

**COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 3, 2022**

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**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**

**Absent:**  
**Gary Merrell, Commissioner**

**1**  
**RESOLUTION NO. 22-957**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD OCTOBER 31, 2022:**

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the “Board”) met in regular session on October 31, 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              Absent      Mr. Benton              Aye

**2**  
**PUBLIC COMMENT**  
 -None.

**3**  
**RESOLUTION NO. 22-958**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1102:**

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1102 and Purchase Orders as listed below:

| <u>Vendor</u>  | <u>Description</u>           | <u>Account</u> | <u>Amount</u> |
|--|------------------------------|----------------|---------------|
| <b>PO' Increase</b>                                      |                              |                |               |
| (P2200071) Ohio Department of Insurance Premium & Claims |                              | 10011108-5370  | \$6,000.00    |
| JFS  |                              |                |               |
| (P2200434) Beem’s  | Vehicle Maintenance & Repair | 10011106-5228  | \$70,000.00   |
| (P2200435) Napa Auto Parts                               | Vehicle Maintenance & Repair | 10011106-5228  | \$5,000.00    |
| (P2200454) Best One Tire                                 | Vehicle Maintenance & Repair | 10011106-5228  | \$5,000.00    |
| (P2201303) MS Consultants Inc.                           | Building and Improvements    | 66711900-5410  | \$5,500.00    |

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

**4**  
**RESOLUTION NO. 22-959**

**IN THE MATTER OF APPROVING A PROCLAMATION TO HONOR THE 75<sup>TH</sup> ANNIVERSARY OF DELAWARE COUNTY HISTORICAL SOCIETY:**

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

**WHEREAS**, on Nov. 3, 1947, W. J. Main, John McClure Snook and Genevieve Cole received official Articles of Incorporation for the Delaware County Historical Society with the purpose of “promoting historical work within the borders of Delaware County, Ohio, and the collection, preservation, and publication of historical information of said county, and in general to carry on historical work in said county”; and

**WHEREAS**, over the last 75 years, the Delaware County Historical Society has amassed a large collection of tens of thousands of artifacts and historic documents and photos, related to the history of our county; and

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**WHEREAS**, each year, the Delaware County Historical Society provides education to thousands of students and adults about local history, including reenactments of historical figures; and

**WHEREAS**, the Delaware County Historical Society today owns and operates six historic buildings including four museums, helping to fulfill its mission is to be a trusted resource in connecting the diverse stories and fabric of the past to the people of today and tomorrow through preservation, education and engagement.

**THEREFORE, BE IT RESOLVED** that the Delaware County Board of Commissioners is proud to honor the Delaware County Historical Society on the occasion of its 75<sup>th</sup> anniversary and commends this great organization for the role it plays in preserving the history of Delaware County.

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

**5**  
**RESOLUTION NO. 22-960**

**IN THE MATTER OF GRANTING ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, MICHAEL R. SHADE, ATTORNEY-AT-LAW, REQUESTING ANNEXATION OF 107.55 ACRES OF LAND IN DELAWARE TOWNSHIP TO THE CITY OF DELAWARE:**

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

WHEREAS, on October 4, 2022 the Clerk to the Board of the Delaware County Commissioners received an annexation petition filed by Michael R. Shade, Attorney-at- Law, agent for the petitioners, requesting annexation of 107.55 acres, more or less, from Delaware Township to the City of Delaware; and

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

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

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners grants the petition requesting annexation of 107.55 acres, more or less, from Delaware Township to the City of Delaware.

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

**6**  
**RESOLUTION NO. 22-961**

**IN THE MATTER OF APPROVING A SUPPLEMENTAL APPROPRIATION FOR THE SHERIFF’S OFFICE:**

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

|                                   |  |             |
|-----------------------------------|--|-------------|
| <b>Supplemental Appropriation</b> |  |             |
| 29031318-5201                     | Concealed Handgun – General Supplies & Equip | \$60,000.00 |

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

**7**  
**RESOLUTION NO. 22-962**

**IN THE MATTER OF APPROVING AMENDMENT NO. 4 TO THE CAPACITY EXCHANGE AGREEMENT BY AND BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND THE OHIO STATE UNIVERSITY ON BEHALF OF OARNET:**

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

WHEREAS, the Director of Information Technology recommends approving Amendment No 4. to the capacity exchange agreement by and between the Delaware County Board of Commissioners and The Ohio State University on behalf of OARnet;

NOW, THEREFORE, BE IT RESOLVED the Board of Commissioners approves Amendment No. 4 to the capacity exchange agreement by and between the Delaware County Board of Commissioners and The Ohio State University on behalf of OARnet:

**Amendment No 4. to CAPACITY EXCHANGE AGREEMENT**

This Amendment No.4 (“Amendment”) to the Capacity Exchange Agreement, which was entered into on the 15<sup>th</sup> day of March, 2013, shall become effective (the “Effective Date”) upon the last execution date set forth

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below, by and between the Delaware County Board of Commissioners ("DCBC"), having its principal office at 10 Court Street, Delaware, Ohio 43015, and The Ohio State University on behalf of OARnet ("OARnet"), having its principal office at 1224 Kinnear Rd. Columbus, Ohio 43212, pursuant to Section 9.M. of the Capacity Exchange Agreement.

SECTION I – GUEST WIRELESS INTERNET

The Capacity Exchange Agreement is hereby amended to add new Section 1.G.:

1.G. Guest Wireless Internet – OARnet will provision five hundred (500) megabits of Internet with DDoS for DCBC for their Guest Wireless Internet connection. The connection will terminate to Delaware County, 10 Court Street. OARnet will configure and ship one (1) Juniper EX4300 to monitor this connection. OARnet will provision a ten (10) Gigabit port, which will act as a virtual one (1) Gigabit port until DCBC upgrades the connection. DCBC is responsible for the cross connects in Delaware County’s facility. We will provide a Letter of Authority (LOA) to DCBC to connect into OARnet’s equipment. DCBC has requested one (1) IP address. This will be statically routed with a single mode fiber handoff.

1.G.a – Fee Schedule

- OARnet will invoice DCBC \$1.90 per megabit for 500 megabits. The monthly recurring charge (MRC) will be \$950.
- OARnet will waive the 1Gigabit port charge for DCBC.
- OARnet will invoice DCBC a one-time only charge of \$2,500 for a Juniper EX4300.

SECTION III - REMAINING PROVISIONS

All other provisions of the Capacity Exchange Agreement not specifically amended by this Amendment shall remain in full force and effect.

In confirmation or their consent and agreement to the terms and conditions contained in this Amendment, and intending to be legally bound hereby, the parties have executed this Agreement as of the date first above written.

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

**8**

**RESOLUTION NO. 22-963**

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

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

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

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

WHEREAS, the terms for Chief Jeff Balzer and Brad Euans will expire on December 31, 2022; and

WHEREAS, both Chief Jeff Balzer and Brad Euans have expressed interest in re-election to the Delaware County Volunteer Peace Officers’ Dependents Fund Board;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby re-elects Chief Jeff Balzer and Brad Euans as members of the Delaware County Volunteer Peace Officers’ Dependents Fund Board for terms of one year, commencing on January 1, 2023 and expiring on December 31, 2023.

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

**9**

**RESOLUTION NO. 22-963**

**IN THE MATTER OF AWARDING A BID AND APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND ENVIRO-CONSTRUCTION CO., LLC FOR THE PROJECT KNOWN AS KINGSTON # 2017-2 DRAINAGE IMPROVEMENT PROJECT:**

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

**Kingston # 2017-2 Drainage Improvement Project Bid Opening of October 4, 2022**

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WHEREAS, as the result of the above referenced bid opening, the Engineer recommends that a bid award be made to Enviro-Construction Co, LLC., the low bidder for the project; and

WHEREAS, the County Engineer recommends approval of the Contract between the Delaware County Commissioners and Enviro-Construction Co., LLC for the project known as Kingston # 2017-2 Drainage Improvement Project;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners awards the bid to and approves the contract with Enviro-Construction Co., LLC for the project known as Kingston #2017-2 Drainage Improvement Project.

**CONTRACT**

THIS AGREEMENT is made this 3<sup>rd</sup> day of November, 2022 by and between Enviro-Construction Co., LLC, 8492 Jug Street, Alexandria, Ohio 43001 hereinafter called the "Contractor" and the Delaware County Board of Commissioners, hereinafter called the "Owner".

The Contractor and the Owner for the considerations stated herein mutually agree as follows:

**ARTICLE 1. Statement of Work**

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services, and perform and complete all work required for the construction of the improvements embraced in the project named "Kingston # 2017-2 Drainage Improvement Project" and required supplemental work for the project all in strict accordance with the Contract Documents.

**ARTICLE 2. The Contract Price**

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed Fifty-One Thousand Nine Hundred Twenty-Two Dollars and Zero Cents (\$51,922.00), subject to additions and deductions as provided in the Contract Documents.

**ARTICLE 3. Contract**

The executed Contract Documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation to Bid
- d. Instructions to Bidders
- e. Signed copy of bid
- f. Work Specifications (including all plans, drawings, etc.)
- g. Specifications - General Provisions
- h. Federal and State Requirements

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern except as otherwise specifically stated.

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

**10**

**RESOLUTION NO. 22-965**

**IN THE MATTER OF APPROVING A COOPERATIVE AGREEMENT WITH LIBERTY TOWNSHIP AND THE CITY OF POWELL FOR IMPROVEMENTS TO THE INTERSECTION OF "OLD" SAWMILL ROAD AND PRESIDENTIAL PARKWAY:**

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

**COOPERATIVE PROJECT AGREEMENT  
BETWEEN  
DELAWARE COUNTY,  
LIBERTY TOWNSHIP AND  
THE CITY OF POWELL**

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**FOR IMPROVEMENTS TO THE INTERSECTION OF  
“OLD” SAWMILL ROAD AND PRESIDENTIAL PARKWAY**

This Agreement made by and between the Board of Commissioners of Delaware County (“County”), Liberty Township (“Township”), the City of Powell (“City”) and the County Engineer, hereinafter known as the Parties to the Agreement;

**WHEREAS**, the Parties have determined the need to make safety improvements to the intersection of “Old” Sawmill Road and Presidential Parkway including construction of a single lane modern roundabout, resurfacing and revision of pavement markings on Presidential Parkway (the “Project”); and

**WHEREAS**, the Ohio Department of Transportation (“ODOT”) has committed to providing federal highway funding through the Highway Safety Improvement Program (HSIP) toward the Project; and

**WHEREAS**, pursuant to Section 9.482 of the Ohio Revised Code, when legally authorized to do, a political subdivision may enter into an agreement with another political subdivision or a state agency whereby the contracting political subdivision or state agency agrees to exercise any power, perform any function, or render any service for the contracting recipient political subdivision that the contracting recipient political subdivision is otherwise legally authorized to exercise, perform or render; and

**WHEREAS**, the Parties desire to cooperate for the purpose of completing the Project;

**WITNESSETH:**

In consideration of the mutual benefits accrued the Parties hereby agrees as follows:

**1 DEFINITIONS**

1.1 The following definitions shall apply for the purposes of this Agreement:

1.1.1 **Construction.** The physical construction of the Project, and contract expenses thereof, undertaken pursuant to a competitively bid construction contract.

1.1.2 **Construction Engineering.** Advertisement, bidding, construction contract management, inspection and testing of materials performed by the County Engineer or a consulting engineer retained by the County to assist the County Engineer.

1.1.3 **Design Engineering.** Design engineering shall include preparation of surveys, plans, profiles, cross sections, reports, specifications and estimates for the Project.

1.1.4 **Eligible Costs.** Costs eligible for payment by ODOT under a separate project agreement relating to the Construction of the Project.

1.1.5 **Land Acquisition Services.** Title research, appraisals, negotiation, closing and recording services provided by the County Engineer or a competent consultant retained by the County to perform such services.

1.1.6 **Land Cost.** The cost of any property, right of way or easements necessary for the project, including the amount paid for the land but not including the cost of Land Acquisition Services necessary to acquire such land.

1.1.7 **Project.** The Project will consist of constructing a single-lane modern roundabout at the intersection of “Old” Sawmill Road (Township Road 119) and Presidential Parkway (Township Road 717), resurfacing and revision of pavement markings on Presidential Parkway between Sawmill Parkway and “Old” Sawmill Road, and ancillary roadway and drainage improvements necessary to complete the Project.

1.1.8 **Project Cost.** The costs for the Project attributable to and paid by the County, Township, and City respectively , exclusive of all Eligible Costs (paid by state (i.e. ODOT or OPWC) or federal monies) and Land Costs.

**2 INITIATION OF PROJECT**

2.1 The Parties will each enact necessary legislation to declare the Project necessary either as part of the resolution approving this Agreement or by separate action.

**3 AUTHORITY OF ENGINEER**

3.1 The Township and County authorize the County Engineer, and the City authorizes the City Engineer to administer and carry out the provisions of this contract on its behalf and to take any necessary actions to complete the Project as contemplated by this Agreement. Such authority will not include approval of agreements or obligations upon any Party that would otherwise require County, Township or City approval except where specifically enumerated within this Agreement.

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#### **4 PROJECT CONSTRUCTION COSTS**

4.1 **ODOT Costs:** Through a separate grant agreement, ODOT intends to provide 80% of the eligible Construction cost of the Project, up to a maximum of \$500,000 through its allocation of federal highway funds under the Highway Safety Improvement Program (HSIP).

4.2 **County:**

4.2.1 Up to a maximum County contribution of One Hundred Fifty Thousand Dollars (\$150,000), the County, through its Roadway Grant Assistance Program (RGAP), the procedures and requirements of which are hereby incorporated by reference, shall contribute three (3) Dollars for each one (1) Dollar paid by Liberty Township for Liberty Township's pro rata share of the Project Cost.

4.2.2 Up to a maximum County contribution of One Hundred Fifty Thousand Dollars (\$150,000), the County, through its Roadway Grant Assistance Program (RGAP), the procedures and requirements of which are hereby incorporated by reference, shall contribute three (3) Dollars for each one (1) Dollar paid by the City of Powell for the City of Powell's pro rata share of the Project Costs.

4.2.3 The County Engineer shall pay for all Design and Construction Engineering costs and Land Acquisition Costs using any funds appropriated to the County Engineer by the County available for such purpose.

4.3 **Township:** The Township will pay one-hundred percent (100%) of the Land Cost, not including Land Acquisition Services, for any parcel(s) located in the unincorporated areas of the Project, and will pay for seventy-five percent (75%) of any other Project costs not otherwise paid for.

The Township's share of the Land Cost, not including Land Acquisition Services, for any parcel(s) located in the unincorporated areas of the Project, and any other Project costs not otherwise paid for, shall not exceed the estimate set forth in Exhibit "A," a copy of which is attached hereto, unless expressly authorized by the Township. The estimated Land Cost, not including Land Acquisition Services, for any parcel(s) located in the unincorporated areas of the Project, and any other Project costs not otherwise paid for, is One Hundred Seventy Thousand Four Hundred Dollars (\$170,400). Any cost above One Hundred Seventy Thousand Four Hundred Dollars (\$170,400) shall be authorized and approved by the Township prior to the work being completed.

4.4 **City:** The City will pay one-hundred percent (100%) of the Land Cost, not including Land Acquisition Services, for any parcel(s) located in the City of Powell incorporated areas of the Project, and will pay for twenty-five percent (25%) of any other Project costs not otherwise paid for.

4.5 **Other Costs:** For the purposes of this Agreement, costs of any salaries, benefits and direct or indirect costs related to the performance of work by regular employees of the Parties on the Project will be borne by the respective Party.

#### **5 ENGINEERING**

5.1 The County Engineer will perform or procure all Design Engineering and Construction Engineering for the Project and will provide copies of design and construction documents to the other Parties if requested for review and comment.

5.2 The County Engineer will coordinate the design with the Parties as reasonably necessary to complete the Project and will act as the engineer-in-charge as may be required by ODOT under any state or federal regulations requiring the appointment of an engineer in responsible charge of the project.

5.3 The County Engineer will complete the Design Engineering for the Project at the earliest possible date following approval of this Agreement and notify the Parties at the time when such work is complete.

#### **6 RIGHT OF WAY ACQUISITION**

6.1 The County Engineer will perform or obtain services for Land Acquisition pursuant to the requirements of Chapter 163 of the Ohio Revised Code and any other applicable federal requirements.

6.2 Prior to making any good faith offer to acquire property for the Project, the County Engineer will provide copies of appraisals and the amount of the Fair Market Value Estimate (FMVE) to the Township and the City for review. If there are no comments or requests to amend the FMVE made in writing by the Township or City to the County Engineer within 14 days after the FMVE is provided to the Township and City respectively, the County Engineer will proceed to deliver the offers to affected property owners.

6.3 If the County Engineer is unable to acquire the necessary rights of way through good faith negotiation, the County Engineer will notify the respective Party with jurisdiction over the property and that Party will initiate appropriation proceedings pursuant to Chapter 163 of the Revised Code.

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- 6.4 The Parties agree to attend meetings and assist each other in the acquisition of right of way in any other manner as is reasonably necessary to complete the Project.
- 6.5 If necessary, upon completion of acquisition, the County will certify to ODOT and/or any other agency as necessary, that the acquisition of all necessary rights of way is completed.
- 6.6 With respect to interest being obtained in the right of way for the Project, the County will make proper notation on the right of way plans and will prepare instruments of conveyance to acquire all necessary rights of way for the Project as follows:
- 6.6.1 All permanent right of way, including easement or fee simple interest will be acquired in the name and for the use of the **“Board Trustees, Liberty Township, Delaware County, Ohio, and its successors in office forever”**; and,
- 6.6.2 All temporary easements or work agreements, regardless of location, will be acquired in the name and for the use of the **“Board Trustees, Liberty Township, Delaware County, Ohio”**.

## 7 UTILITIES

- 7.1 The County Engineer will coordinate and order relocation of facilities by authority granted in Ohio Revised Code Section 5547.03. The Parties agree to support such orders made by the County Engineer, if necessary, through applicable authority granted to each Party under Ohio Law.
- 7.2 For any reimbursable utility relocations, the County Engineer will provide a proper accounting of costs to be included in the Total Project Cost.
- 7.3 If required, the County Engineer will certify to ODOT or other public agency as necessary that right of way acquisition is complete and that utility relocation is completed or will be completed to proceed to receive necessary ODOT or federal authorization(s) to bid the construction contract for the Project.

## 8 CONSTRUCTION

- 8.1 The County will act as the lead Local Public Agency and administer the construction phase of the Project including approving necessary agreements with ODOT, bidding and awarding the construction contract and managing the construction contract, including providing for the necessary inspection and testing of work.
- 8.2 The County will not proceed with any contract modifications or order work in excess of ten (10) percent of the contract amount without written consent of the Township, the City, ODOT or any applicable agency that provides funding for the project.

## 9 COST ACCOUNTING AND PAYMENT

- 9.1 The Parties agree to each keep a detailed record of all eligible expenses relating to this Project and to transmit copies of the same to the other Parties for review when an invoice is submitted or otherwise whenever requested.
- 9.2 ODOT will pay for its share of Construction costs directly to the Construction contractor.
- 9.3 The County will pay for all other Construction costs initially and invoice **the Township and the City** for their respective shares of the Project up to four (4) times per year.
- 9.4 The Township and the City will pay approved invoices within 30 days of approval.

## 10 OPERATION AND MAINTENANCE OF THE PROJECT

- 10.1 During the construction of the Project and until final acceptance by the Parties, the Township will operate and maintain the Project Area.
- 10.2 The Township will maintain the completed street lights and pay all costs associated with supply of electrical energy.
- 10.3 The City will maintain all of the landscaping of the Project, including mowing, planting and pruning of vegetation and maintaining, repairing or replacing decorative rocks, mulch, edging, and related features.
- 10.4 The Township and City will cooperate in any other maintenance necessary for the Project pursuant to law or other agreement(s).

## 11 GENERAL PROVISIONS

- 11.1 **Entire Agreement:** This Agreement, and those documents incorporated by reference herein, will

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constitute the entire understanding and agreement, will supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.

- 11.2 **Financial Audits:** The agency managing the respective phase of work of the Project will be responsible for conducting and coordinating any federal or state audits of funds provided in those phases.
- 11.3 **Governing Law:** This Agreement will be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement will 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 will not affect the construction or interpretation of any of its provisions. This Agreement will be deemed to have been drafted by all Parties and no interpretation will be made to the contrary.
- 11.5 **Waivers:** No waiver of breach of any provision of this Agreement will 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 will 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 will not constitute and will 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 will 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 will be held invalid or unenforceable will not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof will, in all other respects, continue to be effective and to be complied with.

In witness whereof, the Parties hereto have executed this Agreement.

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

**11**

**ADMINISTRATOR REPORTS**

Tracie Davis, County Administrator  
-No reports.

Dawn Huston, Deputy Administrator  
-No reports.

**12**

**COMMISSIONERS' COMMITTEES REPORTS**

Commissioner Benton  
-Watched an EMS simulation. That was very impressive.  
-Will be attending a MORPC executive meeting today.

Commissioner Lewis  
-Attended an EMA board meeting this week.

**13**

**RESOLUTION NO. 22-966**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF EMPLOYMENT; COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL AND FOR SECURITY ARRANGEMENTS AND EMERGENCY RESPONSE PROTOCOLS:**

It was moved by Mr. Benton, 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 employment; compensation of a public employee or public official and for security arrangements and emergency response protocols.

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



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**RESOLUTION NO. 22-967**

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

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

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

**RESOLUTION NO. 22-968**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF CONFIDENTIAL INFORMATION RELATED TO ECONOMIC DEVELOPMENT:**

It was moved by Mr. Benton, 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

WHEREAS, pursuant to section 121.22(G)(8) of the Revised Code, a public body may hold an executive session to consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, provided that both of the following conditions apply:

(1) The information is directly related to a request for economic development assistance that is to be provided or administered under any provision of Chapter 715., 725., 1724., or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project; and

(2) A unanimous quorum of the public body determines, by a roll call vote, that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project;

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 confidential information related to economic development.

Section 2. The Board hereby adjourns into executive session to consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance.

Section 3. The Board hereby finds and determines that the information listed in Section 2 is directly related to a request for economic development assistance that is to be provided or administered under any provision of Chapter 715., 725., 1724., or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project.

Section 4. The Board hereby finds and determines that the executive session held pursuant to Section 2 is necessary to protect the interests of an applicant for economic development assistance or the possible investment or expenditure of public funds to be made in connection with the economic development project.

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

**RESOLUTION NO. 22-969**

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

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

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

There being no further business, the meeting adjourned.

COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 3, 2022

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Gary Merrell

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Barb Lewis

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Jeff Benton

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Jennifer Walraven, Clerk to the Commissioners