard

2 ESTIMATED COSTS

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2.1 The estimated costs of the project for the City are as follows:

2.1.1 Initial Cost:

- Software integration on the server for the eight intersections shown in 1.1 is \$6,000 (\$750 per intersection – prorated line item #6 of Pathmaster’s Quote).
- Licenses cost is \$5,120 (\$640 per intersection – prorated line item #8 of Pathmaster’s Quote), with pricing per ODOT Contract ITB 16-19.
- Maintenance Fee year one is \$ 2,920
- Total initial cost is \$14,040

2.1.2 Annual subscription Fee (based on Pathmaster’s quote):

The total annual subscription fee is estimated at \$2,920 (\$1 per day per intersection).

3 FUTURE LOCATIONS

3.1 Additional signalized locations may be added to the CTSSS upon mutual agreement of both the City and the County per Section 7.6 of the Agreement.

3.2 This Exhibit will be modified as part of any such mutual agreement.

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

FOR CONSIDERATION OF OTHER BUSINESS

RESOLUTION NO. 21-154

IN THE MATTER OF APPROVING A RIGHT-OF-WAY ACQUISITION SERVICES AGREEMENT WITH O.R. COLAN ASSOCIATES, LLC, FOR E. POWELL ROAD AND LYRA DRIVE INTERSECTION IMPROVEMENTS:

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

WHEREAS, the Delaware County Board of Commissioners adopted Resolution No. 21-78, approving a Right-of-Way Cooperative Agreement with the City of Columbus for E. Powell Road and Lyra Drive Intersection Improvements; and

WHEREAS, right-of-way acquisition is required for this project; and

WHEREAS, the County Engineer recommends approval of a Right-of-Way Acquisition Services Agreement with O.R. Colan Associates, LLC;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the following Right-of-Way Services Agreement with O.R. Colan Associates LLC for the project known as E. Powell Road-Lyra Drive Intersection Improvements:

RIGHT-OF-WAY ACQUISITION SERVICES AGREEMENT

This Agreement is made and entered into this 1st day of March, 2021, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and O.R. Colan Associates, LLC, 255 Taylor Station Road, Suite 100, Columbus, Ohio 43213 (“Consultant”), hereinafter collectively referred to as the “Parties.”

1 SERVICES PROVIDED BY CONSULTANT

1.1 The Consultant will provide right-of-way acquisition services in connection with the County’s road improvement project on E. Powell Road and Lyra Drive (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 Services are defined in and shall be rendered by the Consultant in accordance with the following documents, by this reference made part of this Agreement:
DEL-Lyra Drive RW Acquisition Services Cost Proposal dated 2-15-2021 (the “Cost Proposal”).

2 SUPERVISION OF SERVICES

2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Engineer (“County Engineer”) as the agent of the County for this Agreement.

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- 2.2 The County Engineer or his 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 Cost Proposal noted in Section 1.3.
- 4.2 For all task order requests made by the County Engineer, the Consultant shall prepare a proposal to complete the requested services as detailed in the task order. The County Engineer shall issue written approval of any task order proposal made by the Consultant in the form of a Notice to Proceed prior to the Consultant initiating work under the task order.
- 4.3 Total compensation under this Agreement shall not exceed Fifty Four Thousand Eight Hundred Fifty Dollars and Zero Cents (\$54,850.00) without subsequent modification.
- 4.4 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the Services.

5 NOTICES

- 5.1 "Notices" issued under this Agreement shall be served by U.S. certified mail to the persons listed below in writing. The Parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.

County Engineer:

Name: Ryan J. Mraz, B.S.C.E.
Chief Deputy Design Engineer

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: 740-833-2440

Email: Rmraz@co.delaware.oh.us

Consultant:

Name of Principal in Charge: Jayson Gardner, PMP

Address of Firm: 255 Taylor Station Road, Suite 100

City, State, Zip: Columbus, OH 43213

Telephone: 614-340-8233

Project Contact Email: jgardner@orcolan.com

6 PAYMENT

- 6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Consultant and approved by the County Engineer and on the calculated percentage of Services performed to date in accordance with the Consultant's Cost Proposal.
- 6.2 Invoices shall be submitted to the County 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.

7 NOTICE TO PROCEED, COMPLETION, DELAYS AND EXTENSIONS

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- 7.1 The Consultant shall commence Services upon the Notice to Proceed (“Authorization”) from the County Engineer and shall complete the Services on or before September 1, 2021
- 7.2 In the event that unforeseen and unavoidable delays prevent the timely completion of Services to be performed under this Agreement, the Consultant may make a written request for time extension, and the County 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 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 be effective unless and until it is approved by both Parties in writing.
- 10 OWNERSHIP**
- 10.1 Upon completion or termination of the Agreement, the Consultant shall provide copies, if so requested, to the County of all documents or electronic files produced under this Agreement
- 10.2 The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed surveys, calculations, reports, schematics, drawings and any other tangible written or electronic work produced in accordance with the Agreement.
- 10.3 This section does not require unauthorized duplication of copyrighted materials.
- 11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT**
- 11.1 The Consultant shall immediately notify the County, in writing, of any change to key Consultant staff or subconsultants assigned to the Services as contemplated at the time of executing this Agreement.
- 11.2 The Consultant shall not assign or transfer this Agreement, or any of the rights, responsibilities, or remedies contained herein, to any other party without the express, written consent of the County.
- 12 INDEMNIFICATION**
- 12.1 The Consultant shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Consultant, its employees, agents, subcontractors, and their employees and agents’ subcontractors and their employees or any other person for whose acts any of them may be liable.
- 12.2 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 breach of contract, infringement of any right to use, possess, or otherwise operate or have any owned, protected, licensed, trademarked, patented, non-patented, and/or copyrighted software, product, service, equipment, invention, process, article, or appliance manufactured, used, or possessed in the performance of the Agreement and/or in providing the Services, to the extent caused by any act, error, or omission 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 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.
- 13.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Consultant will replace certificates for any insurance expiring prior to completion of work under this Agreement.

14 MISCELLANEOUS TERMS AND CONDITIONS

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

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

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

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

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

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

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

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ADMINISTRATOR REPORTS

Administrator Frommer,

**-Follow-up on request for a transportation solution meeting.
Steering committee forming and Delaware Area Transit is working on a master plan;
Pending results**

-Aric, employee anniversary

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COMMISSIONERS' COMMITTEES REPORTS

Commissioner Lewis

-Video from Council of State Governments released; Delaware County Jail/Criminal Justice updates

Commissioner Benton

-Moving forward with CA Frommer and others on a Debt information

-Land bank meeting Wednesday; update on old jail expected

Commissioner Merrell

-CCAO Budget Report Friday afternoon/ regional meeting here in June

-911 Board meeting Tuesday

-Attended Regional Planning Meeting

-City re-zoning of Home Court/ Channing St. area

-Meeting with Local State Representatives for full funding Indigent Defense support

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RESOLUTION NO. 21-155

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF PENDING OR IMMINENT LITIGATION AND CONFIDENTIAL INFORMATION RELATED TO ECONOMIC DEVELOPMENT:

It was moved by Mrs. Lewis, seconded by Mr. Benton 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

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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;

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 pending or imminent litigation.

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

RESOLUTION NO. 21-156

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. Benton Absent Mr. Merrell Aye

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners