

**COMMISSIONERS JOURNAL NO. 76 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD FEBRUARY 24, 2022**

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

**Present:**  
**Barb Lewis, President**  
**Jeff Benton, Vice President**  
**Gary Merrell, Commissioner**

**1**  
**RESOLUTION NO. 22-106**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD FEBRUARY 17, 2022:**

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on February 17, 2022; 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**  
 -None.

**3**  
**RESOLUTION NO. 22-107**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0223 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR0223:**

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0223 and memo transfers in batch numbers MTAPR0223 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO' Increase</b>			
SILLING & ASSOC (P2102307)	BUILDING & IMPROVEMENTS	42011438-5410	\$14,861.25
PROPERTY WORK (P2200448)	MAINTENANCE CONTRACTS	10011105-5325	\$22,000.00
MEACHAM & APEL (P2200845)	BUILDING & IMPROVEMENTS	42011440-5410	\$697,281.75
ENDICOTT MICROFILM INC (P2200741)	SUPPLIES	10011103-5201	\$5,000.00
YOUTH INTENSIVE SERVICES (P2201473)	MEDICAL & HEALTH SERVICES	70161605-5342	\$14,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Line Account</u>	<u>Amount</u>
R2202000	QUALITY MASONRY CO INC	CUPOLA ROOF - HISTORIC COURTHOUSE	40111402 - 5410	\$49,800.00
R2202053	GROOMS, BRADLEY	LAWN CARE MOWING	10011105 - 5325	\$34,640.00
R2202088	BENCHMARK WOODWORKS CO INC	RECORDER'S OFFICE REMODEL	41711436 - 5410	\$5,432.42
R2202091	BUCKEYE POWER SALES CO INC	SERVICE CONTRACT	10011105 - 5325	\$13,005.00
R2202172	TREASURER, STATE OF OHIO	STATION	66711900 - 5410	\$15,100.00

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

**4**  
**RESOLUTION NO. 22-108**

**IN THE MATTER OF THE BOARD OF COUNTY COMMISSIONERS RECOGNIZING THE MONTH OF FEBRUARY 2022 AS BLACK HISTORY MONTH:**

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

WHEREAS, Delaware County has the responsibility to recognize and honor events of significance in our community; and

WHEREAS, Black History Month affords us the opportunity to become more aware of and knowledgeable about Black heritage and culture, and to honor the many Black leaders, educators, inventors, humanitarians and citizens who have contributed to our nation; and

WHEREAS, in 1926, African American history scholar Dr. Carter G. Woodson initiated a celebration during the second week in February to coincide with the birthdays of Frederick Douglass and Abraham Lincoln, two individuals whose lives so greatly impacted the lives of Black Americans; and

WHEREAS, this celebration was expanded into Black History Month in 1976, serving as a powerful reminder that Black history is American history and that we should take time to honor the legacies and achievements of generations past; and

WHEREAS, the Black History theme for 2022 is “Black Health and Wellness” and recognizes the contributions of Black scholars, midwives, nurses, doctors and health practitioners throughout the world who have taught us that all individuals have the right to good health and wellness; and

WHEREAS, the County of Delaware is proud to honor the history of Black Americans in our community, throughout the state of Ohio and this nation;

THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners recognizes the month of February 2022 as Black History Month.

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

**5  
RESOLUTION NO. 22-109**

**IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:**

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

The Administrative Services Department is requesting that Dawn Huston and Ellen Wandell attend a National PELRA Conference in Austin, Texas from June 25-30, 2022 at the cost of \$5,500.00 (fund number 10011108).

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

**6  
RESOLUTION NO. 22-110**

**IN THE MATTER OF CANCELING THE COMMISSIONERS’ SESSIONS SCHEDULED FOR MONDAY MARCH 7, 2022; THURSDAY MARCH 24, 2022; AND THURSDAY APRIL 28, 2022:**

It was moved by Mr. Merrell, seconded by Mrs. Lewis to cancel the Commissioners’ sessions scheduled for Monday March 7, 2022; Thursday March 24, 2022; and Thursday April 28, 2022.

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

**7  
RESOLUTION NO. 22-111**

**IN THE MATTER OF EXTENDING THE FILING DATE FOR THE FILING OF PLANS, REPORTS, AND SCHEDULES FOR THE FRANKLIN WATERSHED DRAINAGE IMPROVEMENT PETITION PROJECT, THE ORANGE VILLAGE CENTRE DRAINAGE IMPROVEMENT PETITION PROJECT, AND THE HIDDEN SPRINGS CONDOMINIUM DRAINAGE IMPROVEMENT PETITION PROJECT:**

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

WHEREAS, the Delaware County Board of Commissioners (the “Board”) adopted Resolution No. 20-161, granting the prayer of the petition for the Franklin Watershed Drainage Petition Project, directing the Delaware County Engineer to proceed with preparation of plans, reports, and schedules, and fixing February 13, 2022, as the date by which to file plans, reports, and schedules; and

WHEREAS, the Board adopted Resolution No. 18-1188, granting the prayer of the petition for the Orange Village Centre Drainage Petition project, directing the Delaware County Engineer to proceed with preparation

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of plans, reports, and fixing October 25, 2019, which was later extended to October 25, 2021, as the date by which to file plans, reports, and schedules; and

WHEREAS, the Board adopted Resolution No. 18-1184, granting the prayer of the petition for the Hidden Springs Condominium Watershed Area Drainage Petition project, directing the Delaware County Engineer to proceed with preparation of plans, reports, and fixing October 25, 2019, which was later extended to October 25, 2021, as the date by which to file plans, reports, and schedules; and

WHEREAS, additional time is required to allow for field survey, design, engineer review for the three referenced projects; and

WHEREAS, upon filing of the reports, plans, and schedules, the Board shall set a date and time for a public hearing, which shall be not fewer than twenty-five nor more than ninety days after the filing date of the reports, plans, and schedules;

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

Section 1. The Board hereby approves February 14, 2024, as the extended date for filing of the reports, plans, and schedule for the Franklin Watershed Drainage Petition Project.

Section 2. The Board hereby approves October 25, 2023, as the extended date for filing of the reports, plans, and schedule for the Orange Village Centre Watershed Drainage Petition Project.

Section 3. The Board hereby approves October 25, 2023, as the extended date for filing of the reports, plans, and schedule for the Hidden Springs Condominium Watershed Drainage Petition Project.

Section 4. Upon filing of the reports, plans, and schedules for each project, the Clerk of the Board will prepare a resolution setting the date and time of the Public Hearing for a date not fewer than twenty-five nor more than ninety days after the filing date of the reports, plans, and schedules, and proper notification will be given to property owners in the affected watershed of the date and time of the hearing.

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

**8  
RESOLUTION NO. 22-112**

**RESOLUTION OF NECESSITY FOR THE PURCHASE OR LEASE OF MOTOR VEHICLES FOR THE USE OF THE COUNTY SHERIFF OR HIS EMPLOYEES:**

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

WHEREAS, pursuant to section 307.41 of the Revised Code, the Board of Commissioners of Delaware County, Ohio (the "Board") may find, by resolution of necessity, that it is necessary to expend county monies for the purchase or lease of motor vehicles to be used by the County Commissioners, by any county department, board, commission, office or agency, or by any elected county official or his or her employees; and

WHEREAS, the Board has before it a request from the Sheriff's Office to expend county monies for the purchase of new cruisers; and

WHEREAS, the cruisers are available for purchase through the State of Ohio's cooperative purchasing program (the "Program"); and

WHEREAS, pursuant to section 125.04(C) of the Revised Code, the Board may purchase supplies from another party instead of through participation in Program contracts if the Board can purchase those supplies or services from the other party upon equivalent terms, conditions, and specification but at a lower price than it can through the Program contract; and

WHEREAS, the necessary vehicles are available from another party, Statewide Ford-Lincoln-Mercury, Inc., upon equivalent terms, conditions, and specifications but at a lower price than through the Program contract;

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

Section 1. The Board hereby declares that it is necessary to expend county monies for the purchase of new motor vehicles to be used by the County Sheriff or his employees for the following reasons: (1) existing cruisers have reached the end of their useful service lives; (2) new cruisers are necessary to provide safe and reliable transportation for the County Sheriff and his employees; and (3) new cruisers will ensure optimal service, safety, and security for the citizens of Delaware County.

Section 2. The Board hereby authorizes the purchase of ten (10) 2022 Ford Police SUV at a cost of \$47,397.00 each, from Statewide Ford-Lincoln-Mercury, Inc., and declares that the purchase of said vehicles shall be

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upon equivalent terms, conditions, and specifications to the Program contract and terms and conditions set forth in State of Ohio Index No. GDC050, Contract #RSI006716.

Section 3. The Board hereby authorizes the purchase of one (1) 2022 Ford Police SUV K-9 Vehicle at a cost of \$52,553.00 from Statewide Ford-Lincoln-Mercury, Inc., and declares that the purchase of said vehicle shall be upon equivalent terms, conditions, and specifications to the Program contract and terms and conditions set forth in State of Ohio Index No. GDC050, Contract #RSI006716.

Section 4. The Board hereby authorizes the purchase of one (1) 2022 Ford Police SUV Unmarked Vehicle at a cost of \$36,904.00 from Statewide Ford-Lincoln-Mercury, Inc., and declares that the purchase of said vehicle shall be upon equivalent terms, conditions, and specifications to the Program contract and terms and conditions set forth in State of Ohio Index No. GDC050, Contract #RSI006716.

Section 5. The Board hereby authorizes the Sheriff’s Office to initiate the necessary purchase order(s) to Statewide Ford-Lincoln-Mercury, Inc., and hereby approves the purchase order(s) from fund 41711436-5450.

Section 6. The Clerk of the Board is hereby directed to certify a copy of this Resolution to the County Sheriff and the County Auditor.

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

**9**  
**RESOLUTION NO. 22-113**

**IN THE MATTER OF AUTHORIZING THE USE OF A PROCUREMENT CARD FOR THE DELAWARE COUNTY SOIL AND WATER CONSERVATION DISTRICT:**

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

WHEREAS, on September 30, 2004, the Board of Commissioners of Delaware County (the “Board”) adopted Resolution No. 04-1193, adopting a policy for the use of county procurement cards, pursuant to section 301.29 of the Revised Code; and

WHEREAS, on October 3, 2011, the Board adopted Resolution No. 11-1040, approving amendments to the Policies and Procedures for the county procurement card program; and

WHEREAS, the Board has adopted the procurement card policy for the use of the cards to pay for specific classes of work related expenses, without submitting a monthly estimate of the expenses, pursuant to section 301.29(F)(2) of the Revised Code;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, authorizes the use of the following procurement card to the limits indicated and for specific work related expenses designated in the Procurement Card Policy without submitting a monthly estimate of expenses and with the following Department Coordinator:

**Appointing Authority:** Delaware County Soil and Water Conservation District Board  
**Office/Department:** Delaware County Soil and Water Conservation District

Daily spending per card: \$2,500  
Monthly spending per card: \$5,000  
Single transaction limit: \$2,500  
Daily number of transactions per card: 10  
Monthly number of transactions per card: 50

Name on Card: Bret Bacon  
Department Coordinator: Susan Kuba

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

**10**  
**RESOLUTION NO. 22-114**

**IN THE MATTER OF APPROVING THE FIRST RENEWAL OF THE CONTRACT WITH TRIDENT SECURITY, LLC FOR SECURITY SERVICES FOR DELAWARE COUNTY:**

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

WHEREAS, the Director of Facilities recommends approving the first renewal of the contract with Trident Security, LLC, for Security Services for Delaware County;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the First Renewal of Contract with Trident Security, LLC, for Security Services for Delaware County, as follows:

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**FIRST RENEWAL OF CONTRACT**  
**ITB #19-01 – Professional Security Services**

This First Renewal of the Contract approved in Resolution No. 19-406, on May 2, 2019, is made and entered into on February 24, 2022 by and between **Trident Security, LLC** (the “Contractor”) and the Delaware County Board of Commissioners (the “Owner”), collectively referred to herein as the “Parties.”

**ARTICLE 1 – RENEWAL**

Pursuant to Section 3.2 of the Contract, the Contract may be renewed at the end of the original period, which expires on April 30, 2022, for up to three (3) additional one (1) year periods, if agreed upon in writing by both Parties. The Parties mutually agree to renew the Contract for the first permitted renewal term of one year for the term commencing May 1, 2022 and ending April 30, 2023.

**ARTICLE 2 – CONTRACT PROVISIONS**

All terms and conditions of the Contract shall remain in full force and effect for the renewal term.

IN WITNESS WHEREOF, the Parties hereto have executed this First Renewal of the Contract.

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

**11**

**RESOLUTION NO. 22-115**

**IN THE MATTER OF APPROVING AMENDMENT NO. 2 TO THE SERVICES AGREEMENT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND ZIGZAG LAWN CARE FOR FACILITIES TURF MOWING SERVICES:**

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

WHEREAS, the Director of Facilities recommends approving Amendment No. 2 to the services agreement with Zigzag Lawn Care for Facilities Turf Mowing Services;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves Amendment No. 2 to the services agreement with Zigzag Lawn Care for Facilities Turf Mowing Services, as follows:

**AMENDMENT NO. 2 TO SERVICES AGREEMENT**

This Amendment No. 2 to the Services Agreement approved by Resolution No. 20-323 and dated April 9, 2020 (the “Agreement”), is made and entered into on February 24, 2022, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Zigzag Lawn Care, 1723 Carr Rd., Ostrander, OH 43061 (“Contractor”), hereinafter collectively referred to as the “Parties.”

**ARTICLE 1 – AMENDMENT**

The Parties mutually agree to renew the Agreement for the first permitted renewal term of one year for the 2022 mowing season, and, pursuant to Section 3.1 of the Agreement, the Parties mutually agree to amend the Agreement as follows:

- A. Section 4.2 of the Agreement shall be modified to fix the lump sum fee for 2022 at \$34,640.00.
- B. Section 4.3 of the Agreement shall be modified to increase the total compensation under the Agreement to \$98,520.00.

**ARTICLE 2 – REMAINING PROVISIONS**

All other terms and conditions of the Agreement not specifically amended herein shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Agreement.

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

**12**

**RESOLUTION NO. 22-116**

**IN THE MATTER OF AWARDING A BID TO AND APPROVING A CONTRACT WITH ATC GROUP SERVICES, LLC, FOR TESTING AND INSPECTION SERVICES FOR THE DELAWARE COUNTY BYXBE CAMPUS PROJECT (ITB #21-002):**

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

WHEREAS, the Delaware County Board of Commissioners (the "Board") solicited bids for testing and inspection services for the Delaware County Byxbe Campus project (ITB #21-002); and

WHEREAS, bids were received March 24, 2021, but an award was not made at that time due to delays with the project; and

WHEREAS, the Board and ATC Group Services, LLC, the presumptive low bidder, mutually consented to extend the time for awarding and executing the contract; and

WHEREAS, the Director of Facilities recommends awarding the bid to and approving the contract with ATC Group Services, LLC;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby awards the bid to and approves the contract with ATC Group Services, LLC, for testing and inspection services for the Delaware County Byxbe Campus project (ITB #21-002), as follows:

**SERVICES AGREEMENT**

This Agreement is made and entered into on February 24, 2022, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 ("County"), and ATC Group Services LLC, 11121 Canal Rd., Cincinnati, OH 45241 ("Contractor"), hereinafter collectively referred to as the "Parties."

**1 SERVICES PROVIDED BY CONTRACTOR**

- 1.1 The Contractor will provide Testing and Inspection services for the County's Byxbe Campus project (the "Services").
- 1.2 The Services shall be defined in and rendered by the Contractor in accordance with the following documents, by this reference made part of this Agreement:  
ITB #21-002 Testing and Inspection Services for the Delaware County Byxbe Campus Project bid documents and electronic bid forms.
- 1.3 In the event of a conflict between the terms and conditions stated in this Agreement, consisting of pages 1 through 6, and any of the documents incorporated by reference herein, the terms and conditions stated herein shall take precedence.

**2 SUPERVISION OF SERVICES**

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

**3 AGREEMENT AND MODIFICATIONS**

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

**4 FEES AND REIMBURSABLE EXPENSES**

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Bid Documents and Contractor's Bid noted in Section 1.2.
- 4.2 For all Services, the estimated annual lump sum fee shall be \$82,446.00.
- 4.3 Total compensation under this Agreement shall not exceed \$125,000.00 without subsequent modification.
- 4.4 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the scope of Services.

**5 NOTICES**

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

County:

Name: Jon Melvin, Director of Facilities  
 Address: 1405 US Highway 23 North, Delaware, OH 43015  
 Telephone: 740 833-2283  
 Email: jmelvin@co.delaware.oh.us

Contractor:

Name of Principal in Charge: Thomas Houlihan  
 Address of Firm: 11121 Canal Rd.  
 City, State, Zip: Cincinnati, OH 45241  
 Telephone: (513) 356-3731  
 Email: thomas.houlihan@oneatlas.com

**6 PAYMENT**

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

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

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

**8 SUSPENSION OR TERMINATION OF AGREEMENT**

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

**9 INDEMNIFICATION**

- 9.1 The Contractor shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Contractor, its employees, agents, subcontractors, and their employees and agents’ subcontractors and their employees or any other person for whose acts any of them may be liable. In no event shall either party be liable to the other party for any consequential, incidental, punitive, or indirect damages or losses regardless of the cause



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of such damages. Contractor's total liability for all claims or causes of action of any kind shall not exceed the amounts recoverable from the insurance limits set forth in this Agreement.

## 10 INSURANCE

- 10.1 General Liability Coverage: Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 10.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 10.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 10.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 10.1 and 10.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 10.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Agreement.

## 11 MISCELLANEOUS TERMS AND CONDITIONS

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



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- 11.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal’s behalf and is authorized to bind such principal.
  
- 11.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
  
- 11.10 Drug-Free Workplace: The Contractor agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
  
- 11.11 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

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

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

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

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

**13**  
**RESOLUTION NO. 22-117**

**IN THE MATTER OF APPROVING A SERVICES AGREEMENT WITH DELHI LANDSCAPE, INC., FOR LANDSCAPING SERVICES AT THE HISTORICAL COURTHOUSE:**

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

WHEREAS, the Director of Facilities recommends approving the services agreement with Delhi Landscape, Inc., for landscaping services at the Historical Courthouse;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the services agreement with Delhi Landscape, Inc., for landscaping services at the Historical Courthouse, as follows:

**SERVICES AGREEMENT**

This Agreement is made and entered into on February 24, 2022 by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Delhi Landscape, Inc., 4443 Radnor Rd., Radnor, OH 43066 (“Contractor”), hereinafter collectively referred to as the “Parties.”

**1 SERVICES PROVIDED BY CONTRACTOR**

- 1.1 The Contractor will provide Installation of Rosetta Retaining Wall with landscaping behind the Historical Courthouse, 91 N Sandusky St., Delaware, OH (the “Services”).
  
- 1.2 The Services shall be further defined in and rendered by the Contractor in accordance with the following documents, by this reference made part of this Agreement:  
Estimate No. 3360 dated 6/7/2021 (“Exhibit A”)

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- 1.3 In the event of a conflict between the terms and conditions stated in this Agreement, consisting of pages 1 through 5, and any of the documents incorporated by reference herein, the terms and conditions stated herein shall take precedence.

**2 SUPERVISION OF SERVICES**

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

**3 AGREEMENT AND MODIFICATIONS**

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

**4 FEES AND REIMBURSABLE EXPENSES**

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with Exhibit A.
- 4.2 For all Services, the lump sum fee shall be \$30,100.00.
- 4.3 Total compensation under this Agreement shall not exceed \$30,100.00 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 PAYMENT**

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

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

- 6.1 The Contractor shall commence Services upon written notice to proceed from the Director and shall complete the Services in accordance with Exhibit A.
- 6.2 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Contractor may make a written request for time extension, and the Director may grant such an extension provided that all other terms of the Agreement are adhered to.

**7 SUSPENSION OR TERMINATION OF AGREEMENT**

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

**8 INDEMNIFICATION**

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

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**9 INSURANCE**

- 9.1 General Liability Coverage: Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 10.1 and 10.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 9.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Agreement.

**10 MISCELLANEOUS TERMS AND CONDITIONS**

- 10.1 Prohibited Interests: Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 10.2 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 10.3 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.
- 10.4 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.
- 10.5 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.
- 10.6 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.
- 10.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 10.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.

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- 10.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
  
- 10.10 Drug-Free Workplace: The Contractor agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
  
- 10.11 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

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

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

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

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

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

**14**

**RESOLUTION NO. 22-118**

**IN THE MATTER OF APPOINTING AND RE-APPOINTING MEMBERS TO THE CONCORD-SCIOTO COMMUNITY AUTHORITY BOARD OF TRUSTEES:**

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

WHEREAS, on March 22, 2007, the Delaware County Board of Commissioners (the “Board of Commissioners”) adopted Resolution No. 07-331, establishing the Concord/Scioto Community Authority, pursuant to Chapter 349 of the Revised Code; and

WHEREAS, as the organizational board of commissioners, the Board of Commissioners shall make appointments to the Concord/Scioto Community Authority Board of Trustees, pursuant to Resolution No. 07-331 and section 349.04 of the Revised Code; and

WHEREAS, the term of Board of Trustees member David Fahrenholz will expire on March 21, 2022, and Mr. Fahrenholz has expressed an interest in being re-appointed; and

WHEREAS, the term of Board of Trustees member Graciela Chanfrau will expire on March 21, 2022, and a new member must be appointed; and

WHEREAS, on June 20, 2013, the Board of Commissioners adopted Resolution No. 13-645, adopting a policy for the appointment of members to boards and commissions (the “Policy”), which requires posting of all available positions for at least fourteen (14) days and permits the Board of Commissioners to conduct interviews of any applicants; and

WHEREAS, the Board of Commissioners desires to approve an exception to the Policy in order to re-appoint a current Board of Trustees member and to appoint a new member to the Board of Trustees of the Concord-Scioto Community Authority;

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

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Section 1. The Board hereby approves an exception to the Policy for the re-appointment and appointment made herein by choosing to waive the requirement for posting the position and to proceed directly to appointment.

Section 2. The Board of Commissioners hereby approves the re-appointment and appointment of the following members to the Concord-Scioto Community Authority Board of Trustees for the terms specified herein:

Position	Appointee	Term Ends
Citizen Member	Mike Frommer	March 21, 2024
Citizen Member	David Fahrenholz	March 21, 2024

Section 3. The appointments approved herein shall take effect on March 22, 2022.

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

**15**

**RESOLUTION NO. 22-119**

**IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH DLZ OHIO, INC., FOR ON-CALL CONSTRUCTION INSPECTION SERVICES:**

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with DLZ Ohio, Inc., for on-call construction inspection services;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio, hereby approves the following agreement with DLZ Ohio, Inc.:

**PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into this 24<sup>th</sup> day of February, 2022, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and DLZ Ohio, Inc., 6121 Huntley Road, Columbus, Ohio 43229 (“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 on-call construction inspection services (the “Services”).
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 The Services are more fully defined in, and shall be rendered by the Consultant in accordance with, the following documents, by this reference made part of this Agreement:  
Exhibit A – Fee Proposal

**2 SUPERVISION OF SERVICES**

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

**3 AGREEMENT AND MODIFICATIONS**

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

**4 FEES AND REIMBURSABLE EXPENSES**

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Fee Proposal noted in Section 1.3.
- 4.2 Total compensation under this Agreement shall not exceed Two Hundred and Fifty Thousand Dollars and Zero Cents (\$250,000.00) without subsequent modification.

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- 4.3 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the Services.

## 5 NOTICES

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

Sanitary Engineer:

Name: Delaware County Sanitary Engineer's Office  
Attn: Nathan Givens

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: (740) 833-2240

Email: ngivens@co.delaware.oh.us

Consultant:

Name of Principal in Charge: Nathan G. Niedermeier, P.E.

Address of Firm: 6121 Huntley Road

City, State, Zip: Columbus, Ohio 43229

Telephone: (614) 888-0040

Email: nneidermeier@dlz.com

## 6 PAYMENT

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

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

- 7.1 The Consultant shall commence Services upon written Notice to Proceed ("Authorization") by the Sanitary Engineer and shall complete the Services no later than December 31, 2023.
- 7.2 Consultant shall not proceed with any "If Authorized" tasks without written Authorization.
- 7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Consultant may make a written request for time extension, and the Sanitary Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

## 8 SUSPENSION OR TERMINATION OF AGREEMENT

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

## 9 CHANGE/ADDITIONS IN SCOPE OF SERVICES

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- 9.1 In the event that significant changes to the scope of the Services are required during performance of the Services, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall only take effect if approved in a writing signed by both Parties in accordance with Section 3.1.

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

## **10 OWNERSHIP**

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

## **11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT**

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

## **12 INDEMNIFICATION**

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

## **13 INSURANCE**

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



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Consultant will replace certificates for any insurance expiring prior to completion of Services under this Agreement.

**14 MISCELLANEOUS TERMS AND CONDITIONS**

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

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the employment of a person qualified and available to perform the Services to which the Agreement relates.

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

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

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

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

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

**16**

**RESOLUTION NO. 22-120**

**IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH PRIME CONSTRUCTION MANAGEMENT & SURVEY FOR ON-CALL CONSTRUCTION INSPECTION SERVICES:**

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with Prime Construction Management & Survey for on-call construction inspection services;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio, hereby approves the following agreement with Prime Construction Management & Survey:

**PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into this 24<sup>th</sup> day of February, 2022, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Prime Construction Management & Survey, 8415 Pulsar Place, Suite 300, Columbus, Ohio 43240 (“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 on-call construction inspection services (the “Services”).
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 The Services are more fully defined in, and shall be rendered by the Consultant in accordance with, the following documents, by this reference made part of this Agreement:  
Exhibit A – Fee Proposal

**2 SUPERVISION OF SERVICES**

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

**3 AGREEMENT AND MODIFICATIONS**

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

**4 FEES AND REIMBURSABLE EXPENSES**

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- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Fee Proposal noted in Section 1.3.
- 4.2 Total compensation under this Agreement shall not exceed One Hundred Thousand Dollars and Zero Cents (\$100,000.00) without subsequent modification.
- 4.3 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the Services.

**5 NOTICES**

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

Sanitary Engineer:

Name: Delaware County Sanitary Engineer's Office  
Attn: Nathan Givens

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: (740) 833-2240

Email: [ngivens@co.delaware.oh.us](mailto:ngivens@co.delaware.oh.us)

Consultant:

Name of Principal in Charge: Reggie Hood, P.E.

Address of Firm: 8415 Pulsar Place

City, State, Zip: Columbus, Ohio 43240

Telephone: (614) 839-0250

Email: [rhood@primeeng.com](mailto:rhood@primeeng.com)

**6 PAYMENT**

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

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

- 7.1 The Consultant shall commence Services upon written Notice to Proceed ("Authorization") by the Sanitary Engineer and shall complete the Services no later than December 31, 2023.
- 7.2 Consultant shall not proceed with any "If Authorized" tasks without written Authorization.
- 7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Consultant may make a written request for time extension, and the Sanitary Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

**8 SUSPENSION OR TERMINATION OF AGREEMENT**

- 8.1 The County, upon written Notice as specified in Section 5, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Consultant shall immediately suspend or terminate Services, as ordered by the County.

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- 8.2 In the case of termination, the Consultant shall submit a final invoice within sixty (60) days of receiving Notice of termination for Services completed up to the date of termination. The County is not liable for payment for Services performed after the date of termination.

**9 CHANGE/ADDITIONS IN SCOPE OF SERVICES**

- 9.1 In the event that significant changes to the scope of the Services are required during performance of the Services, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall only take effect if approved in a writing signed by both Parties in accordance with Section 3.1.

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

**10 OWNERSHIP**

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

**11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT**

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

**12 INDEMNIFICATION**

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

**13 INSURANCE**

- 13.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.
- 13.5 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 13.1 and 13.2. Consultant shall require all of its subcontractors to provide like endorsements.

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- 13.6 Proof of Insurance: Prior to the commencement of any Services under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Consultant will replace certificates for any insurance expiring prior to completion of Services under this Agreement.

**14 MISCELLANEOUS TERMS AND CONDITIONS**

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

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

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

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

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

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

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

**17**

**RESOLUTION NO. 22-121**

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

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

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

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

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

This Agreement is made and entered into this 24<sup>th</sup> day of February, 2022, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Limbach Company, LLC, 822 Cleveland Ave., Columbus, Ohio 43201 (“Contractor”), hereinafter collectively referred to as the “Parties.”

**1 SERVICES PROVIDED BY CONTRACTOR**

- 1.1 The Contractor will provide HVAC repair services for Delaware County Sewer District facilities, including, but not limited to, repairs to equipment, refrigeration, installation of equipment, service calls not requiring service or repair of equipment, and replacing condensers (the “Services”).
- 1.2 The Contractor shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 The Services are more fully described in and shall be rendered by the Contractor in accordance with *Exhibit A*, attached hereto and, by this reference, fully incorporated herein. This Agreement is entered into pursuant to the terms and conditions of State of Ohio Contract No. CSP900522-14, Index No. MAC038, which is, by this reference, fully incorporated herein.

**2 SUPERVISION OF SERVICES**

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

**3 AGREEMENT AND MODIFICATIONS**

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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 Contractor, shall supersede all prior understandings and agreements relating to the Services, and may only be modified or amended in writing with the mutual consent and agreement of the Parties.

**4 FEES AND REIMBURSABLE EXPENSES**

- 4.1 For all Services described in Exhibit A, the fees paid to Contractor shall be in accordance with the Contractor's Standard Service Rates attached hereto and, by this reference, fully incorporated herein.
- 4.2 Total compensation under this Agreement shall not exceed Fifty Thousand Dollars and Zero Cents (\$50,000.00) without subsequent modification.
- 4.3 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the Services.

**5 NOTICES**

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

County: Delaware County Regional Sewer District

Name: Cory Smith

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

Telephone: 740-833-2230

Email: csmith@co.delaware.oh.us

Contractor: Limbach Company

Name of Principal: Ken Newman

Address of Firm: 822 Cleveland Ave.

City, State, Zip: Columbus, OH. 43201

Telephone: 614-607-8048

Email: ken.newman@limbachinc.com

**6 PAYMENT**

- 6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Contractor and approved by the Sanitary Engineer and shall be in accordance with Article 4 of this Agreement and *Exhibit A*.
- 6.2 Invoices shall be submitted to the Sanitary Engineer by the Contractor on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Contractor shall promptly submit documentation as needed to substantiate said invoices.
- 6.3 The County shall pay invoices within thirty (30) days of receipt.

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

- 7.1 The Contractor shall commence Services upon written authorization from the Sanitary Engineer and shall complete the Services in accordance with Exhibit A. This Agreement shall be effective for a term of three (3) years from January 1, 2022.
- 7.2 Contractor shall not proceed with any Services without written authorization.
- 7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Contractor may make a written request for time extension, and the Sanitary Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

**8 SUSPENSION OR TERMINATION OF AGREEMENT**



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

## **9 CHANGE IN SCOPE OF SERVICES**

- 9.1 In the event that significant changes to the scope of Services are required during performance of the Services, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall only be effective if approved in a writing signed by both Parties.

## **10 INDEMNIFICATION**

- 10.1 The Contractor shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all direct damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property, to the proportionate extent caused by any negligent acts, errors or omissions of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.
- 10.2 Notwithstanding the foregoing subsection, and to the fullest extent permitted by law, neither party shall be liable to the other for any incidental, indirect or consequential damages arising out of or connected in any way to the Services or this Agreement. This mutual waiver shall include, but not be limited to, loss of profit, loss of business or income, or any other consequential damages that either party may have incurred from any cause of action whatsoever.

## **11 INSURANCE**

- 11.1 General Liability Coverage: Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 11.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 11.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 11.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 11.1 and 11.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 11.5 Proof of Insurance: Prior to the commencement of any Services under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of Services under this Agreement.

## **12 MISCELLANEOUS TERMS AND CONDITIONS**

- 12.1 Prohibited Interests: Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 12.2 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Contractor**

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hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.

- 12.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 12.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 12.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 12.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 12.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 12.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 12.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing Services under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 12.10 Drug-Free Workplace: The Contractor agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the Services being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 12.11 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of Services under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the Services to which the Agreement relates.

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

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

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

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

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

**18**  
**TIFFANY MAAG,**  
**DIRECTOR OF ENVIRONMENTAL SERVICES AND REGIONAL SEWER DISTRICT**  
**MONTHLY SANITARY APPROVAL UPDATE TO BOARD OF COMMISSIONERS**

**19**  
**RESOLUTION NO. 22-122**

**IN THE MATTER OF APPROVING THE EMERGENCY RENTAL ASSISTANCE PROGRAM SUBRECIPIENT AGREEMENT BETWEEN THE BOARD OF COMMISSIONERS, DELAWARE, OHIO AND THE UNITED WAY OF DELAWARE COUNTY:**

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

WHEREAS, the Economic Development Administrator and staff recommend the Emergency Rental Assistance Program Subrecipient Agreement between the Board of Commissioners of Delaware County and the United Way of Delaware County;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the Emergency Rental Assistance Program Subrecipient Agreement between the Board of Commissioners of Delaware County, Ohio and the United Way of Delaware County:

**EMERGENCY RENTAL ASSISTANCE PROGRAM  
SUBRECIPIENT AGREEMENT**

THIS AGREEMENT is entered into by and between the Delaware County, Ohio, acting through its Board of County Commissioners, with its address at 91 North Sandusky Street, Delaware, Ohio 43015 (the "County"), and the United Way of Delaware County, with its address at 8999 Gemini Pkwy #100, Columbus, OH 43240 ("Subrecipient").

This Agreement is entered into based on the following representations:

- A. Section 3201(a) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury ("Treasury") to make payments to certain eligible grantees to be used to provide emergency rental assistance; and
- B. The County is an eligible grantee under the Act and may receive a direct payment, subject to the Act and the emergency rental assistance program ("ERAP" or the "Program") terms;
- C. The County has been allocated ERAP funds from the U.S. Department of Treasury, in the amount of \$4,738,624.90, and is in need of assistance in administering the Program in accordance with the Act and other applicable laws, rules, regulations and polices. This funding will be paid in two parts, 40% of the allocation will be received by the County initially. The remaining 60% will be distributed to the County after 75% of the initial disbursement has been expended;
- D. Pursuant to section 307.85 of the Ohio Revised Code, the County may cooperate with other agencies or organizations, either private or governmental, in establishing and operating any federal program enacted by the congress of the United States and, for such purpose, may adopt any procedures and take any action not prohibited by the constitution of Ohio nor in conflict with the laws of this state;
- E. The Subrecipient is experienced and qualified in the administration of various federal programs similar to the Program authorized in the Act, and the County has the authority to distribute the ERAP funds to the Subrecipient for administration of the Program upon the terms and conditions stated herein;

Therefore, the County and the Subrecipient agree to the following:

- (1) LAWS, RULES, REGULATIONS, AND POLICIES
  - a. Performance under this Agreement is subject to 2 C.F.R Part 200, entitled "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards." As a condition precedent of this Agreement, the Subrecipient shall submit to the County a Statement of Internal Controls (ICOFR) that is satisfactory to the Delaware County Auditor.
  - b. This Agreement includes:
    - i. Provisions specifying a scope of work that clearly establishes the tasks that the Subrecipient is required to perform. The Scope of Work is attached hereto as Attachment A, which is, by this reference, fully incorporated herein.
    - ii. A provision specifying the financial consequences that apply if the Subrecipient fails to perform the minimum level of service required by the Agreement.
    - iii. A provision specifying that the Subrecipient may use ERAP funds only for allowable costs of providing financial assistance and housing stability services to eligible households as defined in the Act.
    - iv. A provision specifying that any balance of unobligated funds which has been advanced or paid must be refunded to the County.

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- v. In addition to the foregoing, the Subrecipient and the County will be governed by all applicable State and Federal laws, rules and regulations. Any express reference in this Agreement to a particular statute, rule, or regulation in no way implies that no other statute, rule, or regulation applies

(2) CONTACT

- a. The County's Economic Development Director ("Program Manager") will be responsible for enforcing performance of this Agreement's terms and conditions and will serve as the County's liaison with the Subrecipient. As part of his duties, the Program Manager will monitor and document Subrecipient performance.
- b. The contact information for the Program Manager for this Agreement is:

Zachary Dowley  
Economic Development Specialist  
91 North Sandusky Street  
Delaware Ohio 43015  
zdowley@co.delaware.oh.us

- c. The name and address of the representative of the Subrecipient responsible for the administration of this Agreement is:

United Way of Delaware County  
Attn: Brandon Feller, President  
PO Box 319  
Delaware, OH 43015  
bfeller@uwaydelaware.org

- d. In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the name, title and address of the new representative will be provided to the other party.

(3) TERMS AND CONDITIONS

This Agreement, including the Attachments A and B, contains all the terms and conditions agreed upon by the parties. The Agreement is subject to the ERAP award term sheet between the County and the U.S. Department of the Treasury attached hereto as Attachment B, which is, by this reference, fully incorporated herein.

(4) EXECUTION; MODIFICATION

This Agreement may be executed in any number of counterparts, any one of which may be taken as an original. This Agreement may not be modified except by a written amendment signed by both parties.

(5) BONDING

The Subrecipient shall provide to the County evidence that it is bonded in a sufficient amount to secure faithful performance of its obligations under this Agreement and to cover any obligation of repayment of funding provided under this Agreement in the event repayment is required. Sufficiency shall, at a minimum, equal or exceed the total amount of ERAP funds disbursed to the Subrecipient at any one time.

(6) PERIOD OF AGREEMENT

This Agreement shall be effective on February 24, 2022 and shall continue in force and effect until the Program is concluded, including final reporting and auditing, unless terminated earlier in accordance with the provisions of Paragraph (15) TERMINATION. Pursuant to the Act, ERAP funds shall remain available through September 30, 2025. Notwithstanding the foregoing, the Subrecipient acknowledges that ERAP funds not obligated by March 31, 2022, may be subject to reallocation in accordance with the Act.

(7) FUNDING

- a. The County's performance and obligation to provide funds under this Agreement is contingent upon, and subject to, appropriation by the County's Board of Commissioners.
- b. This is a modified reimbursement agreement. The County will make an initial disbursement to the Subrecipient of \$617,000.00. Upon the county receiving additional grant funding, United Way will receive an additional \$177,000 for administrative expenses. Any additional amounts will be disbursed on a reimbursement basis.
- c. The Subrecipient may use the ERAP funds only to provide financial assistance and housing stability services to eligible households as defined in the Act, including allowable administrative costs attributable thereto. Any payment of financial assistance shall be made subject to, and in strict compliance with, the application, limitation, distribution, documentation, prioritization, and privacy requirements set forth in the Act, as may be further defined by the U.S. Department of the Treasury. Any reimbursements shall be subject to Paragraph (8) INVOICING.
- d. The Subrecipient shall use interest income earned on the initial \$617,000.00 disbursement on eligible grant expenditures. The Subrecipient must track such earned interest income in accordance with Paragraph (10) AUDITS and must return any unused interest income to the County once the Program is concluded.
- e. The County's Program Manager shall reconcile and verify all funds received against all funds expended during the period of this Agreement and produce a final reconciliation report. The final report must identify any funds paid in excess of the expenditures incurred by the Subrecipient.
- f. For the purposes of this Agreement, the term "improper payment" means or includes:

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- g. Any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements.
- h. The provisions of the Act specific to the use of funds shall govern the use of ERAP funds, and any deviation therefrom shall be considered an improper payment.
- i. Not less than ninety percent (90%) of the ERAP funds shall be used to provide financial assistance to eligible households, including allowable administrative costs attributable thereto, and financial assistance to eligible households shall be limited to the following categories of expenses:
  - i. Rent, including rental arrears;
  - ii. Utilities and home energy costs, including utilities and home energy costs arrears (for purposes of the Act, these expenses are limited to separately-stated electricity, natural gas, water and sewer, trash removal, and energy costs, such as fuel oil; telecommunication services (telephone, cable, internet) are not considered to be utilities); and
  - iii. Other expenses related to housing incurred due, directly or indirectly, to the COVID-19 outbreak, as defined by the U.S. Secretary of the Treasury.

**(8) INVOICING**

- a. In order to obtain reimbursements for expenditures in excess of the initial \$ 617,000.00 disbursement, the Subrecipient must file with the County Program Manager its request for reimbursement and any other information required to justify and support the payment request, including, without limitation, a report of all expenditures as of the date of the request. Payment requests must include a certification, signed by an official who is authorized to legally bind the Subrecipient, which reads as follows:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

- b. Reimbursements will be made only for expenditures the County Program Manager provisionally determines are eligible under the Act. However, the County’s provisional determination does not relieve the Subrecipient of its duty to repay the County for any expenditures that are later determined by the County or the Federal government to be an improper payment.
- c. The County shall make reimbursement payments for expenditures deemed eligible under the Act in a timely manner not to exceed fourteen (14) days after the receipt of the Subrecipient’s reimbursement request. The County shall refuse reimbursement for improper payments and will notify the Subrecipient of any payment it deems an improper payment. For those expenditures the County Program Manager provisionally determines are eligible for reimbursement under the Act, the Board of County Commissioners authorizes the Delaware County Administrator, pursuant to section 305.30 of the Revised Code, to approve the voucher(s) for reimbursement payment(s).

**(9) RECORDS**

- a. As a condition of receiving the ERAP funds, and as required by applicable law, the County, the Delaware County Auditor, the Ohio Auditor of State, or any of their authorized representatives, shall enjoy the right of access to any documents, financial statements, papers, or other records of the Subrecipient which are pertinent to this Agreement, in order to make audits, examinations, excerpts, and transcripts. The right of access also includes timely and reasonable access to the Subrecipient’s personnel for the purpose of interview and discussion related to such documents. For the purposes of this section, the term “Subrecipient” includes employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement.
- b. The Subrecipient shall maintain all records related to this Agreement until such time as the Program has been fully audited and any findings have been resolved.

**(10) AUDITS**

- a. In accounting for the receipt and expenditure of funds under this Agreement, the Subrecipient must follow Generally Accepted Accounting Principles (“GAAP”). As defined by 2 C.F.R. §200.49, “GAAP has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB).”
- b. The Subrecipient must track all interest income earned from the initial \$617,000.00 disbursement in accordance with GAAP.
- c. When conducting an audit of the Subrecipient’s performance under this Agreement, the County must use Generally Accepted Government Auditing Standards (“GAGAS”). As defined by 2 C.F.R. §200.50, “GAGAS, also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.”
- d. If an audit shows that all or any portion of the funds disbursed and reimbursed were not spent in accordance with the conditions of and strict compliance with this Agreement and the Act, the Subrecipient will be held liable for reimbursement to the County of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty (30) days after the County has notified the Subrecipient of such non-compliance.
- e. The Subrecipient must have all audits completed by an independent auditor acceptable to the Delaware County Auditor and the Ohio Auditor of State. The independent auditor must state that the audit complied with the applicable provisions noted above. The audits must be received by the County no later than nine months from the end of the Subrecipient’s fiscal year.
- f. The Subrecipient must send copies of reporting packages required under this paragraph directly to each of the following: the County Program Manager; the Delaware County Auditor; and the Ohio Auditor of State, if and as directed by the County.
- g. All ERAP payments and reimbursements are considered to be federal financial assistance subject to the

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Single Audit Act and the related provisions of the Uniform Guidance.

**(11)REPORTS**

- a. The Subrecipient must provide the County with monthly reports and a close-out report. These reports must include all the information the Act requires for reporting of the current status and progress of the expenditure of ERAP funds, in addition to any other information requested by the County.
- b. Monthly reports are due to the County no later than fifteen (15) days after the end of each calendar month that the Program is active and must be sent each month until submission of the administrative close-out report. The first monthly report due pursuant to this Agreement is due no later than March 15, 2022, for the month ending February 28, 2022.
- c. The close-out report is due sixty (60) days after termination of this Agreement or sixty (60) days after completion of the activities contained in this Agreement, whichever occurs first.
- d. If all required reports and copies are not sent to the County or are not completed in a manner acceptable to the County, the County may withhold further reimbursements until they are completed or may take other action as stated in Paragraph (15) REMEDIES.
- e. The Subrecipient must provide additional Program updates or information that may be required by the County.

**(12)MONITORING**

In addition to reviews of audits conducted in accordance with paragraph (10) AUDITS above, monitoring procedures may include, but not be limited to, on-site visits by County staff, limited scope audits, or other procedures. The Subrecipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the County. In the event that the County determines that a limited scope audit of the Subrecipient is appropriate, the Subrecipient agrees to comply with any additional instructions provided by the County to the Subrecipient regarding such audit. The Subrecipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Federal or State authorities. In addition, the County will monitor the performance and financial management by the Subrecipient throughout the period of this Agreement to ensure timely and proper completion of all tasks.

**(13)LIABILITY**

The Subrecipient agrees to be fully responsible for its negligent or tortious acts or omissions which result in claims or suits against the County, and agrees to be liable for, and indemnify and hold the County harmless against, any damages, costs, or expenses caused by such acts or omissions.

**(14)DEFAULT**

- a. If any of the following events occur ("Events of Default"), all obligations on the part of the County to reimburse payments will, if the County elects, terminate and the County has the option to exercise any of its remedies set forth in Paragraph (15) REMEDIES. However, the County may make reimbursements or partial reimbursements after any Events of Default without waiving the right to exercise such remedies, and without becoming liable to make any further reimbursement.
  - If any warranty or representation made by the Subrecipient in this Agreement or any previous agreement with the County is or becomes false or misleading in any respect, or if the Subrecipient fails to keep or perform any of the obligations, terms or covenants in this Agreement or any previous agreement with the County and has not cured them in timely fashion, or is unable or unwilling to meet its obligations under this Agreement;
  - If material adverse changes occur in the financial condition of the Subrecipient at any time during the period of agreement, and the Subrecipient fails to cure this adverse change within thirty (30) days from the date written notice is sent by the County;
  - If any reports required by this Agreement have not been submitted to the County or have been submitted with incorrect, incomplete or insufficient information; or
  - If the Subrecipient has failed to perform and complete on time any of its obligations under this Agreement.

**(15)REMEDIES**

If an Event of Default occurs, then the County may, after thirty (30) calendar days written notice to the Subrecipient and upon the Subrecipient's failure to cure within those thirty (30) days, exercise any one or more of the following remedies, either concurrently or consecutively:

- a. Terminate this Agreement, provided that the Subrecipient is given at least thirty (30) days prior written notice of the termination. The notice shall be effective when placed in the United States, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address in paragraph (2) CONTACT herein;
- b. Begin an appropriate legal or equitable action to enforce performance of this Agreement;
- c. Withhold or suspend reimbursement of all or any part of a request for reimbursement;
- d. Require that the Subrecipient refund to the County any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds.
- e. Exercise any corrective or remedial actions, to include but not be limited to:
  - i. request additional information from the Subrecipient to determine the reasons for or the extent of non-compliance or lack of performance,
  - ii. issue a written warning to advise that more serious measures may be taken if the situation is not corrected,
  - iii. advise the Subrecipient to suspend, discontinue or refrain from incurring costs for any activities in question, or
  - iv. require the Subrecipient to reimburse the County for the amount of costs incurred for any items determined to be ineligible, or
- f. Exercise any other rights or remedies which may be available under law. Pursuing any of the above remedies will not stop the County from pursuing any other remedies in this Agreement or provided at law or in equity. If the County waives any right or remedy in this Agreement or fails to insist on strict performance by the Subrecipient, it will not affect, extend or waive any other right or remedy of the County, or affect the later exercise of the same right or remedy by the County for any other default by the

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Subrecipient.

**(16) TERMINATION**

- a. The County may terminate this Agreement for cause after thirty (30) days written notice. Cause can include misuse of funds, fraud, lack of compliance with applicable rules, laws and regulations, failure to perform on time, and refusal by the Subrecipient to permit access to any document, paper, letter, or other material subject to disclosure as required herein.
- b. The County may terminate this Agreement for convenience or when it determines, in its sole discretion, that continuing the Agreement would not produce beneficial results in line with the further expenditure of funds, by providing the Subrecipient with thirty (30) calendar days prior written notice.
- c. The parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of this Agreement.
- d. In the event this Agreement is terminated, the Subrecipient will not incur new obligations for the terminated portion of this Agreement after they have received the notification of termination. The Subrecipient will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed. The Subrecipient will not be relieved of liability to the County because of any breach of this Agreement by the Subrecipient. The County may, to the extent authorized by law, withhold reimbursement to the Subrecipient for the purpose of set-off until the exact amount of damages due the County from the Subrecipient is determined.

**(17) ATTACHMENTS**

- a. All attachments to this Agreement are incorporated as if set out fully.
- b. In the event of any inconsistencies or conflict between the language of this Agreement and the attachments, the language of the attachments will control, but only to the extent of the conflict or inconsistency.

**(18) SUBCONTRACTING; SUBAWARDS**

- a. The Subrecipient shall not enter into any subcontracts for its obligations under this Agreement but shall directly administer the Program as set forth herein and in accordance with the Act and any regulatory guidance from the U.S. Department of the Treasury.
- b. Subawards of the ERAP funds shall be strictly limited to direct payments of financial assistance as set forth in the Act, which includes payments to landlords or utility providers whenever possible. Only upon a failure in attempts to arrange direct payment to landlords or utility providers may payments be made to eligible households for the expenses meeting the requirements of the Act.

**(19) HOUSING STABILITY SERVICES; ADMINISTRATIVE COSTS**

- a. In accordance with the Act, at least ninety percent (90%) of ERAP funds shall be used for financial assistance payments, including allowable administrative costs attributable thereto. The remaining balance of up to ten percent (10%) of ERAP funds, if any, may be used for housing stability services, including allowable administrative costs attributable thereto.
- b. Housing stability services, if any, are to be provided directly by the Subrecipient and shall include providing eligible households with case management and other services intended to keep households stably housed.
- c. Not more than fifteen percent (15%) of the total ERAP funds may be used for administrative costs attributable to providing financial assistance, housing stability services, and other affordable rental housing and eviction prevention activities, including for data collection and reporting requirements related to such funds. No other administrative costs shall be paid for from ERAP funds.
- d. The Subrecipient shall not use any ERAP funds for housing stability services or administrative costs unless a request for such use, stating the justification therefor, is submitted to the County Program Manager and the County Program Manager provides written approval of the request.
- e. If any ERAP funds remain unobligated on October 1, 2022, the Subrecipient may request approval from the County to use the ERAP funds for other purposes permitted under the Act, provided that (i) such other purposes are affordable rental housing and eviction prevention purposes, as defined by the U.S. Secretary of the Treasury, serving very low-income families (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))); and (ii) prior to obligating any funds for such purposes, the Subrecipient has obligated not less than 75 percent of the total ERAP funds in accordance with this Agreement.

**(20) MANDATED CONDITIONS AND OTHER LAWS**

- a. The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Subrecipient in this Agreement, in any later submission or response to a County request, or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations, and materials is incorporated by reference. The inaccuracy of the submissions or any material changes will, at the option of the County and with thirty (30) days written notice to the Subrecipient, cause the termination of this Agreement and the release of the County from all its obligations to the Subrecipient.
- b. This Agreement must be construed under the laws of the State of Ohio, and venue for any actions arising out of this Agreement will be in the courts of Delaware County, Ohio. If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then the provision is null and void to the extent of the conflict, and is severable, but does not invalidate any other provision of this Agreement.
- c. Any power of approval or disapproval granted to the County under the terms of this Agreement will survive the term of this Agreement.
- d. This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.
- e. The Subrecipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, State and local government services,



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and telecommunications.

- f. If the Subrecipient is allowed to temporarily invest any funds disbursed under this Agreement, they must use the interest earned or other proceeds of these investments only for the authorized use of ERAP funds under the Act.
- g. This Agreement may be charged only with allowable expenses resulting from obligations incurred on or before September 30, 2025. For the purposes of clarity, financial assistance payments may continue after this deadline, provided the payments were approved and obligated on or before this deadline.
- h. Any balances of unobligated ERAP funds are not authorized to be retained and must be refunded to the County immediately for recapture.

(21) LOBBYING PROHIBITION

- a. No funds or other resources received from the County under this Agreement may be used directly or indirectly to influence legislation or any other official action by a legislative body or any executive agency.
- b. 2 C.F.R. §200.450 prohibits reimbursement for costs associated with certain lobbying activities.

(22) LEGAL AUTHORIZATION

The Subrecipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. The Subrecipient also certifies that the undersigned person has the authority to legally execute and bind the Subrecipient to the terms of this Agreement.

(23) NON-DISCRIMINATION

The Subrecipient hereby agrees that it will not discriminate against any applicant for financial assistance because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

(24) EQUAL OPPORTUNITY EMPLOYMENT

The Subrecipient hereby agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.

ATTACHMENT A: SCOPE OF WORK

Intake:

- All applicants are directed to DelawareCountyPathways.com to complete the application.
- Applications are housed in Apricot case management software from beginning to end of process and are kept on file no fewer than 5 years.
- Applicants unable to complete the form online will call the Community Navigation Assistant to apply over the phone. Documents unable to be sent by application or email can be brought to the Family Resource Center via drop box or fax at 740-363-0093. FRC will return all documents to Navigation Assistant.
- The Supervisor of Community Navigation/Director of Community Navigation will review and assign ERA qualifying applications to the community navigators through Apricot. Non-qualifying individuals will be assigned to Family Resource Center through Apricot or referred to other partner organizations as appropriate.

ERA Eligibility:

- Applicants must represent Delaware County households.
- Eligible household expenses include rent, water, electric, trash removal and gas and fuel oil utilities only. Internet service provided to the rental unit may be eligible in the event that there is documented need to engage in distance learning, telework, telemedicine or obtain government services.
- Eligible households are defined as one or more individuals who are obligated to pay rent on a residential dwelling and:
  - One or more individuals within the household has qualified for unemployment benefits or experienced a reduction in household income, incurred significant costs, or experienced financial hardship due, directly or indirectly, to the coronavirus pandemic;
  - One or more individuals can demonstrate a risk of experiencing homelessness or housing instability; and
  - The household is a low-income family (as such term defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C 1437a(b))).
- Priority shall be given to applications of eligible households for which the income does not exceed 50 percent of the area median income for the household or in which one or more of the individuals within the household are unemployed as of the date of the application and have not been employed for the 90-day period preceding such date.
- Cases may remain open through September 30, 2022.
- Arrears that have accrued prior to the application's submission will qualify for assistance but may date no further back than March 13, 2020.
- No more than 3 months of current rental assistance can be provided at one time. After 3 months the case reviewed again to determine eligibility up to 12 months total. A client can only receive a total of 18 months of rental assistance from ERA 1 and ERA 2 funds.
- Security deposits and tenant application or screening fees may be considered other expenses related to housing in instances where families denied assistance will be facing homelessness.
- Transient expenses will qualify when applicant is homeless. This includes hotel/motel costs if the household is displaced from its residence, the household does not have another permanent residence, and all other requirements in regard to the duration of assistance, documentation, etc., are met. Transient needs are considered a specialized case and must be escalated to the Director of Community Navigation and the Community Navigator Supervisor and will be approved only when all other community resources offering these support services have been exhausted by the applicant. Hotel/motel expenses will be utilized only until a household may return to a permanent residence and will not exceed a 30 day stay. The cost of the hotel or motel stay will not include expenses incidental to the charge for the room.

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- Applicants that are renting their residence under a “rent-to-own” agreement, under which the renter has the option (or obligation) to purchase the property at the end of the lease term, will qualify provided that a member of his or her household:
  - is not a signor or co-signor to the mortgage on the property;
  - does not hold the deed or title to the property; and
  - has not exercised the option to purchase.
- Rental payments for either the manufactured home and/or the parcel of land the manufactured home occupies are eligible for financial assistance under ERAP. Households renting manufactured housing and/or the parcel of land the manufactured home occupies may also receive assistance for utilities and other expenses related to housing.

ERA Process:

1. Navigators accept assigned cases and confirm that there is no personal conflict of interest.
2. Nothing shall preclude a landlord or owner of a residential dwelling from assisting a renter of such dwelling in applying for assistance or applying for such assistance on behalf of a renter of the dwelling; provided, however, that the landlord or owner must do all of the following: obtain the signature of the tenant, which may be electronic; provide the tenant with documentation of the application; and apply any payment received to satisfy the tenant’s rental obligations.
3. Confirm all client submitted information is correct on the form, all cases will require:
  - a. Proof of Income (2020 tax return OR equivalent 30-day income)
  - b. Proof of residency including address of rental unit
  - c. Number of individuals in the household
  - d. Gender, race, and ethnicity of the primary applicant for assistance
  - e. Signature
  - f. Lease/Landlord Verification
  - g. W9
  - h. Other bills and documents as needed
  - i. Amount and percentage of monthly rent covered by ERA assistance
  - j. Amount and percentage of separately stated utility and home energy costs covered by ERA assistance
  - k. Total amount of each type of assistance provided
  - l. Amount of outstanding rental arrears for each household
  - m. Number of months of rental payments and number of months of utility or home energy cost payments for which ERA assistance is provided
4. Unusual cases such as those that require legal counsel will be escalated to the Supervisor of Community Navigation. The Subrecipient will mark checks that are released for these cases to be reviewed by the County’s Grant Administrator.
5. Check requests under \$10,000 are to be sent to Supervisor of Community Navigation /Director of Community Navigation for approval.
6. Check requests \$10,000 or larger and/or cases with additional complexity will be reviewed on a case by case basis by UWDC Leadership Team (President, Vice President, Director of Collective Impact) prior to approval.
7. A credit card will be used for emergency utility payment (i.e., a service is at risk of immediate disconnection or shut down) and only the Community Navigation Director will have the credit card and ability to make those payments. If the Community Navigation Director is unavailable, a United Way officers’ credit card will be utilized.
8. Payments shall be made directly to a landlord or utility provider on behalf of the eligible household, except in cases in which the landlord or utility provider does not agree to accept the payment after outreach to the landlord or utility provider, whereupon payments may be made directly to the eligible household for the express purpose of making payments to the landlord or utility provider. Outreach will be considered complete if a request for participation is sent in writing by certified mail, to the landlord or utility provider, and the addressee does not respond to the request within 21 calendar days after mailing; or, if the grantee has made at least three attempts by phone or email over a 21 calendar day period to request the landlord or utility provider’s participation. All efforts must be documented. If payment is made by directly to the eligible household, tenant must be able to enter into the agreement with confidence that receipt of payment to the landlord or utility company will be provided at risk of having to return the funds if proof of payment is not made available within 30 days. If an eligible household cannot confidently enter this agreement, funds will be placed in escrow with assistance from Central Ohio Legal Aid to be used following court proceedings. The cost of mailing would be an eligible administrative cost. Documentation of payments made directly to a landlord or utility provider shall be delivered to the eligible household benefiting from the payments. To receive payment, landlords and utility providers must provide the name, address, and Social Security number, tax identification number or DUNS number.
9. Supervisor of Community Navigation provides weekly ERA check requests to Buckeye Bookkeeping on a recurring date.
10. Director of Community Navigation provides reimbursement requests to the Delaware County project manager every other Wednesday.
11. Director of Community Navigation works with County’s Grant Administrator to provide reports and any necessary monitoring activities that may take place over the course of the program. This is included but not limited to: review of check logs to be sent for payment processing and site-visits to observe the Subrecipient executing the duties of this agreement. If any there are any findings based on these monitoring activities, United Way shall immediately correct those problems and submit in writing a solution that is acceptable to the County.

Residual Supplies:

United Way has completed an inventory of residual supplies utilized in the administration of the ERA 1 program, and the parties mutually acknowledge and agree that the residual supplies are needed for administration of the ERA 2 program. United Way shall retain the residual supplies and utilize them for ERA 2. Upon closeout of the ERA 2 program, United Way shall provide an updated inventory of residual supplies, and the parties will, at that time, determine the appropriate disposal or reapplication requirements for any remaining residual supplies.

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

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**ADMINISTRATOR REPORTS**

Tracie Davies, County Administrator

- Attended a Board of Elections Board meeting this week.
- Attended a Health District Staff meeting this week.

Dawn Huston, Deputy Administrator

- No reports.

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**COMMISSIONERS' COMMITTEES REPORTS**

Commissioner Benton

- The Land Bank met last Thursday. The Sunny Vee property will be sold at the Auditor's Forfeited Property Auction on March 15, 2022 at 10:00 in the main lobby of the Hayes Building. The demolition grants are moving forward. Dave Efland and Dianne Gunther have identified five properties to move forward in the process.
- CEBCO will meet tomorrow virtually.
- The legislative update will take place tomorrow.
- MORPC will hold an Intel briefing today.
- COYC met last Thursday. Commissioner Merrell was voted onto the board.
- The State of the City was last week.

Commissioner Merrell

- COYC did meet last week. Looking forward to serving on that board.
- The Land Bank met last week.
- Will be attending the MORPC briefing about Intel today.

Commissioner Lewis

- Attended the Bridges/Community Action virtual meeting.
- Attended the State of the City last week.

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**RESOLUTION NO. 22-123**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT; EMPLOYMENT OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL:**

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

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

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

Section 1. The Board hereby adjourns into executive session for consideration of appointment; employment of a public employee or public official.

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

**RESOLUTION NO. 22-124**

**IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:**

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

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

There being no further business, the meeting adjourned.

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Gary Merrell

**COMMISSIONERS JOURNAL NO. 76 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD FEBRUARY 24, 2022**

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Barb Lewis

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Jeff Benton

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Jennifer Walraven, Clerk to the Commissioners