

COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD AUGUST 18, 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

9:45 A.M. Public Hearing #1 For The Consideration Of Approving Replacement Sales And Use Taxes, Pursuant To Sections 5739.021 And 5741.021 Of The Revised Code, At The Rate Of One-Half Of One Percent (0.50%) Levied For A Continuing Period Of Time And Approving A Reduction In The Rate Of Taxation On Real Property In Delaware County, Pursuant To R.C. 5705.313

1
 RESOLUTION NO. 22-687

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD AUGUST 15, 2022:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on August 15, 2022; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

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

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

2
 PUBLIC COMMENT

3
 RESOLUTION NO. 22-688

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0817, MEMO TRANSFERS IN BATCH NUMBERS MTAPR0817:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve Then and Now Certificates, payment of warrants in batch numbers CMAPR0817, memo transfers in batch numbers MTAPR0817 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
P2201012 (Kohl's)	Job & Family Services Program	22511607-5348	\$ 13,800.00
P2201009 (Various PRC)	Job & Family Services Program	22411602-5348	\$140,000.00
P2201500 (PNC Bank) line 1	EMS Procurement Card supplies	10011303-5200	\$ 5,000.00
P2201500 (PNC Bank) line 2	EMS Procurement Card services	10011303-5300	\$ 15,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Account</u>	<u>Amount</u>
R2203897	2K GENERAL COMPANY	COURTHOUSE BUILDOUT & RENOVATIONS	42011438 - 5410	\$568,600.00
R2203980	BYERS MINTON & ASSOCIATES LLC	GOVERNMENT AFFAIRS CONSULTING SERVICES	10011102 - 5301	\$ 30,000.00
R2204006	ORANGE TOWNSHIP TRUSTEES	LEASE EMS 3 10 20 22-10 19 23	10011303 - 5335	\$ 8,640.00
R2204026	SERENDIPITY COUNSELING CENTER	EMS COUNSELING SERVICES	10011303 - 5301	\$ 6,000.00
R2204032	APO PUMPS AND COMPRESSORS LLC	REPAIR PARTS FOR THE NON POT STRAINER	66211900 - 5228	\$ 9,215.00

**COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022**

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

**4
RESOLUTION NO. 22-689**

IN THE MATTER OF RE-APPOINTING A MEMBER AND APPOINTING MEMBERS TO THE JOB AND FAMILY SERVICES COMMUNITY PLANNING COMMITTEE:

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

WHEREAS, Section 329.06 of the Ohio Revised Code requires the establishment of a Job and Family Services Community Planning Committee (the “Community Planning Committee”) whose membership is a broad representation of the groups of individuals and public and private entities that have an interest in social services and workforce development services provided in the county; and

WHEREAS, the Community Planning Committee may consult with the Delaware County Board of Commissioners (the “Board of Commissioners”) and make recommendations regarding social services and workforce development services provided in the county with regard to state and local funds, establishment of goals to be achieved, evaluation of the outcomes of programs, and any other matter the commissioners consider relevant to the provision of social services and workforce development programs; and

WHEREAS, the term for Community Planning Committee member Rhianna Mattix will expire on October 4, 2022 and she has expressed interest in being re-appointed; and

WHEREAS, the terms for Community Planning Committee members Kristine Hodge, David Hejmanowski, and Greg York will expire on October 4, 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 current members of the Community Planning Committee and to appoint a replacement Buckeye Valley Local Schools representative to the Community Planning Committee;

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

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

Section 2. The Board of Commissioners hereby approves the re-appointment of the following member to the Community Planning Committee and for the term specified herein:

Appointee	Term Ends
Rhianna Mattix	October 4, 2025

Section 3: The Board of Commissioners hereby approves the appointment of the following members to the Community Planning Committee for the terms specified herein:

Appointee	Term Ends
Chris Baker	October 4, 2025
Tina Overturf	October 4, 2025
Robert Rice	October 4, 2025

Section 4. The appointment and re-appointments approved in Section 2 and Section 3 of this Resolution shall take effect on October 5, 2022.

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

**5
RESOLUTION NO. 22-690**

IN THE MATTER OF APPOINTING A MEMBER TO THE CONCORD-SCIOTO COMMUNITY AUTHORITY BOARD OF TRUSTEES:

It was moved by Mr. Merrell, seconded by Mr. Benton 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

**COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022**

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, a current member resigned his position, effective July 19, 2022, and a replacement appointment is needed to fulfill the unexpired term; 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 appoint a new member to the Concord-Scioto Community Authority Board of Trustees;

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

Section 1. The Board hereby approves an exception to the Policy for the 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 appointment of the following members to the Concord-Scioto Community Authority Board of Trustees for the term specified herein:

Position	Appointee	Term Ends
Citizen Member	Erik McPeck	March 21, 2024

Section 3. The appointment approved herein shall take effect immediately upon adoption.

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

6

RESOLUTION NO. 22-691

IN THE MATTER OF REAPPOINTING TWO MEMBERS TO THE DELAWARE COUNTY PUBLIC DEFENDER COMMISSION:

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

WHEREAS, in Resolution No. 20-781, adopted on September 3, 2020, the Delaware County Board of Commissioners (the “Board”) established the Delaware County Public Defender Commission (the “Commission”), effective October 1, 2020; and

WHEREAS, pursuant to section 120.13 of the Revised Code, the Board shall make appointments to the Commission, and terms of office shall be for four years, each term ending on the same day of the same month of the year as did the term which it succeeds; and

WHEREAS, pursuant to section 120.13 of the Revised Code, at least one of the Board’s appointments shall be an attorney admitted to the practice of law in this state; and

WHEREAS, on June 20, 2013, the Board 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 to conduct interviews of any applicants; and

WHEREAS, the Board desires to approve an exception to the Policy in order to re-appoint current members of the Delaware County Public Defender Commission;

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

Section 1. The Board hereby approves the following reappointments to the Delaware County Public Defender Commission.

Appointee	Term Commences	Term Ends
David Riepenhoff	October 1, 2022	October 1, 2026
Melissa Knopp	October 1, 2022	October 1, 2026

Section 2. The reappointments approved herein shall take effect on October 1, 2022.

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

7

JANE HAWES, DIRECTOR OF COMMUNICATIONS

COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022

DISCUSSION ON A COMMUNITY ENHANCEMENT GRANT PROGRAM RECIPIENT
Need additional informational;

8

RESOLUTION NO. 22-692

IN THE MATTER OF APPROVING A VACATION AND RELEASE OF SANITARY SEWER
EASEMENT FOR NORTHSTAR RESIDENTIAL DEVELOPMENT, LLC IN DELAWARE
COUNTY, OHIO (OFFICIAL RECORD 1971, PAGES 1137-1141):

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

WHEREAS, the Sanitary Engineer has received a request to vacate an existing sanitary sewer easement located at 8632 and 8648 Abby Way; and

WHEREAS, since the time of recording the easement on this parcel, the Sanitary Engineer has determined that the sanitary sewer necessary to serve the Bent Tree development does not need to utilize this easement; and

WHEREAS, the Sanitary Engineer recommends approving a Vacation and Release of Sanitary Sewer Easement;

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

VACATION AND RELEASE OF EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS THAT the undersigned **Board of County Commissioners of Delaware County, Ohio** hereby permanently surrenders, vacates, and releases the Sanitary Easement granted to it by Northstar Residential Development, LLC, by instrument recorded in Official Record Volume 1971, Pages 1137–1141, Recorder’s Office, Delaware County, Ohio, such surrendered, vacated, and released easement being described and depicted on Exhibit A attached hereto.

Further, the undersigned hereby authorizes and directs the Delaware County Recorder to record this Vacation and Release of Easement in the County Records.

IN WITNESS WHEREOF, the undersigned has caused this Vacation and Release of Easement to be executed on the date written below.

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

9

RESOLUTION NO. 22-693

IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH MS
CONSULTANTS, INC. FOR THE ALUM CREEK WATER RECLAMATION FACILITY UV
UPGRADES PROJECT:

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with ms consultants, inc. for the Alum Creek Water Reclamation Facility UV Upgrades Project;

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

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into this 18th day of August, 2022, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and ms consultants, inc, 2221 Schrock Road, Columbus, Ohio 43229-1547 (“Consultant”), hereinafter collectively referred to as the “Parties”, and shall be known as the “Agreement.”

1 SERVICES PROVIDED BY CONSULTANT

- 1.1 The Consultant will provide professional design services for the County’s Alum Creek Water Reclamation Facility UV Upgrades project (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.

**COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022**

- 1.3 The Services are more fully defined in, and shall be rendered by the Consultant in accordance with, the following documents, by this reference made part of this Agreement:
Exhibit A – Scope of Services and Exhibit B – Fee Proposal

2 SUPERVISION OF SERVICES

- 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 Exhibit A and Exhibit B.
- 4.2 Total compensation under this Agreement shall not exceed Four Hundred Eighty-One Thousand Eight Hundred Dollars and Zero Cents (\$481,800.00) 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 in writing on the Parties to the attention of the individuals listed below. The Parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.

Sanitary Engineer:

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

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: (740) 833-2240

Email: emcpeek@co.delaware.oh.us

Consultant:

Name of Principal in Charge: ms consultants, inc. - Bill Johngrass, P.E.

Address of Firm: 2221 Schrock Road, Columbus, Ohio 43229

City, State, Zip: Columbus, Ohio 43229

Telephone: 614-898-7100

Email: bjohngrass@msconsultants.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 Exhibit A and Exhibit B.
- 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.

**COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022**

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 from the Sanitary Engineer and shall complete the Services no later than December 31, 2024.

7.2 Consultant shall not proceed with any "If Authorized" tasks without written Notice to proceed from the Sanitary Engineer.

7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Consultant may make a written request for time extension, and the Sanitary Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

8 SUSPENSION OR TERMINATION OF AGREEMENT

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

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

9 CHANGE/ADDITIONS IN SCOPE OF SERVICES

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

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

10 OWNERSHIP

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

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

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

11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT

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

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

12 INDEMNIFICATION

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

13 INSURANCE

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

**COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022**

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

14 MISCELLANEOUS TERMS AND CONDITIONS

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

**COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022**

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

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

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

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

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

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

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

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

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

10

RESOLUTION NO. 22-694

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 Mr. Benton 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 18th day of August, 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”).

**COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022**

- 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 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 in writing on the Parties to the attention of the individuals listed below. The Parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.

Sanitary Engineer:

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

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: (740) 833-2240

Email: emcpeek@co.delaware.oh.us

Consultant:

Name of Principal in Charge: 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.

**COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022**

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

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.

**COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022**

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. 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

**COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022**

not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.

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

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

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

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

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

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

**11
RECOGNITION OF:
STATE OHIO WATER ENVIRONMENT AUTHORITY AWARDS**

**ADMINISTRATOR REPORTS
-none**

COMMISSIONERS' COMMITTEES REPORTS

Commissioner Benton
-Central Ohio Youth Center board meeting later today (Commissioner Merrell is now also on the board)
-attend OneDelaware event earlier in the week
-ODOT, re-drafting ideas for Rt. 23 study

Commissioner Merrell
-Central Ohio Youth Center board meeting later today (Commissioner Merrell is now also on the board)
-attend OneDelaware event earlier in the week
-CCAO policy meeting later today and CCAO Election Law Meeting Friday

Commissioner Lewis
-none

COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022

RESOLUTION NO. 22-695

9:45 A.M. PUBLIC HEARING #1 FOR THE CONSIDERATION OF APPROVING REPLACEMENT SALES AND USE TAXES, PURSUANT TO SECTIONS 5739.021 AND 5741.021 OF THE REVISED CODE, AT THE RATE OF ONE-HALF OF ONE PERCENT (0.50%) LEVIED FOR A CONTINUING PERIOD OF TIME AND APPROVING A REDUCTION IN THE RATE OF TAXATION ON REAL PROPERTY IN DELAWARE COUNTY, PURSUANT TO R.C. 5705.313:

It was moved by Mr. Benton, seconded by Mr. Merrell to open the hearing at 9:47A.M..

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

RESOLUTION NO. 22-696

IN THE MATTER OF APPROVING, FOR A SPECIFIC OCCURRENCE, A SUSPENSION OF RULE 3-SPEAKER REGISTRATION; RULE 4-LIMITATIONS AND RULE 7-PUBLIC COMMENT PROCEDURE FROM THE RULES GOVERNING PUBLIC COMMENT BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve, for a specific occurrence, a suspension of Rule 3-Speaker Registration; Rule 4-Limitations; Rule 7-Public Comment Procedure from the Rules Governing Public Comment before the Board of County Commissioners of Delaware County, Ohio

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

RESOLUTION NO. 22-697

IN THE MATTER OF CLOSING PUBLIC HEARING #1 FOR THE CONSIDERATION OF APPROVING REPLACEMENT SALES AND USE TAXES, PURSUANT TO SECTIONS 5739.021 AND 5741.021 OF THE REVISED CODE, AT THE RATE OF ONE-HALF OF ONE PERCENT (0.50%) LEVIED FOR A CONTINUING PERIOD OF TIME AND APPROVING A REDUCTION IN THE RATE OF TAXATION ON REAL PROPERTY IN DELAWARE COUNTY, PURSUANT TO R.C. 5705.313:

It was moved by Mr. Benton, seconded by Mr. Merrell to close the hearing at 9:58A.M..

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

RESOLUTION NO. 22-698

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF EMPLOYMENT AND COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL AND FOR PENDING OR IMMINENT LITIGATION:

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

WHEREAS, pursuant to section 121.22(G) of the Revised Code, a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive 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 employment and compensation of a public employee or public official and for pending or imminent litigation.

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

RESOLUTION NO. 22-699

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

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

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

There being no further business, the meeting adjourned.

COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD AUGUST 18, 2022

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners