



**COMMISSIONERS JOURNAL NO. 79 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD NOVEMBER 27, 2023**

R2305268	RESILITE SPORTS PRODUCTS INC	MAT CLEANING SUPPLIES	10031301 - 5201	\$ 1,397.34
R2305269	MPH INDUSTRIES INC	TRAINING ACADEMY RADAR SYSTEM	40111402 - 5450	\$ 11,343.00
R2305270	CDW GOVERNMENT INC	TRAINING ACADEMY SMART BOARD	40111402 - 5450	\$ 7,884.68

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

**4  
RESOLUTION NO. 23-1006**

**IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, DONALD T. PLANK, PLANK LAW FIRM, LPA, REQUESTING ANNEXATION OF 6.357 ACRES OF LAND IN LIBERTY TOWNSHIP IN DELAWARE COUNTY TO THE CITY OF POWELL, OHIO:**

It was moved by Mr. Merrell, seconded by Mrs. Lewis to acknowledge that on November 15, 2023, the Clerk to the Board of Commissioners received a petition requesting annexation of 6.357 acres of land from Liberty Township to the City of Powell.

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

**5  
RESOLUTION NO. 23-1007**

**IN THE MATTER OF ACCEPTING THE TREASURER’S REPORT FOR THE MONTH OF OCTOBER 2023:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to accept the Treasurer’s Report for the month of October 2023.

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

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

**6  
RESOLUTION NO. 23-1008**

**IN THE MATTER OF APPROVING FIRST AMENDMENT TO THE SOFTWARE MAINTENANCE AGREEMENT BETWEEN COURTVIEW JUSTICE SOLUTIONS, INC., D/B/A EQUIVANT AND THE BOARD OF DELAWARE COUNTY COMMISSIONERS, ON BEHALF OF THE DELAWARE COUNTY COMMON PLEAS COURT, GENERAL DIVISION, THE DELAWARE COUNTY COMMON PLEAS COURT, DOMESTIC RELATIONS DIVISION, THE DELAWARE COUNTY COMMON PLEAS COURT, JUVENILE/PROBATE DIVISION, THE DELAWARE COUNTY CLERK OF COURTS, AND THE DELAWARE COUNTY PUBLIC DEFENDER FOR THE CASE MANAGEMENT SYSTEM USED BY EACH OF THESE ENTITIES:**

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

WHEREAS, the Delaware County Common Pleas Court, General Division, the Delaware County Common Pleas Court, Domestic Relations Division, the Delaware County Common Pleas Court, Juvenile/Probate Division, the Delaware County Clerk of Courts, and the Delaware County Public Defender, and staff recommend approval of a First Amendment to the Software Maintenance Agreement between Courtview Justice Solutions, Inc., D/B/A Equivant and the Board of Delaware County Commissioners, on behalf of the Delaware County Common Pleas Court, General Division, the Delaware County Common Pleas Court, Domestic Relations Division, the Delaware County Common Pleas Court, Juvenile/Probate Division, the Delaware County Clerk of Courts, and the Delaware County Public Defender for the Case Management System used by each of these entities;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves a First Amendment to the Software Maintenance Agreement between Courtview Justice Solutions, Inc., D/B/A Equivant and the Board of Delaware County Commissioners, on behalf of the Delaware County Common Pleas Court, General Division, the Delaware County Common Pleas Court, Domestic Relations Division, the Delaware County Common Pleas Court, Juvenile/Probate Division, the Delaware County Clerk of Courts, and the Delaware County Public Defender for the Case Management System used by each of these entities, as follows:

**FIRST AMENDMENT TO THE SOFTWARE MAINTENANCE AGREEMENT**

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This First Amendment(" Amendment") to the Software Maintenance Agreement ("Agreement") is entered into on November 27, 2023 ("Effective Date") by and between CourtView Justice Solutions Inc. d/b/a equivalent, a Delaware corporation, with offices at 4450 Belden Village Street, Suite 305, Canton, Ohio 44718 ("equivalent"), and the Board of Commissioners, Delaware County, Ohio with offices at 91 North Sandusky Street, Delaware, Ohio 43015, on behalf of the Delaware County Common Pleas Court, General Division, with offices located at 117 North Union Street, 500 Level, Delaware, Ohio 43015, Delaware County Common Pleas Court, Domestic Relations Division, with offices located at 117 North Union Street, 400 Level, Delaware, Ohio 43015, Delaware County Juvenile and Probate Court, with offices located at 145 North Union Street, Ground Floor, Delaware, Ohio 43015, Delaware County Clerk of Courts, with offices located at 117 North Union Street, 300 Level, Delaware, Ohio 43015, and Delaware County Public Defender's Office, with offices located at 10 Court Street, Delaware County, Ohio 43015 (Individually "Party" collectively "Parties").

WHEREAS, the Parties entered into a Software Maintenance Agreement dated December 19, 2022 ("Agreement");

WHEREAS, the Agreement expires on December 31, 2023;

WHEREAS, Pursuant to Section 2 of the Agreement, the Agreement may be renewed for additional one (1) year periods subject to the same terms and conditions as provided in the Agreement and upon any such terms and conditions as may be specifically agreed upon, added and/or amended in writing by the Parties; and,

WHEREAS, the Parties now desire to renew and amend the Agreement.

NOW THEREFORE, the Parties agree to renew and amend the Agreement as follows:

1. RENEWAL. The Agreement is renewed for one (1) year subject to the same terms and conditions as provided in the Agreement and those contained in this First Amendment. Such renewal shall begin on January 1, 2024, and continue through December 31, 2024 ("Subsequent Term").
2. SCOPE OF SERVICES. For the Subsequent Term, equivalent shall provide those services listed in the Agreement.
3. SCHEDULE 1. Schedule 1 of the Agreement shall be deleted in its entirety and replaced with the new Schedule 1 attached to this Amendment. New Schedule 1 attached to this Amendment is made a part of this Amendment and by this reference incorporated herein.
4. FIRST AMENDMENT MAXIMUM. The maximum amount payable pursuant to this First Amendment is ninety-nine thousand, four hundred and sixty-nine dollars (\$99,469.00).
5. EQUIVANT'S ADDRESS. Throughout the Agreement, equivalent's address should be changed to the following:  
  
CourtView Justice Solutions Inc. d/b/a equivalent  
4450 Belden Village Street  
Suite 305  
Canton, Ohio 44718
6. OTHER TERMS OF AGREEMENT UNCHANGED. All terms and conditions of the Agreement not changed by this First Amendment remain the same, unchanged, and in full force and effect.
7. CONFLICTS. In the event of a conflict between the terms of the Agreement and this Amendment, the terms of this Amendment shall prevail.
8. COUNTERPARTS. This Amendment may be executed in counterparts.
9. SIGNATURES. Any person executing this Amendment in a representative capacity hereby warrants that he/she has authority to sign this Amendment or has been duly authorized by his/her principal to execute this Amendment on such principal's behalf and is authorized to bind such principal.

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound, have entered into this First Amendment of the Agreement as of the Effective Date.

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

**7  
RESOLUTION NO. 23-1009**

**IN THE MATTER OF APPROVING A TRANSFER OF APPROPRIATION FOR THE  
RECORDER'S OFFICE:**

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

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<b>Transfer of Appropriation</b>		Amount
<b>From:</b>	<b>To:</b>	
24113102-5301	24113102-5450	22,585.17

County Recorder Equipment/Contracted Prof. Services      County Recorder Equipment/Machinery & Equip

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

**8  
RESOLUTION NO. 23-1010**

**IN THE MATTER OF APPROVING A TRANSFER OF APPROPRIATIONS FOR THE LAW LIBRARY:**

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

<b>Transfer of Appropriation</b>		Amount
<b>From:</b>	<b>To:</b>	
20683201-5308 Law Library Resources Board/Membership, Subscriptions, Dues	20683201-5201 Law Library Resources Board/General Supplies & Equip <1,000	6,068.00
20683201-5320 Law Library Resources Board/Software and Computer Services	20683201-5201 Law Library Resources Board/General Supplies & Equip <1,000	500.00
20683201-5380 Law Library Resources Board/Other Services	20683201-5201 Law Library Resources Board/General Supplies & Equip <1,000	1,432.00

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

**9  
RESOLUTION NO. 23-1011**

**IN THE MATTER OF APPROVING A SUPPLEMENTAL APPROPRIATION:**

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

<b>Supplemental Appropriations</b>		
21581301-5365	Emergency Management Agency/Grant Related Services	12,500.00

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

**10  
RESOLUTION NO. 23-1012**

**IN THE MATTER OF APPROVING CHANGE ORDER NO. 1 WITH POLYDYNE, INC., AND CHANGE ORDER NO. 1 WITH TIDEWATER PRODUCTS, INC.:**

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

WHEREAS, Polydyne, Inc., and Tidewater Products, Inc., are each currently under contract to supply sludge thickening polymers for the Sewer District (DCRSD Contract 23-01); and

WHEREAS, the contracts allow for an extension of up to three (3) additional one (1) year terms; and

WHEREAS, the contracts allow for a change in contract price based on the Consumer Price Index; and

WHEREAS, the Sanitary Engineer recommends approving change orders to extend the existing contracts with Polydyne, Inc., and Tidewater Products, Inc., until December 31, 2024, and to increase the contract prices in accordance with the Consumer Price Index;

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

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Section 1. The Board hereby approves Change Order No. 1 to extend the contract with Polydyne, Inc., and increase the contract price in accordance with the Consumer Price Index.

Section 2. The Board hereby approves Change Order No. 1 to extend the contract with Tidewater Products, Inc., and increase the contract price in accordance with the Consumer Price Index.

Section 3. The Board hereby authorizes the Sanitary Engineer to execute the Change Orders approved herein.

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

**11  
RESOLUTION NO. 23-1013**

**IN THE MATTER OF APPROVING CHANGE ORDER NO. 01 TO THE AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND OHIO WATER DEVELOPMENT AUTHORITY FOR THE OECC HEADWORKS AND AERATION UPGRADES PROJECT:**

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

WHEREAS, the Delaware County Board of Commissioners entered into a Cooperative Agreement with the Ohio Water Development Authority for the OECC Headworks and Aeration Upgrades Project on December 22, 2022; and

WHEREAS, Change Order No. 01 does not constitute an increase in the total loan amount, but authorizes work changes; and

WHEREAS, the Sanitary Engineer recommends approval of Change Order No. 01;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves Change Order No. 01 to the Cooperative Agreement between the Delaware County Board of Commissioners and Ohio Water Development Authority for the OECC Headworks and Aeration Upgrades Project.

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

**12  
RESOLUTION NO. 23-1014**

**IN THE MATTER OF APPROVING AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT FOR DEL-TR114-01.93 (ORANGE ROAD RAILROAD GRADE SEPARATION):**

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

WHEREAS, on February 24, 2020, the Delaware County Board of Commissioners (the “Board”) adopted Resolution No. 20-190, declaring the necessity for improvements to Orange Road, including a grade separation structure carrying the Norfolk & Southern and CSX Railroads over Orange Road (the “Improvements”), and entering into an agreement with Gannett Fleming Engineers and Architects, P.C., for required engineering services associated with the Improvements (the “Agreement”); and

WHEREAS, Gannett Fleming Engineers and Architects, P.C. has completed preliminary engineering for the proposed Improvements under the direction of the County Engineer pursuant to the Agreement; and

WHEREAS, the County Engineer has negotiated a scope of work and fee to perform detailed design of the Improvements and recommends modifying the Agreement accordingly;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the following Amendment No. 2 to the Agreement:

**AMENDMENT NO. 2  
PROFESSIONAL SERVICES AGREEMENT  
DEL-TR 114-01.93 (Orange Road RRGs)  
PID NO. 1804 / 115566**

This Amendment No. 2 to the Agreement dated February 24, 2020, is made and entered into this 27<sup>th</sup> day of November, 2023, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Gannett Fleming Engineers and Architects, P.C., 2500 Corporate Exchange Drive, Suite 230, Columbus, OH 43231 (“Consultant”) (hereinafter collectively referred to as the “Parties”).

**ARTICLE 1 – AMENDMENT**

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Pursuant to Section 3.1 of the Agreement, the Parties mutually agree to amend the Agreement as follows:

- A. Section 4.2 of the Agreement shall be modified to increase the maximum total compensation to Three Million Eighteen Thousand Four Hundred Sixty Dollars and Zero Cents (\$3,018,460.00).

**ARTICLE 2 – REMAINING PROVISIONS**

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

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

**13  
RESOLUTION NO. 23-1015**

**IN THE MATTER OF VACATING A PORTION OF A DRAINAGE EASEMENT AND ACCEPTING A NEW DRAINAGE EASEMENT UPON LOT 5205 OF OLENTANGY FALLS, SECTION 3:**

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

WHEREAS, Stephen E. Smieszek and Rachel A. Smieszek, Owners of Lot 5205 of the Olentangy Falls, Section 3 Subdivision, commonly known as 936 Crayfish Court, request vacation of a 0.059 acre portion of the existing drainage easement upon said lot for the purpose of constructing additional building improvements, and have conveyed a new 0.013 acre easement for drainage purposes upon said lot; and

WHEREAS, the County Engineer has reviewed the request and finds that the 0.059 acre portion of easement requested to be vacated will not be detrimental to the drainage of the Subdivision upon acceptance of the new 0.013 acre easement, and further recommends the Board approve the vacation and acceptance of easements:

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, Ohio that the new 0.013 acre drainage easement as described herein is accepted, and the 0.059 acre existing drainage easement described herein is vacated.

**NEW 20' DRAINAGE EASEMENT DESCRIPTION  
0.013 AC. PARCEL**

Situated in Farm Lots 6 & 7, Section 1, Township 3 North, Range 19 West, United States Military Lands, Liberty Township, County of Delaware, State of Ohio, and being part of Lot 5205 of Olentangy Falls Section 3 as recorded in Plat Cabinet 4, Page Slide 27-27A and Official Record Book 1200, Page 1700 and part of the property conveyed to Stephen E. Smieszek & Rachel A. Smieszek, as recorded in Official Record Book 1252, Pages 1199-1200 all references are the Records of Delaware County Recorder, said parcel being further described as follows:

Commencing at the Northeast corner of said Lot 5205, and the Northeast corner of the said Smieszek parcel;

Thence, South 03° 30' 34" West, 101.34 feet, along the East line of said Smieszek parcel to a point;

Thence, North 67° 02' 14" West, 37.28 feet, through the said Smieszek parcel to a point, said point being the True Point of Beginning for the parcel herein described;

Thence the following five courses through said Smieszek parcel

North 67° 02' 14" West, 14.79 feet, to a point;

South 77° 16' 27" West, 9.60 feet, to a point;

North 21° 42' 18" West, 25.32 feet, to a point;

North 69° 24' 29" East, 20.00 feet, to a point;

South 21° 42' 18" East, 36.83 feet, to the True Point of Beginning;

Containing 0.013 acres, more or less, subject to all legal highways, all limitations of public access to highways, leases, zoning regulations, easements of record and restrictive covenants.

Bearings are based on State Plane Grid, North Zone NAD83(2011).

Part of PN 319-110-06-010.000 (0.857 Acres).

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This Description is based on a survey made under the direction of Todd D. Willis in May 2023, Reg. Surveyor No. 7996. Phone No. 740-739-4030, Willis Engineering & Surveying.

**VACATED 20' DRAINAGE EASEMENT DESCRIPTION  
0.059 AC.**

Situated in Fair Lots 6 & 7, Section 1, Township 3 North, Range 19 West, United States Military Lands, Liberty Township, County of Delaware, State of Ohio, and being part of Lot 5205 of Olentangy Falls Section 3 as recorded in Plat Cabinet 4, Page Slide 27-27A and Official Record Book 1200, Page 1700 and part of the property conveyed to Stephen E. Smieszek & Rachel A. Smieszek, as recorded in Official Record Book 1252, Pages 1199-1200 all references are the Records of Delaware County Recorder, said parcel being further described as follows:

Commencing at the Northeast corner' of said Lot 5205, and the Northeast corner of the said Smieszek parcel;

Thence, South 03° 30' 34" West, 101.34 feet, along the East line of said Smieszek parcel to a point;

Thence, South 03° 30' 34" West, 21.21 feet, continuing along the East line of said Smieszek parcel to a point;

Thence, North 67° 02' 14" West, 52.70 feet, through the said Smieszek parcel to a point, said point being the True Point of Beginning for the parcel herein described;

Thence, South 77° 16' 27" West, 99.75 feet, through said Smieszek parcel to a point;

Thence, South 89° 05' 54" West, 30.42 feet, through said Smieszek parcel to a point on the West line of Lot 5205 and the West line of the said Smieszek parcel;

Thence, North 10° 39' 59" West, 20.29 feet, along the West line of Lot 5205 and the West line of said Smieszek parcel to a point;

Thence, North 89° 05' 54" East, 31.79 feet, through said Smieszek parcel to a point; Thence, North 77° 16' 27" East, 94.52 feet, through said Smieszek parcel to a point;

Thence, South 21° 42' 18" East, 20.25 feet, through said Smieszek parcel to the True Point of Beginning;

Containing 0.059 acres, more or less, subject to all legal highways, all limitations of public access to highways, leases, zoning regulations, easements of record and restrictive covenants.

Bearings are based on State Plane Grid, North Zone NAD83(2011).

Part of PN 319-110-06-010.000 (0.857 Acres).

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

**14  
RESOLUTION NO. 23-1016**

**IN THE MATTER OF AWARDING A BID AND APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND ENVIRO-CONSTRUCTION COMPANY FOR THE RADNOR 2015-1 DRAINAGE IMPROVEMENT PROJECT:**

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

WHEREAS, as the result of the bid opening for the Radnor 2015-1 Drainage Improvement Project on September 19, 2023, the County Engineer recommends that a bid award be made to Enviro-Construction Company, the low bidder for the project; and

WHEREAS, the County Engineer recommends approval of the contract between the Delaware County Commissioners and Enviro-Construction Company, for the project;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners awards the bid to and approves the following contract with Enviro-Construction Company, for the Radnor 2015-1 Drainage Improvement Project:

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**CONTRACT**

THIS AGREEMENT is made this 27<sup>th</sup> day of November, 2023, by and between Enviro-Construction Company 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 consideration stated herein, mutually agree as follows:

**ARTICLE I. 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 “Radnor 2015-1 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 or work performed at the unit prices stipulated in the Bid for the respective items or work completed for the sum not to exceed FOURTY FOUR THOUSAND SIX HUNDRED THREE DOLLARS AND SEVENTY-FIVE CENTS (\$44,603.75), 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.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed in three original copies on the day and year first above written.

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

**15  
RESOLUTION NO. 23-1017**

**IN THE MATTER OF APPROVING RIGHT-OF-WAY WORK PERMIT SUMMARY SHEET:**

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

WHEREAS, the below requests to perform work within the right-of-way have been reviewed and approved by the Delaware County Engineer;

NOW, THEREFORE, BE IT RESOLVED that the following permits are hereby approved by the Board of Delaware County Commissioners:

<b>Permit #</b>	<b>Applicant</b>	<b>Location</b>	<b>Type of Work</b>
UT2023-0193	SPECTRUM	MCMASTER RD	ROAD BORE
UT2023-0195	SUBURBAN GAS	HOWARD FARMS 3	ROAD BORE
UT2023-0197	OHIO EDISON	NORTON,RADNOR,DIL DINE,MERIDETH,LAWR ENCE,OSTRANDER,PEN N & S SECTOIN LINE ROADS	FIBER OPTICS
UT2023-0198	COLUMBIA GAS	BOONE DR	GAS MAIN
UT2023-0199	AEP	HOME RD	POLES AND ROAD BORE
UT2023-0200	AEP	CURVE RD	INSTALL RISER

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



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RESOLUTION NO. 23-1018

**IN THE MATTER OF ESTABLISHING A MAINTENANCE BOND AND RELEASING CONSTRUCTION BOND FOR NELSON FARMS SECTION 3 PHASE A AND NELSON FARMS SECTION 3 PHASE B:**

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

WHEREAS, the roadway construction has been completed for the projects known as Nelson Farms Section 3 Phase A and Nelson Farms Section 3 Phase B (the "Projects"); and

WHEREAS, as the result of the Engineer's recent field review of the Projects, 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 each of the Projects and that the Projects be placed on the required one year maintenance period; and

WHEREAS, Pulte Homes of Ohio, LLC (the "Owner") has provided maintenance bonds in the amounts of \$347,500.00 and \$74,000.00 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 bonds being held as surety for the Projects be returned to the Owner;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners accepts the maintenance bonds in the amounts of \$347,500.00 and \$74,000.00 for the Projects, places the Projects on the required one year maintenance period, and returns the construction bonds being held for the Projects to the Owner.

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

17

RESOLUTION NO. 23-1019

**IN THE MATTER OF APPROVING PLANS, SPECIFICATIONS, ESTIMATE AND SETTING THE BID DATE FOR THE PROJECT KNOWN AS THE LANETTA LANE WATERSHED DRAINAGE IMPROVEMENT PROJECT:**

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

WHEREAS, the County Engineer has prepared, and recommends approval of, the Plans, Estimate, Bid Specifications and Bid Opening Date and Time for the Lanetta Lane Watershed Drainage Improvement Project;

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

Section 1. The Board hereby approves the plans, specifications and estimate for the project known as the Lanetta Lane Watershed Drainage Improvement Project.

Section 2. The Board hereby authorizes the County Engineer to advertise for and receive bids on behalf of the Board in accordance with the following Advertisement for Bids:

**Public Notice  
Advertisement for Bids**

Bids shall be submitted electronically through the [www.bidexpress.com](http://www.bidexpress.com) web service until 10:00 am on Tuesday, December 19, 2023 at which time they will be publicly received and read aloud, for the project known as:

**O.R.C. 6131 Drainage Improvement Project  
Lanetta Lane Drainage Improvement Project**

All proposals shall be submitted electronically through the web service [www.bidexpress.com](http://www.bidexpress.com). The bid shall be accompanied by a Bid Security in the form of a bid bond in the amount of one hundred percent (100%) of the bid or a certified check in the amount of ten percent (10%) of the bid. In addition to the Bid Security, a Performance Bond is required for this project in the amount of one hundred percent (100%) of the total project cost.

**THE ENGINEER'S CONSTRUCTION ESTIMATE FOR THE PROJECT IS \$ 94,279.25**

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**PER O.R.C. 6131.40 NO BIDS SHALL BE ACCEPTED THAT EXCEED THE ENGINEER'S CONSTRUCTION ESTIMATE.**

The Owner of the project is the Delaware County Board of Commissioners. Copies of the plans and specifications must be obtained from [www.bidexpress.com](http://www.bidexpress.com). All bidders must register and be a member of the web service to bid on the project.

This notice is posted on the Delaware County website at [www.co.delaware.oh.us](http://www.co.delaware.oh.us) and may be accessed by selecting "Public Notices and Bids."

The Owner requires that all work associated with the project be completed before April 26, 2024. The estimated commencement of work date is February 1, 2024. Furthermore due to tree clearing restrictions imposed upon this project, all tree clearing activities must occur on or before March 1, 2024.

No bids shall be withdrawn for a period of sixty (60) days after the opening thereof. A warding of the contract shall be to the Lowest and Best bidder as determined by the Delaware County Board of Commissioners in the best interest of Delaware County. The Board reserves the right to reject any or all bids.

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

**18  
RESOLUTION NO. 23-1020**

**IN THE MATTER OF APPROVING PLANS, SPECIFICATIONS, ESTIMATE AND SETTING THE BID DATE FOR THE PROJECT KNOWN AS THE MILLER-WILLIAMS HOLMES #2 WATERSHED DRAINAGE IMPROVEMENT PROJECT:**

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

WHEREAS, the County Engineer has prepared, and recommends approval of, the Plans, Estimate, Bid Specifications and Bid Opening Date and Time for the Miller-Williams-Holmes #2 Watershed Drainage Improvement Project;

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

Section 1. The Board hereby approves the plans, specifications and estimate for the project known as the Miller-Williams-Holmes #2 Watershed Drainage Improvement Project.

Section 2. The Board hereby authorizes the County Engineer to advertise for and receive bids on behalf of the Board in accordance with the following Advertisement for Bids:

Public Notice  
Advertisement for Bids

Bids shall be submitted electronically through the [www.bidexpress.com](http://www.bidexpress.com) web service until 10:00 am on Tuesday, December 19, 2023 at which time they will be publicly received and read aloud, for the project known as:

**O.R.C. 6131 Drainage Improvement Project  
Miller Williams Holmes #2 Drainage Improvement Project**

All proposals shall be submitted electronically through the web service [www.bidexpress.com](http://www.bidexpress.com). The bid shall be accompanied by a Bid Security in the form of a bid bond in the amount of one hundred percent (100%) of the bid or a certified check in the amount of ten percent (10%) of the bid. In addition to the Bid Security, a Performance Bond is required for this project in the amount of one hundred percent (100%) of the total project cost.

**THE ENGINEER'S CONSTRUCTION ESTIMATE FOR THE PROJECT IS \$ 42,210.00  
PER O.R.C. 6131.40 NO BIDS SHALL BE ACCEPTED THAT EXCEED THE ENGINEER'S CONSTRUCTION ESTIMATE.**

The Owner of the project is the Delaware County Board of Commissioners. Copies of the plans and specifications must be obtained from [www.bidexpress.com](http://www.bidexpress.com). All bidders must register and be a member of the web service to bid on the project.

This notice is posted on the Delaware County website at [www.co.delaware.oh.us](http://www.co.delaware.oh.us) and may be accessed by selecting "Public Notices and Bids."

The Owner requires that all work associated with the project be completed before April 26, 2024. The estimated commencement of work date is February 1, 2024. Furthermore due to tree clearing restrictions imposed upon this project, all tree clearing activities must occur on or before March 1, 2024.

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No bids shall be withdrawn for a period of sixty (60) days after the opening thereof. A warding of the contract shall be to the Lowest and Best bidder as determined by the Delaware County Board of Commissioners in the best interest of Delaware County. The Board reserves the right to reject any or all bids.

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

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**DUANE MATLACK, CHIEF BUILDING OFFICIAL DEPARTMENT OF BUILDING SAFETY**

**9:45A.M. PUBLIC HEARING #1 FOR PROPOSED ADOPTION OF CHANGES TO THE FLOOD DAMAGE PREVENTION REGULATIONS OF DELAWARE COUNTY**

The Board of Commissioners opened the hearing at 9:48 A.M.

The Board of Commissioners closed the hearing at 9:54 A.M.

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**ADMINISTRATOR REPORTS**

CA Davies – No Comment  
DCA Huston – No Comment

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**COMMISSIONERS' COMMITTEES REPORTS**

Mr. Merrell – He hoped everyone had a great Thanksgiving.

Mrs. Lewis – She hoped everyone had a great Thanksgiving.

Mr. Benton – Attended the Delaware County District Library Flag Pole Dedication on 11/22/23. Reminder of Engineer Luncheon with Townships on 11/29/23.

**November 27, 2023**  
**For Consideration Business For Other**

**RESOLUTION NO. 23-1021**

**A RESOLUTION DETERMINING THE NECESSITY OF AND AUTHORIZING THE ISSUANCE AND SALE OF HEALTH CARE FACILITIES REVENUE REFUNDING BONDS, SERIES 2023 (WILLOW BROOK CHRISTIAN COMMUNITIES) OF THE COUNTY OF DELAWARE, OHIO IN THE MAXIMUM AGGREGATE PRINCIPAL OF \$32,000,000; AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT OF LEASE AND A SUBLEASE IN CONNECTION THEREWITH; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ASSIGNMENT OF SUBLEASE TO SECURE SUCH BONDS; AUTHORIZING EXECUTION OF A BOND PURCHASE AGREEMENT WITH RESPECT TO SAID BONDS; AND AUTHORIZING THE EXECUTION OF A TAX EXEMPTION CERTIFICATE AND AGREEMENT AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.**

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

WHEREAS, the County of Delaware, Ohio (the "Issuer") is a "public hospital agency" as that term is defined in Section 140.01 of the Ohio Revised Code; and

WHEREAS, the Issuer heretofore issued its \$37,859,000 Health Care Facilities Revenue Refunding Bonds, Series 2018 (Willow Brook Christian Communities) (the "Prior Bonds") that were issued to refund prior tax-exempt bonds issued for the benefit of Willow Brook Christian Communities (the "Corporation"), an Ohio nonprofit corporation, the proceeds of each of which were used to finance and refinance the acquisition, construction and equipping of certain "hospital facilities," as such term is defined in Section 140.01 of the Ohio Revised Code ("Hospital Facilities"); and

WHEREAS, the Issuer has determined that the Prior Bonds should be refunded and retired; and

WHEREAS, the Issuer has determined to issue its Health Care Facilities Revenue Refunding Bonds, Series 2023 (Willow Brook Christian Communities) (the "Bonds"), dated the date of initial delivery, the proceeds of which Bonds will be used to currently refund the Prior Bonds; and

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WHEREAS, the refunding and retirement of the Prior Bonds will be in the best interest of the Issuer and will provide Hospital Facilities at the lowest possible cost to service the residents of the Issuer, as well as the residents of Franklin County, Ohio, which Hospital Facilities will be available for the service of the general public without discrimination by reason of race, creed, color or national origin; and

WHEREAS, this Board is authorized by the authority contained in Chapter 140, Ohio Revised Code, to issue health care facilities revenue bonds for the aforesaid purposes; and

WHEREAS, this Board has determined to authorize such Bonds and to award the sale thereof to Old National Bank (the "Original Purchaser"); and

WHEREAS, the Issuer will acquire a leasehold interest in the Existing Facilities, as defined in the Sublease authorized below, and will sublease the Existing Facilities to the Corporation, a nonprofit corporation no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual and which has authority to operate Hospital Facilities; and

WHEREAS, it is necessary in connection with the issuance of the Bonds and the refunding and retirement of the Prior Bonds to provide for the authorization of an Agreement of Lease, a Sublease, an Assignment of Sublease, a Bond Purchase Agreement and a Tax Exemption Certificate and Agreement and to authorize certain other documents in connection with the issuance of the Bonds; and

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

**SECTION 1.** For the purpose of better providing for the health and welfare of the people of the State of Ohio by enhancing the availability, efficiency and economy of Hospital Facilities to be available to or for the service of the general public without discrimination by reason of race, creed, color or national origin, this Board, hereby determines, based solely on representations of the Corporation, that revenue bonds shall be issued pursuant to Section 140.06, Ohio Revised Code, in the maximum aggregate principal amount of \$32,000,000 for the purposes set forth in the preambles hereto. Such bonds shall be designated County of Delaware, Ohio, Health Care Facilities Revenue Refunding Bonds, Series 2023 (Willow Brook Christian Communities). The Bonds shall be issued in the form and denomination and shall be executed, dated, be subject to redemption prior to maturity on the dates and at the prices, bear interest at the rate or rates, and be payable on the dates as hereafter provided in the Bond Purchase Agreement hereinafter authorized.

**SECTION 2.** Those words and terms not expressly defined herein and used herein with initial capitalization where rules of grammar do not otherwise require capitalization shall have the meanings assigned to them in the Sublease or in the Bond Purchase Agreement each as hereinafter defined.

Any reference herein to the Issuer or to any officer or official or employee thereof, shall include those succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing such functions. Any reference herein to any other person or entity shall include his or its respective successors and assigns. Any reference to a section or provision of the Internal Revenue Code of 1986, as amended (the "Code"), the Ohio Constitution or the Act or to a section, provision or chapter of the Ohio Revised Code shall include such section or provision or chapter as from time to time amended, modified, revised, supplemented, or superseded; provided, however, that no such change shall alter the obligation to pay the Bond Service Charges in the amounts and manner, at the times, and from the sources provided in this Bond Legislation, except as otherwise herein permitted, or shall be deemed applicable by reason of this provision if such change would in any way constitute an impairment of the rights of the Issuer, a Holder, the Master Trustee, as hereinafter defined, or the Corporation under the Sublease.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa, any pronoun shall be deemed to cover all genders, and the terms "herein," "hereof," "hereby," "hereto," "hereunder," and similar terms, mean this Bond Legislation and not solely the portion hereof in which any such word is used.

**SECTION 3.** The Bonds shall be initially issued as one fully registered Bond in the name of the Original Purchaser, dated as of the date of its initial delivery to the Original Purchaser, numbered R-1, and in the form attached to the Bond Purchase Agreement. The Bonds shall mature not later than December 31, 2038 (subject to all provisions herein for amortization and redemption). Upon any transfer and surrender of the Bonds in accordance with the provisions of the Bond Purchase Agreement, the Issuer shall execute and deliver a new Bond in exchange therefor as provided in the Bond Purchase Agreement.

The principal of the Bonds shall be payable in accordance with the terms of the Bond Purchase Agreement hereinafter authorized, provided that the final payment of principal of the Bonds shall be paid no later than the final maturity date referenced above.

Interest from the date of issuance of the Bonds on the outstanding principal amount of the Bonds shall be payable on each Interest Payment Date commencing on the date specified in the Bond Purchase Agreement. Interest on the outstanding principal balance of the Bonds shall initially be payable from the date of issuance.

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Interest on the Bonds shall be calculated as set forth in the form of Bonds attached to the Bond Purchase Agreement. Each payment shall be applied first to interest due and the balance to repayment of principal. All principal and interest shall be paid in full on or before the final maturity date of the Bonds. The Bonds shall be subject to redemption as provided in the Bonds, the Bond Purchase Agreement and the Sublease.

All Bond Service Charges shall be payable in lawful money of the United States of America at the principal office of the Holder, by check, draft or wire transfer.

The Bonds shall be executed on behalf of the Issuer by at least two members of this Board and the County Auditor, provided that any or all of those signatures may be a facsimile. In case any officer whose signature or a facsimile thereof shall appear on the Bonds shall cease to be such officer before the issuance or delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until after that time.

**SECTION 4.** The Bonds authorized hereby shall bear on their face a statement that the Bonds are not general obligations, debt or bonded indebtedness of the County of Delaware, Ohio or the State of Ohio or any political subdivision thereof, and the holders or owners of the Bonds are not given the right, and have no right, to have excises or taxes levied by the County of Delaware, Ohio or the State of Ohio or any political subdivision thereof for the payment of the debt service on such Bonds and that the right to such payment is limited to the revenues and funds pledged for such purpose, being the Pledged Receipts, as defined and described in the Sublease.

**SECTION 5.** The members of this Board and such other officers and employees of the Issuer, and their successors are hereby authorized and directed to do all the acts and things required of them by the provisions of the Bonds and the Bond Purchase Agreement hereinafter authorized to the end that full and complete performance of all of the terms, covenants and agreements of the Bonds and Bond Purchase Agreement shall be effected, including taking all actions necessary to complete the sale of the Bonds under the "Blue Sky" laws of any jurisdiction; provided that the Issuer shall not be required to incur any expense or to submit to service of process in connection with any such "Blue Sky" action in any state except Ohio.

**SECTION 6.** This Board hereby determines, based solely on representations of the Corporation, that the leasing of the Existing Facilities from the Corporation and the subleasing of the Existing Facilities to the Corporation, which will operate the Existing Facilities, providing health care to the general public without discrimination by reason of race, creed, color or national origin is undertaken for and will serve the public purpose of better providing for the health and welfare of the people of the State of Ohio by enhancing the availability, efficiency and economy of Hospital Facilities and the services rendered thereby.

**SECTION 7.** Any two members of this Board be and they are hereby authorized and directed to execute and enter into, on behalf of the Issuer an Agreement of Lease (the "Lease") with the Corporation to acquire a leasehold interest in the Existing Facilities. The Lease shall be substantially in the form presented to this Board and on file with the Clerk, subject to such changes, insertions and omissions as may be approved by this Board, which approval shall be conclusively evidenced by the execution of said Lease as aforesaid. It is hereby determined, based solely on representations of the Corporation, that such Lease will promote the public purpose stated in Section 140.02, Ohio Revised Code, and the Issuer will be duly benefited thereby.

**SECTION 8.** Any two members of this Board be and they are hereby authorized and directed to execute and deliver on behalf of the Issuer a Sublease (the "Sublease") with the Corporation and an Assignment of Rights under Agreement of Lease and Sublease (the "Assignment of Sublease") assigning certain rights of the Issuer in the Sublease to The Huntington National Bank, as trustee (the "Master Trustee"), under a Master Trust Indenture dated as of December 1, 2012 between the Corporation and the Master Trustee. The Sublease and the Assignment of Sublease shall be substantially in the forms presented to this Board and on file with the Clerk, subject to such changes, insertions and omissions as may be approved by this Board, which approval shall be conclusively evidenced by the execution of said Sublease and Assignment of Sublease as aforesaid. It is hereby determined, based solely on representations of the Corporation, that such Sublease will promote the public purpose stated in Section 140.02, Ohio Revised Code, and the Issuer will be duly benefited thereby.

**SECTION 9.** Any two members of this Board be and they are hereby authorized and directed to execute and deliver on behalf of the Issuer a Bond Purchase Agreement, providing for the sale of the Bonds to the Original Purchaser, substantially in the form heretofore presented to this Board and on file with the Clerk, subject to such changes, insertions and omissions as may be approved by this Board, which approval shall be conclusively evidenced by the execution of said Bond Purchase Agreement, so long as the terms of purchase contained therein are within the guidelines established in Sections 1, 3 and 4 of this Bond Legislation.

**SECTION 10.** This Board, for and on behalf of the Issuer, to the extent within its control, hereby covenants that it will restrict the use of the proceeds of the Bonds hereby authorized in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute "arbitrage bonds" under Sections 103(b)(2) and 148 of the Code and the regulations prescribed thereunder. Any member of this Board or any other officer having responsibility with respect to the issuance of said Bonds is authorized and directed to give an appropriate certificate on behalf of the Issuer, on the date of delivery of said Bonds for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Section 148 and regulations thereunder.

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**SECTION 11.** Any two members of this Board be and they are hereby authorized and directed to execute and deliver on behalf of the Issuer a Tax Exemption Certificate and Agreement (the "Tax Agreement"). The Tax Agreement shall be substantially in the form presented to this Board and on file with the Clerk, subject to such changes, insertions and omissions as may be approved by this Board, which approval shall be conclusively evidenced by the execution of said Tax Agreement as aforesaid.

**SECTION 12.** The appropriate officers of the Issuer, including but not limited to the County Administrator, be and they hereby are authorized to execute and deliver on behalf of the Issuer such other certificates, documents, instruments, terminations and releases in connection with the issuance and sale of the Bonds as may be required, necessary or appropriate, including, without limitation, any documents which are necessary or appropriate in order to provide that the Bonds constitute "qualified 501(c)(3) bonds" under the Code. Such documents, including the ones specifically authorized hereby, shall be subject to such changes, insertions and omissions as may be approved by the appropriate officers of this Board, which approval shall be conclusively evidenced by the execution thereof as aforesaid.

**SECTION 13.** This Board finds and determines that all formal actions of this Board and any of its committees concerning and relating to the adoption of this Bond Legislation were taken in an open meeting of this Board or any of its committees, and that all deliberations of this Board and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

**SECTION 14.** All resolutions or parts thereof in conflict with the provisions of this Bond Legislation are, to the extent of such conflict, hereby repealed.

**SECTION 15.** This Bond Legislation shall be in full force and effect immediately upon its adoption.

Upon roll call on the adoption of the Resolution, the vote was as follows:

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

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**RESOLUTION NO. 23-1022**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT, EMPLOYMENT AND COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL AND CONFIDENTIAL INFORMATION RELATED TO ECONOMIC DEVELOPMENT:**

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

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

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 Appointment, Employment and Compensation of a Public Employee or Public Official.

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

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**RESOLUTION NO. 23-1023**

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

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

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

There being no further business, the meeting adjourned.

\_\_\_\_\_  
Gary Merrell

\_\_\_\_\_  
Barb Lewis

\_\_\_\_\_  
Jeff Benton

\_\_\_\_\_  
Jennifer Walraven, Clerk to the Commissioners