

COMMISSIONERS JOURNAL NO. 75 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 22, 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

9:45 A.M. Viewing For Petition, Requesting The Construction Of Improvements To Home Road And Green Meadows Drive Both Located East Of U.S. Route 23 In Orange Township, Delaware County, Ohio

1
RESOLUTION NO. 21-1140

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD NOVEMBER 18, 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 November 18, 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
PUBLIC COMMENT

3
RESOLUTION NO. 21-1141

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1119, MEMO TRANSFERS IN BATCH NUMBERS MTAPR1119 AND PROCUREMENT CARD PAYMENTS IN BATCH NUMBER PCAPR1119:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve Then and Now Certificates, payment of warrants in batch numbers CMAPR1119, memo transfers in batch numbers MTAPR1119, Procurement Card Payments in batch number PCAPR1119 and Purchase Orders as listed below:

PR Number	Vendor Name	Line Description	Line Account	Amount
R2104527	KIDS COUNT TOO INC	PLACEMENT CARE	22511607 - 5342	\$77,000.00
R2104527	KIDS COUNT TOO INC	2021 MSY PLACEMENT	70161605 - 5342	\$1.00
R2104549	EASTWAY CORPORATION	2021 MSY FUNDS - EM	70161605 - 5342	\$40,500.00
R2104759	BUILTRITE INTERIOR CONSTRUCTION LTD	DARKROOM REMODEL - WILLIS BUILDING	40111402 - 5410	\$20,861.00
R2104857	CONSERVATION DISTRICT	DITCH PETITION CHARGES	10011102 - 5328	\$25,565.32
R2104858	COMMISSIONERS	BUELL #542 DITCH PETITION CHARGES	40311489 - 5328	\$499.33
R2104858	COMMISSIONERS	CHANCEL GATE DITCH PETITION CHARGES	40311488 - 5328	\$631.49
R2104858	COMMISSIONERS	DUSTIN ROAD DITCH PETITION CHARGES	40311476 - 5328	\$723.44
R2104858	COMMISSIONERS	ENGLISH #346 DITCH PETITION CHARGES	40311470 - 5328	\$1,407.11
R2104858	COMMISSIONERS	EVANS #354 DITCH PETITION CHARGES	40311490 - 5328	\$150.53
R2104858	COMMISSIONERS	FRANKLIN DITCH PETITION CHARGES	40311478 - 5328	\$495.15
R2104858	COMMISSIONERS	GORSUCH JOINT COUNTY DITCH PETITION CHARGES	40311472 - 5328	\$1,472.14
R2104858	COMMISSIONERS	GRIFFITH #391 DITCH PETITION CHARGES	40311484 - 5328	\$354.64

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R2104858	COMMISSIONERS	HIDDEN SPRINGS DITCH PETITION CHARGES	40311468 - 5328	\$56.69
R2104858	COMMISSIONERS	ORANGE VILLAGE PARK DITCH PETITION CHARGES	40311469 - 5328	\$56.69
R2104858	COMMISSIONERS	HOOVER #61 DITCH PETITION CHARGES	40311475 - 5328	\$750.16
R2104858	COMMISSIONERS	KINGSTON #2017-1 DITCH PETITION CHARGES	40311463 - 5328	\$838.13
R2104858	COMMISSIONERS	KINGSTON #2017-2 DITCH PETITION CHARGES	40311467 - 5328	\$413.35
R2104858	COMMISSIONERS	LANETTA LANE DITCH PETITION CHARGES	40311474 - 5328	\$2,820.78
R2104858	COMMISSIONERS	MCNAMARA #582 DITCH PETITION CHARGES	40311483 - 5328	\$988.9
R2104858	COMMISSIONERS	NORRIS RUN DITCH PETITION CHARGES	40311460 - 5328	\$4,233.41
R2104858	COMMISSIONERS	RADNOR TWP #2015-1 DITCH PETITION CHARGES	40311458 - 5328	\$702.66
R2104858	COMMISSIONERS	RIBOV #620 DITCH PETITION CHARGES	40311450 - 5328	\$2,207.81
R2104858	COMMISSIONERS	SLATE LICK LATERAL #1 DITCH PETITION CHARGES	40311487 - 5328	\$295.34
R2104858	COMMISSIONERS	TOOT #98 DITCH PETITION CHARGES	40311417 - 5328	\$1,485.22
R2104858	COMMISSIONERS	WATSON-FORD #25 DITCH PETITION CHARGES	40311477 - 5328	\$919.57
R2104858	COMMISSIONERS	WEBSTER-ARNOLD #355 DITCH PETITION CHARGES	40311455 - 5328	\$3,482.59
R2104858	COMMISSIONERS	ZERBE-O'KEEFE #265 DITCH PETITION CHARGES	40311482 - 5328	\$580.19
R2104880	TRANE COMPANY INC	MAINT. AGREEMENT BUILDING CONTROLS	10011105 - 5325	\$6,463.00
R2104918	M TECH COMPANY	HAYES BUILDING REPAIRS TO GAP VAC TRUCK WATER PUMP	66211900 - 5428	\$5,840.37

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

**4
RESOLUTION NO. 21-1142**

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

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

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

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

**5
RESOLUTION NO. 21-1143**

IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, SARA RADCLIFFE, ESQ., ATTORNEY-AT-LAW, KEPHART FISHER LLC, REQUESTING ANNEXATION OF 2.903 ACRES OF LAND IN BERKSHIRE TOWNSHIP TO THE VILLAGE OF SUNBURY:

It was moved by Mr. Benton, seconded by Mrs. Lewis to acknowledge that on November 12, 2021, the Clerk to the Board of Commissioners received a petition requesting annexation of 2.903 acres from Berkshire Township to the Village of Sunbury.

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

**6
RESOLUTION NO. 21-1144**

IN THE MATTER OF RE-ELECTING AND ELECTING MEMBERS OF THE DELAWARE COUNTY VOLUNTEER PEACE OFFICERS’ DEPENDENTS FUND BOARD:

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

WHEREAS, on April 7, 2016, the Delaware County Board of Commissioners adopted Resolution No. 16-324, establishing the Delaware County Volunteer Peace Officers’ Dependents Fund Board, pursuant to section 143.02 of the Ohio Revised Code; and

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WHEREAS, the Board of Commissioners shall elect two (2) members to the Delaware County Volunteer Peace Officers' Dependents Fund Board each year not earlier than the first day of November and not later than the second Monday in December for terms that commence on the first day of January and that are for one year; and

WHEREAS, the terms for Sheriff Russ Martin and Brad Euans will expire on December 31, 2021; and

WHEREAS, Brad Euans has applied for re-election to the Delaware County Volunteer Peace Officers' Dependents Fund Board and Chief Deputy Jeff Balzer has applied for election to the remaining seat;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby re-elects Brad Euans and elects Chief Deputy Jeff Balzer as members of the Delaware County Volunteer Peace Officers' Dependents Fund Board for terms of one year, commencing on January 1, 2022 and expiring on December 31, 2022.

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

**7
RESOLUTION NO 21-1145**

IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS FOR THE VICTIMS OF CRIME ACT GRANT:

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

Supplemental Appropriations:

23612302-5001	Victims of Crime Grant/Compensation	\$ 13,100.00
23612302-5102	Victims of Crime Grant/Workers Comp	\$ 131.00
23612302-5120	Victims of Crime Grant/OPERS	\$ 1,835.00
23612302-5131	Victims of Crime Grant/Medicare	\$ 195.00

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

**8
RESOLUTION NO. 21-1146**

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:

Permit #	Applicant	Location	Type of Work
UT21-0196	Columbia Gas	Reserve at Scioto Bluff	Install gas main
UT21-0197	Del-Co Water	Red Bank Road	Hydrovac facilities

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

**9
RESOLUTION NO. 21-1147**

IN THE MATTER OF APPROVING OWNER'S AGREEMENTS FOR PIATT PRESERVE EXTENSION SEC 1, PIATT PRESERVE EXTENSION SEC 2, WOODCREST CROSSING SECTION 4 AND ADVENTURE CHURCH:

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

WHEREAS, the Engineer recommends approving the Owner's Agreements for Piatt Preserve Extension Sec 1, Piatt Preserve Extension Sec 2, Woodcrest Crossing Section 4, and Adventure Church;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Owner's Agreements for Piatt Preserve Extension Sec 1, Piatt Preserve Extension Sec 2, Woodcrest Crossing Section 4, and Adventure Church, as follows:

Piatt Preserve Extension Sec 1

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**OWNER'S AGREEMENT
PROJECT NUMBER: 21092**

THIS AGREEMENT, executed on this 22nd day of November, 2021 between **D.R. Horton**, hereinafter called "OWNER" and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **Piatt Preserve Extension Sec 1**, further identified as Project Number 21092 is governed by the following considerations to wit:

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

OPTIONS:

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

OWNER hereby elects to use Option 2 for this project.

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

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

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

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

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **Forty Thousand Dollar and No Cents (\$40,000.00)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

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

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

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

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

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

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

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

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

EXHIBIT “A”

CONSTRUCTION COST ESTIMATE	\$983,500.00
CONSTRUCTION BOND AMOUNT	N/A
MAINTENANCE BOND AMOUNT	\$ 98,400.00
INSPECTION FEE DEPOSIT	\$ 40,000.00

Piatt Preserve Extension Sec 2

**OWNER’S AGREEMENT
PROJECT NUMBER: 21093**

THIS AGREEMENT, executed on this 22nd day of November, 2021 between **D.R. Horton**, hereinafter called ‘OWNER’ and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **Piatt Preserve Extension Sec 2**, further identified as Project Number 21093 is governed by the following considerations to wit:

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

OPTIONS:

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

OWNER hereby elects to use Option 2 for this project.

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

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

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

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

It is further agreed that upon execution of the AGREEMENT, the OWNER shall deposit **Forty Six Thousand Dollars and No Cents (\$46,000.00)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the OWNER shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the OWNER.

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

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

Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance

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shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

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

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

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

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

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

EXHIBIT “A”

CONSTRUCTION COST ESTIMATE	\$764,700.00
CONSTRUCTION BOND AMOUNT	N/A
MAINTENANCE BOND AMOUNT	\$ 76,500.00
INSPECTION FEE DEPOSIT	\$ 46,000.00

Woodcrest Crossing Section 4

OWNER’S AGREEMENT
PROJECT NUMBER: 21049

THIS AGREEMENT, executed on this 22nd day of November, 2021 between **M/I HOMES OF CENTRAL OHIO, LLC**, hereinafter called “**OWNER**” and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **WOODCREST CROSSING SECTION 4**, further identified as Project Number 21049 is governed by the following considerations to wit:

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

OPTIONS:

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

OWNER hereby elects to use Option 1 for this project.

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

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

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

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

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **TWENTY-FIVE THOUSAND DOLLARS (\$25,000)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**.

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Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

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

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

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

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

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

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

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

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

EXHIBIT "A"

CONSTRUCTION COST ESTIMATE	\$846,600
CONSTRUCTION BOND AMOUNT	\$846,600
MAINTENANCE BOND AMOUNT	\$ 84,700
INSPECTION FEE DEPOSIT	\$ 25,000

Adventure Church

**OWNER'S AGREEMENT
JOB NUMBER 21014**

THIS AGREEMENT made and entered into this 22nd day of November, 2021 by and between the **DELAWARE COUNTY ENGINEER**, hereinafter called the **COUNTY OF DELAWARE** (acting through the **BOARD OF COUNTY COMMISSIONERS**), herein after called the **COUNTY**, and **ADVENTURE CHURCH**, hereinafter called the **OWNER**, as evidenced by the Engineering and Construction Plan entitled "**Adventure Church**", hereinafter called the **PLAN**, is governed by the following considerations, to wit:

- 1) The **OWNER** is to construct, install or otherwise make all of the improvements as shown and set forth to be performed and completed on the **PLAN**, which is a part of this **AGREEMENT**.
- 2) The **OWNER** shall pay the entire cost and expenses of said improvements.
- 3) The **OWNER** is to provide an irrevocable letter of credit or other approved financial warranties in the amount of **SIXTY-EIGHT THOUSAND TWO HUNDRED DOLLARS (\$68,200)** payable to the **BOARD OF COUNTY COMMISSIONERS** to insure the faithful performance of this **AGREEMENT**, the completion of all of the said improvements in accordance with the current "**Delaware County Engineering and Surveying Standards for Subdivision Development**" and the current "**Subdivision Regulations of Delaware County, Ohio**".
- 4) Before beginning construction, the **OWNER** shall deposit inspection fees in the amount of **Five Thousand Five Hundred Dollars (\$5,500)**, estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **thirty percent (30%)** of the original amount deposited, the **OWNER** shall replenish the account, upon notice by the **Delaware County Engineer**. Upon completion and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.
- 5) The **OWNER** is to complete all construction to the satisfaction of the **COUNTY no later than December 31, 2021** and will receive an approval letter from the **Delaware County Engineer** as evidence of the **OWNER'S** release from the responsibility to said project.

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- 6) The **OWNER** shall indemnify and shall hold the **COUNTY** free and harmless from any and all claims for damages of every nature arising or growing out of the construction of the said improvements.
- 7) The **OWNER** will at all times during the construction of said improvements maintain through traffic on the public roadway and keep the same free of unreasonable hazards to the public. Said roadway shall not be closed to traffic except as approved by the **Delaware County Engineer**. Construction signs, barricades and lights shall be placed as needed on the job site in accordance with the **Ohio Department of Transportation "Uniform Traffic Control Devices"** and **"Traffic Control for Construction and Maintenance"**.
- 8) The **OWNER** further agrees that any violation of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **Delaware County Engineer** shall have the right to stop work forthwith and use the surety for the completion of the improvement.
- 9) If the **OWNER** should become unable to carry out the provisions of this **AGREEMENT**, the **OWNER'S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.
- 10) Upon approval and acceptance of the improvements, the original copy of the **PLAN** shall become the property of the **COUNTY** and shall be filed in the office of the **Delaware County Engineer**.

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

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

10
RESOLUTION NO. 21-1148

IN THE MATTER OF APPROVING A RIGHT-OF-WAY ACQUISITION SERVICES AGREEMENT WITH DUNROBIN ASSOCIATES, LLC:

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

WHEREAS, on July 22, 2019, the Delaware County Board of Commissioners (the "Board") adopted Resolution No. 19-710, which, in part, declared the necessity for and approved the project known as DEL-CR91-3.45, Berlin Station Road Improvements, and DEL-CR91-185, Berlin Station Road Improvements (collectively, the "Improvements"); and

WHEREAS, it is necessary to acquire right-of-way for the Improvements; and

WHEREAS, the County Engineer recommends approval of a Right-of-Way Acquisition Services Agreement with Dunrobin Associates, LLC, in furtherance and support of the Improvements;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, approves the following Right-of-Way Acquisition Services Agreement with Dunrobin Associates, LLC:

RIGHT-OF-WAY ACQUISITION SERVICES AGREEMENT

This Agreement is made and entered into on November 22, 2021, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 ("County"), and Dunrobin Associates, LLC, P.O. Box 76218, Highland Heights, Kentucky 410076 ("Consultant"), hereinafter collectively referred to as the "Parties."

1 SERVICES PROVIDED BY CONSULTANT

- 1.1 The Consultant will provide the following right-of-way acquisition services within Delaware County for the projects known as Berlin Station Road, Project DEL-CR91-3.45 and Berlin Station Road, Project DEL-CR91-185 as outlined in the Consultant's Cost Proposals dated October 7, 2021, attached hereto and, by this reference, incorporated herein: project management, negotiations, closings and acquisition fees (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.

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.
- 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

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- 3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Consultant, shall supersede all prior understandings and agreements relating to the 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 Proposals referenced in Section 1.1.
- 4.2 Total compensation under this Agreement shall not exceed Thirty-Six Thousand Dollars (\$36,000) 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; PARTIES REPRESENTATIVES

- 5.1 "Notices" issued under this Agreement shall be served by U.S. certified mail in writing to the addresses stated in the preamble of this Agreement. The Parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.
- 5.2 The County shall provide all criteria and full information as to County's requirements for Consultant's provision of the Services. The Parties shall each designate a person to act with authority on their behalf in the performance of this Agreement.

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 Services performed to date in accordance with the Consultant's Cost Proposals.
- 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

- 7.1 The Consultant shall commence Services upon the Notice to Proceed ("Authorization") from the County Engineer and shall complete the Services in a timely manner in accordance with the County Engineer's Authorization, but not later than March 31, 2022.
- 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

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- 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 extent caused in whole or part 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 As the County's sole and exclusive remedy under this Agreement any claim, demand or suit shall be directed and/or asserted only against the Consultant and not against any of the Consultant's employees, officers or directors.
- 12.3 The Consultant's liability with respect to any claims arising out of this Agreement shall be absolutely limited to direct damages arising out of the Services, and the Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the County, including but not limited to, claims for loss of use, loss of profits and loss of markets.

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 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

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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 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.

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RESOLUTION NO. 21-1149

IN THE MATTER OF APPROVING THE PLAT OF SUBDIVISION FOR MILLER’S BROOK CAD:

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

WHEREAS, Vertical Estates, LLC, has submitted the Plat of Subdivision (“Plat”) for Miller’s Brook CAD, including related development plans (“Plans”) and requests approval thereof by the Board of Commissioners of Delaware County; and

WHEREAS, the Harlem Township Zoning Officer has reviewed said Plat and Plans for conformance with Township Zoning Regulations and approved said Plat on September 29, 2021; and

WHEREAS, the Delaware Public Health District has reviewed said Plat and Plans for conformance with its rules and regulations and approved said Plat on September 28, 2021; and

WHEREAS, Del-Co Water Company has reviewed said Plat and Plans for conformance with its rules and regulations and approved said Plat on September 27, 2021; and

WHEREAS, the Delaware County Sanitary Engineer has reviewed said Plat and Plans for conformance with the Rules, Regulations, Standards and General Procedures Governing Sewerage in Delaware County and approved said Plat on October 12, 2021; and

WHEREAS, the Delaware County Engineer has reviewed said Plat and Plans for conformance with Delaware County Engineering and Surveying Standards and approved said Plat on October 18, 2021; and

WHEREAS, the Delaware County Regional Planning Commission has reviewed said Plat and Plans for conformance with Delaware County Subdivision Regulations and approved said Plat on November 1, 2021;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the Plat of Subdivision for Miller’s Brook CAD:

Miller’s Brook CAD

Situated in the Township of Harlem, County of Delaware, State of Ohio, and being part of Farm Lots 8 & 10, Quarter Township 2, Township 3, Range 18 of the United States Military Lands. Being a subdivision of 38.749 acres, being all of that tract conveyed to Vertical Estates, LLC in Official Records Volume 1859, Page 2301 in the Delaware County Recorder’s Office. Cost: \$15.00.

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

ADMINISTRATOR REPORTS

Dawn Huston
-No reports.

COMMISSIONERS’ COMMITTEES REPORTS

Commissioner Lewis
-No reports.

Commissioner Benton

-The Recorder’s office received an award from the Ohio Recorder’s Association for the 2021 ORA Gold Quill Award (Demonstrated a commitment to elevating the office of the Recorder through various endeavors like promoting valuable legislation and education within the office).

-Attended the COYC meeting last Thursday where they did expand the Board of Directors to include Logan County and another seat for Delaware County.

Commissioner Merrell

-Attended the CCAO Board meeting Friday. Today there will be a Zoom call involving seven of the counties within the opioid region settlement.

12

9:45 A.M. VIEWING FOR PETITION, REQUESTING THE CONSTRUCTION OF IMPROVEMENTS TO HOME ROAD AND GREEN MEADOWS DRIVE BOTH LOCATED EAST OF U.S. ROUTE 23 IN ORANGE TOWNSHIP, DELAWARE COUNTY, OHIO

There being no further business, the meeting adjourned.

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Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners