

**COMMISSIONERS JOURNAL NO. 79 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 23, 2023**

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

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

1
RESOLUTION NO. 23-885

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD OCTOBER 19, 2023:

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 October 19, 2023; and

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

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

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

2
PUBLIC COMMENT

3
RESOLUTION NO. 23-886

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1020, MEMO TRANSFERS IN BATCH NUMBERS MTAPR1020 AND PROCUREMENT CARD PAYMENTS IN BATCH NUMBER PCAPR1020:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve Then and Now Certificates, payment of warrants in batch numbers CMAPR1020, memo transfers in batch numbers MTAPR1020, Procurement Card Payments in batch number PCAPR1020 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
P2302006 (KOORSEN)	Regional Sewer Services	66211900-5328	\$ 5,432.24
P2301763 (PRIME CONSTRUCTION)	Regional Sewer Project	66711900-5410	\$50,000.00
P2300694 (ENTERPRISE FLEET)	Lease Vehicles	10031301-5335	\$13,350.00

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

4
RESOLUTION NO. 23-887

IN THE MATTER OF CANCELING THE DELAWARE COUNTY COMMISSIONERS' SESSION SCHEDULED FOR THURSDAY DECEMBER 7, 2023:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to cancel the Delaware County Commissioners' session scheduled for Thursday December 7, 2023.

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

5
RESOLUTION NO. 23-888

IN THE MATTER OF ACKNOWLEDGING RECEIPT OF, AND REJECTING FOR CONSIDERATION, AN AMENDMENT TO THE PETITION FOR THE LIBERTY LAKES SECTIONS 1 & 2 SUBDIVISION DRAINAGE IMPROVEMENT PETITION:

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

WHEREAS, pursuant to Chapter 6131 of the Revised Code, Liberty Lakes HOA, and others, filed a petition with the Clerk of the Board of Commissioners on May 19, 2023, requesting certain improvements to the

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Liberty Lakes Sections 1 & 2 Subdivision Drainage Improvement (the “Petition”); and

WHEREAS, pursuant to section 6131.05 of the Revised Code, any benefiting owner may, not more than twenty-one days after the date of the view, file an amendment to a petition for a drainage improvement that expands the length of the proposed improvement, provided that such amendment does not expand the area to be benefited by the proposed improvement, and any amendment shall include the information required by section 6131.04 of the Revised Code along with the amendment; and

WHEREAS, Wai K. Shek is a benefiting owner who filed an amendment to the Petition pursuant to section 6131.05 of the Revised Code on August 21, 2023, prior to expiration of the amendment deadline; and

WHEREAS, the amendment as filed lacks information required by section 6131.04 of the Revised Code;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY, STATE OF OHIO, that the amendment to the Petition filed by Wai K. Shek on August 21, 2023, does not meet all the substantive requirements of section 6131.05 of the Revised Code and is, therefore, rejected for consideration.

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

**6
RESOLUTION NO. 23-889**

IN THE MATTER OF RE-APPOINTING A MEMBER TO THE DELAWARE COUNTY BOARD OF BUILDING APPEALS:

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

WHEREAS, the Delaware County Board of Commissioners (the “Board of Commissioners”) established the Delaware County Board of Building Appeals (the “BBA”), pursuant to section 307.381 of the Revised Code; and

WHEREAS, pursuant to section 307.381 of the Revised Code and DC 501 of the Building Code of Delaware County, the Board of Commissioners is responsible for making appointments to the BBA to fill vacancies in both unexpired and expired terms; and

WHEREAS, the term of Matthew Akers (BBA-3) will expire on December 31, 2023, and Mr. Akers has expressed a desire to be re-appointed to the BBA-3 seat; 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 member to the BBA;

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

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

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

Position	Appointee	Term Ends
BBA-3	Matthew Akers	December 31, 2028

Section 3. The appointment approved herein shall take effect on January 1, 2024.

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

**7
RESOLUTION NO. 23-890**

IN THE MATTER OF RE-APPOINTING A MEMBER TO THE DELAWARE COUNTY BOARD OF ZONING APPEALS:

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

WHEREAS, the Delaware County Board of Commissioners (the “Board of Commissioners”) created the Delaware County Board of Zoning Appeals (the “BZA”) and is responsible for making appointments thereto,

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pursuant to section 303.13 of the Revised Code; and

WHEREAS, as necessary, the Board of Commissioners shall make appointments to the BZA to fill vacancies in both unexpired and expired terms; and

WHEREAS, the term of Collin Howard (BZA-3) will expire on December 31, 2023, and Mr. Howard has expressed a desire to be re-appointed to the BZA-3 seat; 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 member to the BZA;

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

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

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

Position	Appointee	Term Ends
BZA-3	Collin Howard	December 31, 2028

Section 3. The appointment approved in this Resolution shall take effect on January 1, 2024.

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

**8
RESOLUTION NO. 23-891**

IN THE MATTER OF RE-APPOINTING A MEMBER TO THE DELAWARE COUNTY RURAL ZONING COMMISSION:

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

WHEREAS, the Delaware County Board of Commissioners (the "Board of Commissioners") created the Delaware County Rural Zoning Commission (the "RZC"), pursuant to section 303.04 of the Revised Code; and

WHEREAS, as necessary, the Board of Commissioners shall make appointments to the RZC to fill vacancies in both unexpired and expired terms; and

WHEREAS, the term of Donna Meyer (RZC-3) will expire on December 31, 2023, and Ms. Meyer has expressed a desire to be re-appointed to the RZC-3 seat; 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 member to the RZC;

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

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

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

Position	Appointee	Term Ends
RZC-3	Donna Meyer	December 31, 2028

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Section 3. The appointment approved in this Resolution shall take effect on January 1, 2024.

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

9

RESOLUTION NO. 23-892

IN THE MATTER OF APPROVING A PERMIT FOR USE OF DELAWARE COUNTY FACILITIES:

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

WHEREAS, the Delaware County Commissioners passed Resolution No. 21-449 on May 24, 2021, adopting a Delaware County Facilities Permit Policy (the "Policy"); and

WHEREAS, it is the intent of the Policy to allow persons and organizations access to appropriate Delaware County facilities, grounds and meeting places; and

WHEREAS, each request will only be considered after the receipt of a completed Delaware County Facilities Permit Form; and

WHEREAS, the Policy mandates approval from the Commissioners for use of county facilities by groups of 30 participants or more that have agreed in writing to full compliance with the Policy;

NOW, THEREFORE, PURSUANT TO THE FOREGOING, BE IT HEREBY RESOLVED that the Delaware County Board of Commissioners hereby authorizes the use of the Historic Courthouse Grounds on November 11, 2023; at no cost.

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

10

RESOLUTION NO. 23-893

IN THE MATTER OF ESTABLISHING A MAINTENANCE BOND AND RELEASING CONSTRUCTION BOND FOR MAEVE MEADOWS:

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

WHEREAS, the roadway construction has been completed for the project known as Maeve Meadows (the "Project"); and

WHEREAS, as the result of the Engineer's recent field review of the Project, the Engineer has determined that only minor remedial work remains which can be accomplished during the subsequent one year maintenance period; and

WHEREAS, the Engineer recommends that, in accordance with the Owner's Agreement, the maintenance bond be set at ten percent (10%) of the original construction estimate for the Project and that the Project be placed on the required one year maintenance period; and

WHEREAS, Pulte Homes of Ohio LLC (the "Owner") has provided a maintenance bond in the amount of \$108,500.00 as surety to cover the one year maintenance period; and

WHEREAS, the Engineer also recommends that, in accordance with the Owner's Agreement, the construction bond being held as surety for the Project be returned to the Owner;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners accepts the maintenance bond in the amounts of \$108,500.00 for the Project, places the Project on the required one year maintenance period, and returns the construction bond being held for the Project to the Owner.

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

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RESOLUTION NO. 23-894

IN THE MATTER OF APPROVING THE PLAT OF SUBDIVISION FOR HIDDEN RAVINES CROSSING:

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

WHEREAS, JLP-Orange, LLC, has submitted the plat of subdivision for Hidden Ravines Crossing, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County;

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NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of subdivision for Hidden Ravines Crossing:

Hidden Ravines Crossing:

Situated in the State of Ohio, County of Delaware, township of Orange, quarter township 3, township 3, range 18, farm lots 21 and 22 ,United States Military Lands, being 30.078 acres out of an original 31.131 acre tract of land conveyed to JLP-Orange, LLC, of record in official record volume 868, pages 2720-2723, being lot 5100 of Northbrooke Corporate Center Phase 2, replat of lots 5099 and 5100 as conveyed to JLP-Orange, LLC of record in official record volume 1605, pages 2546-2548, being of record in the Recorder’s Office , Delaware County, Ohio. Cost: \$6.00 (\$3.00 per buildable lot)

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

12

RESOLUTION NO. 23-895

IN THE MATTER OF APPROVING AN OWNER’S AGREEMENT FOR BERLIN FARM WEST SECTION 2:

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

WHEREAS, the Engineer recommends approving the Owner’s Agreement for Berlin Farm West Section 2;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Owner’s Agreement for Berlin Farm West Section 2:

Berlin Farm West Section 2

**OWNER’S AGREEMENT
PROJECT NUMBER: 23066**

THIS AGREEMENT, executed on this 23rd day of October 2023 between M/I HOMES OF CENTRAL OHIO, LLC, hereinafter called “OWNER” and the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS), for’ the project described as Berlin Farm West Sec 2 further identified as Project Number 23066 is governed by the following considerations to wit:

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

OPTIONS:

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

OWNER hereby elects to use Option 1 for this project.

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

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

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

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

It is further agreed that upon execution of the AGREEMENT, the OWNER shall deposit Forty Five Thousand Dollars and No Cents (\$45, 000. 00) estimated to be necessary to pay the cost of inspection by the Delaware

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County Engineer. When the fund has been depleted to ten percent (10%) of the original amount deposited, the OWNER shall replenish the account upon notice by the Engineer. Upon completion of the maintenance period and acceptance of the improvements by the Delaware County Commissioners, the remaining amount in the fund shall be returned to the OWNER.

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

Acceptance of the project into the public system shall be completed only after written notice to the COUNTY COMMISSIONERS from the County Engineer of his approval. The OWNER'S maintenance responsibility as described above shall be completed upon formal acceptance by the COUNTY COMMISSIONERS. Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance shall be the responsibility of the OWNER. All of the funds set forth in the AGREEMENT shall be made available to the County Engineer to ensure proper safety compliance.

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

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

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

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

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

EXHIBIT "A"

CONSTRUCTION COST ESTIMATE	\$1,505,200.00
CONSTRUCTION BOND AMOUNT	\$1,505,200.00
MAINTENANCE BOND AMOUNT	\$150,600.00
INSPECTION FEE DEPOSIT	\$45,000.00

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

13

RESOLUTION NO. 23-896

IN THE MATTER OF AMENDING RESOLUTION NO. 22-916, APPROVING A DRAINAGE MAINTENANCE PETITION AND THE DITCH MAINTENANCE ASSESSMENTS FOR BERLIN FARM:

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

WHEREAS, on October 24, 2022, the Delaware County Board of Commissioners (the "Board") adopted Resolution No. 22-916, approving the drainage maintenance petition and the ditch maintenance assessments for Berlin Farm; and

WHEREAS, the Delaware County Engineer and Delaware Soil & Water Conservation District have determined that Resolution No. 22-916 incorrectly describes the method of calculating the ditch maintenance assessments as requested in the petition; and

WHEREAS, the Engineer recommends amending the Resolution No. 22-916 to correctly describe the method of calculating the ditch maintenance assessments;

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NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio, that Section 2 of Resolution No. 22-916 is hereby amended by deleting Section 2 in its entirety and replacing Section 2 with the following text:

Section 2. The Board hereby approves the maintenance assessments, in accordance with the Petition, as follows:

The cost of the drainage improvements is \$1,005,973.71 for the benefit of the lots being created in this subdivision. 91 lots (total all sections) are being created in this plate and each lot received an equal share of the benefit (cost) of the project. The basis for calculating the assessment for each lot is therefore \$11,054.65 per lot. An annual maintenance fee equal to 2% of this basis (\$221.09) will be collected for each lot. It is understood that the basis for calculating the maintenance assessments will be reviewed and possibly revised every 6 years. The first year's assessments for all of the lots in Section 1 (49 lots) and Section 2 (42 lots) in the amount of \$20,327.61 has been paid to Delaware County, receipt of which is hereby acknowledged.

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

14

RESOLUTION NO. 23-897

IN THE MATTER OF APPROVING THE AGREEMENT BETWEEN THE PERSONNEL RESEARCH & DEVELOPMENT CORPORATION DBA PRADCO AND THE DELAWARE COUNTY BOARD OF COMMISSIONERS FOR ASSESSMENT MANAGEMENT SERVICES:

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

WHEREAS, the Deputy County Administrator and the Human Resources Manager recommend approving the Agreement between the Personnel Research & Development Corporation dba PRADCO and the Delaware County Board of Commissioners for Assessment Management Services;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners approves the following agreement between the Personnel Research & Development Corporation dba PRADCO and the Delaware County Board of Commissioners for Assessment Management Services:

AGREEMENT

This agreement is entered into effect on the 19th day of October, 2023 through the 8th day of October, 2026 by and between Personnel Research & Development Corporation dba PRADCO, of 178 East Washington Street, Chagrin Falls, Ohio 44022, (the "Company") and the Delaware County Board of Commissioners, 91 North Sandusky Street, Delaware, OH 43015 (the "Client").

The parties agree as follows:

1. Services. Client hires the Company to provide certain management services as are listed on Pages (2-8) attached hereto (hereinafter called the "Services").

Compensation. Client agrees to pay the Company those sums listed on Pages (9-11) attached hereto after services are rendered. As noted on page 11, Company reserves the right to increase the prices listed no more than six percent (6%) after year one of this three-year agreement.

2. Warranties. Company represents, and warrants that the Services provided by the Company shall meet with specifications listed on Pages (12-13). COMPANY MAKES NO OTHER EXPRESS WARRANTIES, WRITTEN OR ORAL, AND ALL OTHER WARRANTIES ARE SPECIFICALLY EXCLUDED.

3. Termination. This Agreement shall continue for the term of the project as contemplated above, although either party may terminate this Agreement with forty-five (45) days written notice to the other party.

4. LIMITS OF LIABILITY. COMPANY'S TOTAL LIABILITY AND CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY TYPE WHATSOEVER, PERTAINING TO SERVICES HEREUNDER OR ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY COMPANY'S SOLE NEGLIGENCE IN AN AMOUNT NOT TO EXCEED THE AMOUNT OF FEES ACTUALLY PAID BY CLIENT DURING THE ONE (1) YEAR PERIOD PRECEDING THE DATE THE CAUSE OF ACTION GIVING RISE TO THE LIABILITY AROSE. IN NO EVENT SHALL COMPANY BE LIABLE IN CONTRACT LAW, TORT OR ANY OTHER THEORY OF LAW, FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, EXEMPLARY, EXTRA-CONTRACTUAL, OR CONSEQUENTIAL DAMAGES.

5. Survival. The provisions of Sections 3 and 5 hereof shall survive any termination of this Agreement.

6. Governing Law. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective transferees, representatives, successors, heirs, assigns and affiliates and shall be governed by and construed in accordance with the laws of the State of Ohio. The parties agree that the venue and jurisdiction for any action based on this Agreement shall be Delaware County, Ohio.

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7. Entire Agreement. The undersigned acknowledge that this Agreement constitutes the entire agreement and understanding between the parties, that it supersedes all prior and contemporaneous agreements and understandings between the parties, both oral and written. This agreement may only be modified or amended in writing with the mutual consent and agreement of the Company and Client.

8. Maximum Compensation. The maximum compensation under this Agreement shall not exceed \$47,750.00 without modification of this Agreement in accordance with Section 7.

9. Indemnification. The Company 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 Company, 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. Insurance. The Company shall maintain the following insurance for the term of the Agreement: (a) commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000; (b) automobile liability insurance of \$1,000,000 each accident; and (c) workers' compensation coverage as required by the laws of the State of Ohio. Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the commercial general liability and automobile liability policies required by this Section. Prior to the commencement of any work under this Agreement, the Company shall furnish the Client 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 Client. The Company shall replace certificates for any insurance expiring prior to completion of work under this Agreement.

11. Independent Contractor. The Company and Client acknowledge and agree that the Company is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created by virtue of this Agreement. The Company also agrees that, as an independent contractor, it 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. The Company hereby certifies that it has five or more employees and that none of its employees are public employees for purposes of Chapter 145 of the Revised Code.

12. Headings. The subject headings of the Sections 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.

13. 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. Findings for Recovery. The Company certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.

15. Authority to Sign. Any person executing this Agreement in a representative capacity hereby warrants that they have authority to sign this Agreement or have been duly authorized by their principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.

Compensation

The Company shall invoice Client the entire cost of the selected service(s) and related expenses rendering within the scope of this agreement on or within thirty (30) days after commencement of such service(s).

Payment in full will be due within 30 days from the invoice date.

(The full proposal, incorporated by reference in the Client Agreement, shall be retained in accordance with applicable records retention schedules.)

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

15
RESOLUTION NO. 23-898

IN THE MATTER OF APPROVING THE DELAWARE COUNTY BOARD OF COMMISSIONERS' LETTER OF SUPPORT FOR DELAWARE COUNTY TRANSIT'S 2023 APPLICATION FOR MOBILITY MANAGEMENT THROUGH THE MID-OHIO REGIONAL PLANNING

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COMMISSION’S 5310 FUNDING OPPORTUNITY:

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

October 23, 2023

Mid-Ohio Region Planning Commission
ATTN: John Gardocki
111 S. Liberty Street
Columbus, OH 43215

Dear Mr. Gardocki,

Delaware County formally supports Delaware County Transit’s 2023 application for mobility management through the 5310 funding opportunity. The transportation needs of Delaware County’s population over 55 continues to grow and the support provided through DCT’s Mobility Management program are vital to this population’s ability to access needed transportation.

Further, DCT is a critical provider for transportation services for those with physical and developmental disabilities, providing access to jobs, appointments, and access to other necessary services to key members of Delaware’s community.

Delaware County Transit leads the Transit Advisory Council, which is led by DCT’s Mobility Management program. The TAC works collaboratively for identifying transportation solutions that are age-friendly and tied to community health improvement plan initiatives.

The Mobility Management program for DCT is critical in delivering these needs to our community and Delaware County is proud to support this grant application.

Sincerely,

The Delaware County Board of Commissioners

Jeff Benton

Barb Lewis

Gary Merrell

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

**For consideration
Other business
Monday October 23rd, 2023**

RESOLUTION NO. 23-899

IN THE MATTER OF AWARDING A COMMUNITY ENHANCEMENT GRANT AND APPROVING A SUPPLEMENTAL APPROPRIATION:

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

WHEREAS, the Delaware County Board of Commissioners (the “Board”) solicited applications for funding through the Delaware County 2023 Community Enhancement Grant Program (the “Program”); and

WHEREAS, on October 12, 2023, the Board adopted Resolution No. 23-863, awarding community enhancement grants pursuant to the Program; and

WHEREAS, the Board wishes to make an additional grant award for an application submitted for Program funding;

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

Section 1. The Board hereby awards a Delaware County 2023 Community Enhancement Grant of \$5,000 to Main Street Delaware.

Section 2. The grant award made herein shall be subject to the Program Guidelines, Terms and Conditions, and Grant Agreement as approved in Resolution No. 23-863, and the award is contingent upon the awardee returning an executed Grant Agreement, with any supplemental documentation required by the Delaware County Auditor, no later than the deadline set by the County Administrator.

Section 3. The County Administrator is hereby authorized to notify the awardee of its grant award, to execute all Grant Agreements in substantially the same form as approved in Resolution No. 23-863, and to approve a purchase order necessary to effectuate the award made herein.

Section 4. The Board hereby approves a supplemental appropriation as follows:

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10011102-5602 Commissioners General/Community Enhancements \$5,000

Section 5. This Resolution shall be effective immediately upon adoption.

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

ADMINISTRATOR REPORT/None

COMMISSIONERS' COMMITTEES REPORTS

Commissioner Lewis

- PIN Fall Fest
- Attended the Regional CCAO Budget Presentation
- Attended The Veteran Recognition Event At The Arbors At Delaware For Those Who Were Unable To Participate In The Veterans' Honor Flight Event Earlier This Year

Commissioner Merrell

- Attended Regional CCAO Budget Presentation
- Attended Sunbury Chamber Meeting; Candidates
- Veterans Day Parade and Events Will Be Taking Place Soon

Commissioner Benton

- Attended Regional CCAO Budget Presentation
- Attended Delaware Community Foundation
- Chamber Housing Alliance Meeting
- Records Commission Meeting Is Wednesday

RESOLUTION NO. 23-900

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

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

WHEREAS, pursuant to section 121.23(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 121.23(G)(1)-(7) of the Revised Code;

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

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

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

RESOLUTION NO. 23-901

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

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

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

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

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Jennifer Walraven, Clerk to the Commissioners