

**COMMISSIONERS JOURNAL NO. 80 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 26, 2024**

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

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

**1
RESOLUTION NO. 24-148**

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD FEBRUARY 22, 2024:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on February 22, 2024; 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 Absent

**2
PUBLIC COMMENT**

**3
RESOLUTION NO. 24-149**

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR 0223:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve Then and Now Certificates, payment of warrants in batch numbers CMAPR 0223 and Purchase Orders as listed below:

PR Number	Vendor Name	Line Description	Account	Amount
R2402196	BRENNSTUHL CONSTRUCTION INC	LANETTA LANE DRAINAGE IMPROVEMENT PROJECT	40311474 - 5301	89,823.86
R2402255	MOORINGTECH	2 TOUGHBOOK FZ-55 LAPTOPS WITH DOCKING STATION	66211900 - 5260	6,525.28

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

**4
RESOLUTION NO. 24-150**

IN THE MATTER OF APPROVING THE CHILD PLACEMENT SERVICES CONTRACT, FIRST AMENDMENT, AND SECOND AMENDMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, AND CHILD PLACEMENT PROVIDER OUR CHILDREN OUR FUTURE LLC:

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

WHEREAS, Delaware County contracts with Child Care Placement providers in accordance with state and federal regulations; and

WHEREAS, the Director of Job & Family Services recommends approval of the contract, first amendment, and second amendment with Our Children Our Future LLC;

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NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the following contract, first amendment, and second amendment for Child Care Placement provider Our Children Our Future LLC:

**FIRST AMENDMENT TO THE AGREEMENT
FOR TITLE IV-E AGENCIES AND PROVIDERS FOR THE PROVISION OF CHILD
PLACEMENT BETWEEN DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY
SERVICES AND OUR CHILDREN OUR FUTURE LLC.**

This First Amendment to the Agreement for Title IV-E Agencies and Providers for the Provision of Child Placement Between Delaware County Department of Job and Family Services (“Agency”) and Our Children Our Future, LLC. (“Provider”) (“First Amendment”) is entered into this February 26, 2024.

Whereas, Agency and Provider have entered an Agreement for Title IV-E Agencies and Providers for the Provision of Child Placement with a term of 12/18/2023 through 06/30/2024 (“Agreement”); and

Whereas, Article XV of the Agreement allows the Parties to amend the Agreement via a written amendment signed by both parties; and,

Whereas, Agency and Provider desire and have agreed to amend the Agreement to include the additional terms and conditions set forth herein.

Now Therefore, the Parties agree to amend the Agreement as follows:

Section 1 – Supplemental Terms and Conditions

The following terms and conditions shall be added to and supplement the indicated sections of the Agreement:

- A. **Article II.** This agreement shall have an initial service period of 12/18//2023 through 06/30/2024. By mutual consent, the Agency and Provider may determine that an extension of this contract is in the best interest of all Parties. Therefore, by mutual agreement of the Parties, the contract may be extended for two (2) additional consecutive years in one (1) year period increments. There shall be no increase in transaction costs nor a decrease in services, and all other terms of this contract remain unchanged, unless amended by a separate written amendment signed by all Parties.

Extension is contingent upon the availability of funds, the terms of the grant agreement between the Agency, the state of Ohio and/or the federal government, as well as satisfactory performance by the Provider, and is subject to approval by the Agency, with renegotiation to be initiated by the Agency before the expiration of the existing service period.
- B. **Article V.E.** Provider agrees to submit a monthly progress report as negotiated by the parties to the Children Services Assistant Director for each child no later than the twentieth (20th) day of each month. The progress report will be based on the child’s Individual Child Care Agreement and case plan and should include documentation of services provided to the child (visits to the child, counseling outcome(s), etc.). Failure to submit the progress reports may result in a delay of payment until such time as the Provider comes into compliance.
- C. **Article V.F., G. and H.** Notification as required by these sections shall be made to the Agency’s 24/7 emergency number. The emergency number is 740-833-2340.
- D. **Article V.I.** Provider also agrees to notify the Agency when and if the following safety condition exists: - The child’s medication has changed.
- E. **New Article V. AA.** Provider agrees to transfer copies of the child’s records to the Agency within forty-eight (48) hours of the request, excluding weekends and holidays. Copies of the records are to be submitted electronically via email as an attachment, scanned pdf file(s), or via facsimile (fax).
- F. **New Article V. BB.** Provider agrees to provide transportation for the child to subsequent placements including those outside the Provider network. Transportation shall be limited to within the State of Ohio.
- G. **Article VIII. A.** There shall be no pre-defined maximum amount payable pursuant to this contract. PROVIDER agrees to accept as full payment for Services rendered in a manner satisfactory to the Agency the amount of actual expenditures made by PROVIDER for purposes of providing the Services.
- H. **New Article VIII. J.** Per diem rates shall remain unchanged during the initial service period defined in Article II, Term of Agreement. Upon completion of the initial service period, Provider may update per diem rates through a mutually agreed upon contract amendment not more than once annually during each one (1) year service period extension. Provider agrees to provide written notification to the Agency of requested per diem rate changes. Written notification shall be sent electronically via email to the attention of Mr. Jeffrey Sell, Protective Services Administrator whose email address is jeffrey.sell2@jfs.ohio.gov and Ms. Jenifer Wattenschaidt, Business Administrator, whose email address is Jenifer.wattenschaidt@jfs.ohio.gov. Written notification shall contain the total per diem rate and the per diem rate components (Maintenance, Administration, Transportation, Other, etc.). Per diem rate changes

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shall take effect the first calendar day of the month after the per diem rate change has been formally approved by the Provider and Agency in a contract amendment. Provider and Agency shall ensure service levels and per diem rates specified in an Individual Child Care Agreement (ICCA) are incorporated into the contract. In the event of a conflict between the per diem rate represented in an ICCA and the rates mutually agreed upon in the contract, rates in the contract shall prevail. In the event that an ICCA specifies a service level that is not yet included in the per diem rate schedule in the contract, Provider shall not provide the services for or bill the Agency for the services until the service level and related per diem rate has been incorporated into the contract through a contract amendment. Provider shall submit monthly invoices to the following email inbox: Delaware-invoices@jfs.ohio.gov.

- I. **Article XII.D. Independent Contractor Acknowledgement/No Contribution to OPERS**
Agency, Board, and Delaware County, Ohio (for purposes of this section collectively “County”) are public employers as defined in R.C. § 145.01(D). The County has classified the Provider as an independent contractor or another classification other than public employee. As a result, no contributions will be made to the Ohio Public Employees Retirement System (“OPERS”) for or on behalf of Provider and/or any of its officers, officials, employees, representatives, agents, and/or volunteers for services and/or deliverables rendered and/or received under or pursuant to this Agreement. Provider acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed it of such classification and that no contributions will be made to OPERS. If Provider is an individual or has less than five (5) employees, Provider, in support of being so informed and pursuant to R.C. § 145.038, agrees to and shall complete and shall have each of its employees complete an OPERS Independent Contractor/Worker Acknowledgement Form (“OPERS Form”). The OPERS Form is attached to this First Amendment as Exhibit 1. The Agency shall retain the completed OPERS Form(s) and immediately transmit a copy(ies) of it/them to OPERS.

If Provider has five (5) or more employees, Provider, by signature of its authorized representative below, hereby certifies such fact in lieu of completing the OPERS Form:

Signature	Date
Printed Name	
Title	

- J. **Article XX.D.** In lieu of the coverage amount indicated in the Agreement, Provider agrees to procure and maintain Umbrella and Excess liability insurance coverage of at least Two Million Dollars (\$2,000,000.00) per occurrence and in the aggregate above the commercial general and business auto primary policies.
- K. **Article XX.F.** The Delaware County Board of Commissioners (Board”) shall be listed as the Certificate Holder.

Section 2 - Miscellaneous

- A. **Exhibits to Agreement.**
 - 1. Exhibit 1 – Scope of Work. This exhibit is referenced throughout the Agreement. It does not exist.
 - 2. Exhibits II and III. The Agreement was not competitively bid. These exhibits do not exist.
 - 3. Exhibit IV – Rate Schedule. This is exhibit is also referenced as “Schedule A.” It is attached to the Agreement labeled “Title IV-E Schedule A Rate Information.”
- B. **Attachments to First Amendment.** The following are attached to this First Amendment and by this reference are incorporated into this First Amendment:
 - 1. OPERS Independent Contractor/Worker Acknowledgement.
- C. **Conflicts.** In the event of a conflict between the terms of the Agreement and this First Amendment, the terms of this First Amendment shall prevail.
- D. **Other Terms and Conditions Unchanged.** All terms and conditions of the Agreement not changed by this First Amendment remain the same, unchanged, and in full force and effect.
- E. **Signatures.**
 - 1. Unless otherwise stated and unless the Agreement is otherwise signed by the Board or, where authorized, the Delaware County Administrator (“Administrator”) on behalf of the Board, the signatures of the Board or Administrator below shall be approval of both the Agreement and this First Amendment.
 - 2. Any person executing this First Amendment in a representative capacity hereby warrants that he/she has authority to sign this First Amendment or has been duly authorized by his/her principal to execute this First Amendment on such principal’s behalf and is authorized to bind such principal.

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F. Auditor's Certification. The Auditor's Certification attached to this First Amendment shall serve as the Auditor's Certification for the Agreement.

**SECOND AMENDMENT TO THE AGREEMENT
FOR TITLE IV-E AGENCIES AND PROVIDERS FOR THE PROVISION OF CHILD
PLACEMENT BETWEEN DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY
SERVICES AND OUR CHILDREN OUR FUTURE LLC.**

This Second Amendment to the Agreement for Title IV-E Agencies and Providers for the Provision of Child Placement Between Delaware County Department of Job and Family Services ("DCDJFS") and Our Children Our Future, LLC. ("Provider") ("Second Amendment") is entered into this February 26, 2024. This Second Amendment adds the Delaware County Family and Children First Council (hereinafter, "DCFCFC") as a party when services are rendered by Provider pursuant to the terms of this Second Amendment. DCDJFS is the Administrative Agent for DCFCFC, and therefore they are related parties. DCDJFS and DCFCFC are collectively referred to as "Agency."

Whereas, DCDJFS and Provider have entered an Agreement and a First Amendment for Title IV-E Agencies and Providers for the Provision of Child Placement with a term of 12/18/2023 through 06/30/2024 ("Agreement"); and,

Whereas, Article XV of the Agreement allows the Parties to amend the Agreement via a written amendment signed by both parties; and,

Whereas, on occasion the Agency identifies children who require placement with a provider but who are not in Agency custody. There is alternative funding through DCFCFC to pay for services under these circumstances; and,

Whereas, DCDJFS and Provider desire and hereby amend the Agreement to include additional terms and conditions for the purpose of including DCFCFC as a party to the Agreement and First Amendment. This will allow Provider to render services to Agency clients that are not in Agency custody with payment for the services made through DCFCFC's funding sources; and,

Whereas, this Second Amendment is intended to define the responsibilities of the Parties under this alternative placement arrangement.

Now Therefore, the Parties agree to amend the Agreement as follows:

Section 1 – Changes in Terms and Conditions

The terms and conditions of the Agreement and First Amendment shall apply equally to this Second Amendment, except for the following terms which apply only for services under this Second Amendment:

Agreement

Article VI, Section D. – this section does not apply to services provided pursuant to this Second Amendment.

Article VIII – The words "Schedule C" shall be substituted in all instances where "Schedule A" appears in Article VIII.

Article XVI – For services provided pursuant to this Second Amendment, Notice shall be sent to Agency at the following address:

Delaware County Family and Children First Council
145 N Union St
Delaware, OH 43015

Notice shall also be sent to the legal guardian/custodian of the child at the address given to Provider by the Agency.

First Amendment

Section 1(B) – The words "Children's Services Assistant Director" shall be replaced with "Family & Children First Council Coordinator."

Section 1(H) – The words "Mr. Jeffrey Sell, Protective Services Administrator whose email address is jeffrey.sell2@jfs.ohio.gov" shall be replaced with:

"Ms. Rachel Layne, Family & Children First Council Coordinator whose email address is rachel.layne@jfs.ohio.gov."

Section 1(H) – The following words are removed from the Agreement for purposes of this Second Amendment only:

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“Provider and Agency shall ensure service levels and per diem rates specified in an Individual Child Care Agreement (ICCA) are incorporated into the contract. In the event of a conflict between the per diem rate represented in an ICCA and the rates mutually agreed upon in the contract, rates in the contract shall prevail. In the event that an ICCA specifies a service level that is not yet included in the per diem rate schedule in the contract, Provider shall not provide the services for or bill the Agency for the services until the service level and related per diem rate has been incorporated into the contract through a contract amendment.”

Section 2(A)(3) - The words “Schedule C” shall be substituted in all instances where “Schedule A” appears.

Section 2 – Supplemental Terms and Conditions

The following terms and conditions shall be added to and supplement the terms of this Second Amendment, and shall apply only to services provided under this Second Amendment:

- A. **Throughout Agreement and First Amendment**– In all instances where the Provider is required to give a report or notice to the Agency, the Provider must also give the same notice or report to the guardian/custodian of the child. Agency shall provide Provider with the contact information of the guardian/custodian.
- B. **Custody of Child.** At all times while services are rendered under this Second Amendment, the child will remain in the custody of his or her legal guardian/custodian. In all instances where Provider must obtain consent for care or course of action, such consent must be obtained from the child’s legal guardian/custodian, with follow-up notice given to Agency.
- C. **Funding** – Multiple System Youth
- D. **Auditor’s Certification.** The Auditor’s Certification attached to this Second Amendment shall apply only to the Second Amendment.

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

5
DIRECTOR ERIC PENKAL, DELAWARE COUNTY GUARDIANSHIP SERVICES BOARD
Presentation to Board /New Vehicle Lease

6
JECY WEBER, EMERGENCY MANAGEMENT SPECIALIST DELAWARE COUNTY
OFFICE OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT
PRESENTATION TO BOARD ON THE APRIL 8, 2024, SOLAR ECLIPSE.

7
RESOLUTION NO. 24-151

IN THE MATTER OF APPROVING A CONTRIBUTION AGREEMENT WITH THE NORTHSTAR NEW COMMUNITY AUTHORITY FOR FACILITY UPGRADES AT THE NORTHSTAR WATER RECLAMATION FACILITY:

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with the Northstar New Community Authority for facility upgrades at the Northstar Water Reclamation Facility;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio, hereby approves the following agreement with the Northstar New Community Authority:

CONTRIBUTION AGREEMENT

THIS AGREEMENT is made and entered into on February 26, 2024, by and between the DELAWARE COUNTY BOARD OF COMMISSIONERS (the “County”), and the NORTHSTAR NEW COMMUNITY AUTHORITY (the “Contributor”).

RECITALS

WHEREAS, Northstar Residential Development, LLC (the “Developer”), is the developer of the Northstar

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Development (the "Development"), which is serviced by the County's Northstar Water Reclamation Facility (the "Facility"); and

WHEREAS, the treated wastewater from the Facility is discharged within the Development, pursuant to a land application management plan ("LAMP") through the Ohio Environmental Protection Agency; and

WHEREAS, the County and the Contributor mutually acknowledge and agree that modifications to the LAMP, or alternative permitting options, are necessary and that upgrades to the Facility for full buildout would benefit both the County and the Contributor; and

WHEREAS, the County and the Developer previously cooperated in procuring preliminary and final professional design services necessary to proceed with the proposed modifications and upgrades; and

WHEREAS, based on the design previously procured, the County has solicited and received proposals from qualified construction managers at risk ("CMAR") to proceed with the proposed modifications and upgrades, and the County and the Contributor mutually desire to cooperate regarding the services of a CMAR;

NOW, THEREFORE, in consideration of the foregoing recitals, the County and the Contributor mutually agree as follows:

- 1) Upon execution of this Agreement and upon receipt of invoices for the CMAR services, the County will invoice the Contributor for their proportionate share (which is agreed to be 74%) of the invoice up to Thirty Thousand Dollars (\$30,000 _____), which is mutually agreed to be the Contributor's proportional share of, and contribution toward, the cost and expense of the CMAR pre-construction services contemplated herein. The County shall be responsible for the remainder of the cost and expense of the CMAR pre-construction services.
- 2) The County shall, simultaneous with the execution of this Agreement, enter into a contract with a CMAR as contemplated herein, in accordance with the selection process set forth in sections 9.33, *et seq.*, of the Revised Code. The County shall have sole responsibility for administering the contract with the CMAR but shall keep the Contributor reasonably informed of the progress thereof.
- 3) Pursuant to the contract with the CMAR, the CMAR will submit to the County a guaranteed maximum price ("GMP") proposal. Upon receipt of the GMP proposal, the County shall promptly provide the Contributor with a copy of the GMP proposal. The County and the Contributor shall jointly review the GMP proposal to determine whether to accept the GMP proposal, with or without modifications, and to determine the County's and the Contributor's respective proportionate share of, and contribution toward, the cost and expense of the GMP proposal. The Contributor's proportionate share shall be based on the percentage of work attributable to NPDES permitting requirements, with the County's proportionate share based on the remaining percentage of work attributable to general Facility upgrades. If the County and the Contributor jointly determine to accept the GMP proposal and jointly agree to their respective proportionate shares, then the County and the Contributor shall enter into an amendment of this Agreement. If the County and the Contributor do not agree with respect to the GMP proposal, then the County may, in its sole discretion, elect to cancel the proposed project or proceed, at the County's sole cost and expense, with the project pursuant to a modified scope.

IT WITNESS WHEREOF, the undersigned parties have approved this Agreement.

Vote on Motion

Mr. Benton Absent

Mrs. Lewis Aye

Mr. Merrell Aye

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**8
RESOLUTION NO. 24-152**

IN THE MATTER OF APPROVING AN AGREEMENT WITH PETERSON CONSTRUCTION COMPANY FOR CMAR SERVICES FOR THE NORTHSTAR WATER RECLAMATION FACILITY UPGRADES:

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with Peterson Construction Company for CMAR Services for the Northstar Water Reclamation Facility Upgrades;

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

This Agreement is made as of the date set forth below between the Delaware County Board of Commissioners, and the Construction Manager in connection with the Project.

Project Number:
Project Name: Northstar Water Reclamation Facility Upgrades
Site Address: 2487 Wilson Road
 Sunbury, Ohio, 43074, Delaware County

Owner (“County”): Delaware County
Address: 91 North Sandusky Street
 Delaware, Ohio 43015

Contracting Authority: Delaware County Board of Commissioners
Project Manager: Erik G. McPeek, PE

Construction Manager (“CM”): Peterson Construction Company
CM’s Principal Contact: Robert Knapke
Address: 18817 S.R. 501 North
 Wapakoneta, Ohio, 45895

Architect/Engineer (“A/E”): Hazen & Sawyer
A/E’s Principal Contact: Scott Phipps, PE
Address: 150 E. Campus View Blvd., Suite 200
 Columbus, OH 43235

Article 1-Scope of Work; Construction Budget

1.1 The CM shall perform and provide all of the Work described in the Contract.

1.2 The Total Compensation Budget: \$4,515,000

1.3 The Construction Budget: \$4,515,000

Article 2- Preconstruction Stage Compensation

2.1 The Preconstruction Stage Compensation is \$30,000.00, which is the sum of the (1) Preconstruction Fee, (2) Preconstruction Stage Personnel Costs, and (3) Preconstruction Stage Reimbursable Expenses. The County shall pay the Preconstruction Stage Compensation to the CM in exchange for the CM’s proper, timely, and complete performance of the Preconstruction Services.

2.2 Preconstruction Fee. The CM’s Preconstruction Fee is \$5,000.00 and is subject to the following allocation:

Project Stage/Task	Associated Fee	Portion of Total Fee
Program Verification	\$1,000	20%
Schematic Design	\$1,000	20%
Design Development	\$1,000	20%
Construction Documents	\$1,000	20%
GMP Proposal and Amendment	\$1,000	20%
Total Preconstruction Fee	\$1,000	20%

2.3 Preconstruction Stage Personnel Costs. The CM’s Preconstruction Stage Personnel Costs shall not exceed \$20,000.00, and shall be paid on an hourly basis according to the rates set forth in the Personnel Costs Rate Schedule attached as Exhibit A.

2.4 Preconstruction Stage Reimbursable Expenses. The CM’s Preconstruction Stage Reimbursable

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Expenses shall not exceed \$5,000.00, and shall be paid according to the Preconstruction Stage Reimbursable Expenses Schedule attached as Exhibit B.

Article 3- Construction Stage Compensation

3.1 As described in the General Conditions, the parties will establish the Contract Sum, Contract Times, Milestones, and other commercial terms relevant to the Construction Stage through at least one GMP Amendment, the form of which is attached as Exhibit D.

3.2 The CM shall propose the amount of the CM's Construction Stage Personnel Costs portion of the Cost of the Work as a part of the proposed GMP Amendment; provided, however, that the CM's Construction Stage Personnel Costs shall not exceed \$290,000.00.

3.2.1 The CM's Construction Stage Personnel Costs shall be based upon the rates set forth in the Personnel Costs Rate Schedule attached as Exhibit A.

3.3 The CM shall propose the amount of the General Conditions Costs portion of the Cost of the Work as a part of the proposed GMP Amendment; provided, however, that the General Conditions Costs shall not exceed \$380,000.00.

3.3.1 A detailed description of the items of Work included in the General Conditions Costs portion of The Cost of the Work is set forth in the General Conditions Costs Description attached as Exhibit C.

3.4 The CM shall propose the amount of the CM's Contingency as a part of the proposed GMP Amendment; provided, however, that the CM's Contingency shall not exceed an amount equal to 1.5 percent of the Cost of the Work identified by the CM in the proposed GMP Amendment.

3.4.1 Shared-Savings Change Order. Unless otherwise provided in the GMP Amendment, no more than 30 days before final payment to the CM, the parties shall execute a Change Order to reduce the Contract Sum by an amount equal to (1) 100 percent of the funds then remaining in the CM's Contingency plus (2) an associated reduction of the CM's Fee in an amount equal to 4.0 percent of the amount by which the Contract Sum is reduced on account of return of the CM's Contingency.

3.5 The CM shall propose the amount of the CM's Fee as a part of the proposed GMP Amendment; provided, however, that the CM's Fee shall not exceed an amount equal to 4.0 percent of the Cost of the Work plus the CM's Contingency, both as identified by the CM in the proposed GMP Amendment.

3.6 If the parties cannot agree on a Contract Sum, the County may terminate the Contract for convenience. If the County thereafter decides to pursue the Project using the Multiple-Prime Contract, or General Contractor, with Construction Manager Adviser project-delivery method and to enter into a related construction-management agreement with the CM, the CM's Fee under that contract shall not exceed to 4.0 percent. The County is not obligated to offer or enter into a Construction Manager Adviser contract with the CM for the Project.

Article 4- Key Personnel

4.1 The CM's key personnel for the Project are:

Ty Bergfeld, Project Manager;

Chris Pohlman, Assistant Project Manager;

Brad Rethman, Lead Scheduling Engineer;

Doug Crusey; Lead Estimator;

John Schmiedebusch; General Superintendent.

4.2 The CM's key personnel are authorized to act on the CM's behalf with respect to the Project and all matters concerning the Project.

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Article 5- Consultants**5.1 The CM's Consultants for the Project are:**

5.1.1 Electrical Sub-Consultant
Woolace Electric
1978 County Road 22A
Stryker, OH 43557

5.2 The CM may provide a portion of the Work through one or more Consultants, provided, however, the CM will remain responsible for all duties and obligations of the CM under the Contract.

5.2.1 If the CM engages a Design-Assist Firm, that entity (1) will be considered a Consultant under the Contract during the Preconstruction Stage and (2) before that entity performs any Work during the Construction Stage, it shall be subject to all Applicable Law and Contract provisions concerning the prequalification, bidding, selection, and engagement of Subcontractors and shall enter into a Subcontract with the CM.

5.3 By appropriate written agreement, the CM shall require each Consultant, to the extent of the Consultant's portion of the Work, to be bound to the CM by the terms of the Contract, and to assume toward the CM all of the obligations and responsibilities which the CM assumes toward the County.

5.3.1 The CM shall not retain any Consultant on terms inconsistent with the Contract.

5.3.2 All agreements between the CM and a Consultant shall identify the County as the agreement's intended third-party beneficiary.

5.3.3 The County's receipt and approval of a copy of the agreement between the CM and a Consultant is a condition precedent to the County's obligation to pay the CM on account of the Consultant's services.

5.4 The County has no obligation to pay or see to the payment of money to any Consultant except as otherwise required under Applicable Law.

5.5 The CM shall obtain the County's written approval before engaging any Consultant not named above. The CM shall not employ any Consultant against whom the County has a reasonable objection. The County's approval or disapproval of any Consultant, however, will not relieve the CM of the CM's full responsibility for the performance of the Work.

5.6 The CM shall not remove any Consultant from the Project or reduce the extent of any Consultant's participation in the Work without the County's prior written consent. The CM shall not permit any Consultant to replace any previously identified team member except with the County's prior written consent unless the Consultant ceases to employ that person. On notice from the County, the CM shall immediately and permanently remove from the Project any Consultant or person under a Consultant's control whose performance is not satisfactory to the County.

5.7 The County may communicate with any Consultant either through the CM or directly with the Consultant, but the County may not modify the contract between the CM and any Consultant.

5.8 The CM hereby assigns to the County each Consultant's agreement provided that the assignment is effective only after the County terminates the Contract and only for those agreements which the County accepts by notifying the Consultant and CM in writing. The County may re-assign accepted agreements.

ARTICLE 6 - GENERAL PROVISIONS**6.1 Escalation of Personnel Cost Rates.**

6.1.1 The CM may adjust the rates set forth in the Personnel Costs Rate Schedule attached as Exhibit A in accordance with the CM's normal salary-review practices, but (1) not before the date one year after the date of the Agreement, (2) not more than once in any one-year period thereafter, and (3) not in excess of five percent per annual increase.

6.1.2 No rate increase will (1) apply to any Work performed before the County receives written notice of the increase from the CM, or (2) result in an increase in a previously established fixed or not-to-exceed fee such as under (a) Sections 2.3 and 3.2 of this Agreement, (b) a GMP Amendment, or (c) as the parties may agree upon from time to time in connection with all or any part of the Work.

6.2 Effectiveness.

6.2.1 It is expressly understood by the CM that none of the rights, duties, and obligations described in the Contract Documents shall be valid and enforceable unless the Delaware County Auditor first certifies that there is a balance in the County's appropriation not already encumbered to pay existing obligations.

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6.2.2 Subject to Section 6.2.1, the Contract shall become binding and effective upon execution by the County and CM.

6.2.2.1 If the CM is a joint venture, (1) each individual joint venturer shall (a) sign the Agreement in its own name and (b) be a party to the Contract, and (2) the Contract, Performance Bond, and Payment Bond shall be binding on and apply to all joint venturers jointly and severally.

6.2.2.2 If the CM is a limited liability company, which the Contracting Authority reasonably believes to be a special purpose or similar entity, the Contracting Authority may in its discretion require the limited liability company and each member of the limited liability company to (1) sign the Agreement in its own name and (2) be a party to the Contract. In that case, the Contract, the Performance Bond, and the Payment Bond shall be binding on and apply to the limited liability company and to all of its members jointly and severally.

6.2.3 This Agreement may be executed in several counterparts, each of which shall constitute a complete original Agreement, which may be introduced in evidence or used for any other purpose without production of any other counterparts.

6.3 Representations.

6.3.1 The CM represents and warrants that it is not subject to an unresolved finding for recovery under ORC Section 9.24. If this representation and warranty is found to be false, the Contract is void, and the CM shall immediately repay to the County any funds paid under this Contract.

6.3.2 The CM, by signature on this Agreement, certifies that it is currently in compliance with, and will continue to adhere to, the requirements of Ohio ethics laws and conflict of interest laws and will take no action inconsistent with those laws.

ARTICLE 7 - ENUMERATION OF DOCUMENTS

7.1 The Contract Documents constitute the substance of the Contract, and include this Agreement, the GMP Documents, final Drawings, final Specifications, Addenda if any, Contracting Definitions, General Conditions, Project Manual, and Modifications if any.

7.2 This Agreement includes the following documents:

- 7.2.1 Personnel Costs Rate Schedule attached as Exhibit A;
- 7.2.2 Preconstruction Stage Reimbursable Expenses Schedule attached as Exhibit B;
- 7.2.3 General Conditions Costs Description attached as Exhibit C;
- 7.2.4 GMP Amendment form attached as Exhibit D; and
- 7.2.5 Supplementary Conditions attached as Exhibit E (if applicable).

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

**9
RESOLUTION NO. 24-153**

IN THE MATTER OF APPROVING A SERVICES AGREEMENT WITH CCC ENVIRONMENTAL, LTD. FOR ON-CALL CCTV AND SEWER CLEANING SERVICES:

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

WHEREAS, the Sanitary Engineer recommends approval of an agreement with CCC Environmental, Ltd. for on-call CCTV and sewer cleaning services;

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

SERVICES AGREEMENT

This Services Agreement (the "Agreement") is made and entered into on February 26, 2024, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 ("County"), and CCC Environmental, Ltd., 1210 Stanhope Drive, Columbus, OH 43221 ("Contractor"), hereinafter collectively referred to as the "Parties."

1 SERVICES PROVIDED BY CONTRACTOR

- 1.1 The Contractor will provide on-call CCTV, cleaning, and other services as required (the "Services").
- 1.2 The Contractor shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.

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1.3 The Services are more fully described in and shall be rendered by the Contractor in accordance with the Contractor's Fee Schedule, attached hereto as Exhibit A and, by this reference, fully incorporated herein.

2 SUPERVISION OF SERVICES

2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Sanitary Engineer ("Sanitary Engineer") as the agent of the County for this Agreement.

2.2 The Sanitary Engineer shall have authority to review and order changes, commencement, suspension or termination of the Services performed under this Agreement.

3 AGREEMENT AND MODIFICATIONS

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

4 FEES AND REIMBURSABLE EXPENSES

4.1 Compensation for Services provided under this Agreement shall be in accordance with the Fee Schedule included in Exhibit A.

4.2 Total compensation under this Agreement shall not exceed Seventy-Four Thousand Nine Hundred and Ninety-Nine Dollars and Zero Cents (\$74,999.00) without subsequent modification of this Agreement.

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

5 NOTICES

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

County:

Name: Delaware County Sanitary Engineer's Office
Attn: Ben Nowicki
Address: 1610 State Route 521, Delaware, Ohio 43015
Telephone: (740) 833-2240
Email: bnowicki@co.delaware.oh.us

Contractor:

Name of Principal in Charge: Tony Conie
Address of Firm: 1210 Stanhope Drive
City, State, Zip: Columbus, OH 43221
Telephone: (614) 370-1112
Email: tony@cccenvironmentalservices.com

6 PAYMENT

6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Contractor in accordance with Exhibit A and approved by the Sanitary Engineer.

6.2 Invoices shall be submitted to the Sanitary Engineer by the Contractor on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Contractor shall promptly submit documentation as needed to substantiate said invoices.

6.3 The County shall pay invoices within thirty (30) days of receipt.

7 COMMENCEMENT AND COMPLETION OF SERVICES; DELAYS AND EXTENSIONS

7.1 The Contractor shall commence Services upon written order from the Sanitary Engineer and shall complete the Services as ordered. This Agreement shall remain in effect through December 31, 2024, subject to Sections 4.2 and 8.1 of this Agreement.

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

8 SUSPENSION OR TERMINATION OF AGREEMENT

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

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

9 CHANGE IN SCOPE OF SERVICES

In the event that significant changes to the scope of Services are required during performance of the Services, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall not be effective unless approved in a writing signed by both Parties.

10 INDEMNIFICATION

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

11 INSURANCE

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

11.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.

11.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.

11.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 11.1 and 11.2. Contractor shall require all of its subcontractors to provide like endorsements.

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

12 MISCELLANEOUS TERMS AND CONDITIONS

12.1 Prohibited Interests: Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.

12.2 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.

12.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.

12.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its

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provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.

- 12.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.

- 12.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.

- 12.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.

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

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

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

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

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

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

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

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

**10
RESOLUTION NO. 24-154**

IN THE MATTER OF WAIVING THE DELAWARE COUNTY PORTION OF TIPPING FEES AT THE SOLID WASTE TRANSFER STATION TO SUPPORT 2024 LITTER CONTROL CAMPAIGNS:

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

WHEREAS, the Delaware Public Health District has requested that the Board of County Commissioners waive its portion of the Solid Waste Transfer Station tipping fees in support of litter control campaigns; and

WHEREAS, these litter control campaigns include support of Keep Delaware County Beautiful, an affiliate of Keep America Beautiful to promote the Olentangy Watershed Clean Up and the Scioto River Sweep; and

WHEREAS, the Board of County Commissioners of Delaware County has waived its portion of Solid Waste Transfer Station tipping fees in support of these initiatives in past years;

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Delaware County does hereby waive the Delaware County portion of the Solid Waste Transfer Station tipping fees in support of the aforementioned programs effective April 12, 2024 to June 29, 2024 for the Great American Clean Up, the Olentangy Watershed Clean Up in August 2024 and the Scioto River Sweep in the fall of 2024.

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

11

RESOLUTION NO. 24-155

RESOLUTION OF NECESSITY FOR THE PURCHASE OR LEASE OF A MOTOR VEHICLE FOR THE USE OF THE DELAWARE COUNTY REGIONAL SEWER DISTRICT:

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

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

WHEREAS, the Board has before it a request from the Delaware County Regional Sewer District to expend county monies for the purchase of one new vehicle; and

WHEREAS, the vehicle is available for purchase via the Ohio Department of Transportation Cooperative Purchasing Program (the "Program");

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

Section 1. The Board hereby declares that a necessity exists to purchase one new motor vehicle for use by the Delaware County Sewer District, which is required to replace a 2011 model that was purchased used.

Section 2. The Board hereby declares that the make and model of such vehicle is a 2025 Western Star 49X for a total price of \$179,084.00.

Section 3. The Board hereby declares that the purchase of said vehicle will be from Fyda Freightliner Columbus, Inc., an approved vendor under the Program, in accordance with the Program, pursuant to the contract and terms and conditions set forth in Contract #044-24, which is, by this reference, fully incorporated herein and of which the purchase orders approved herein shall be made a part.

Section 4. The Board hereby approves a purchase order request for a total of \$179,084.00 to Fyda Freightliner Columbus, Inc. in Columbus, Ohio from 66211900-5450.

Section 5. This Resolution shall take immediate effect upon passage.

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

12

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

13

RESOLUTION NO. 24-156

IN THE MATTER OF APPROVING AMENDMENT NO. 1 TO OWNER'S AGREEMENT FOR

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RAVINES AT HOOVER:

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

WHEREAS, the Engineer recommends approving Amendment No. 1 to the Owner’s Agreement for Ravines at Hoover;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves Amendment No. 1 to the Owner’s Agreement for Ravines at Hoover, as follows:

AMENDMENT NO. 1
OWNER’S AGREEMENT
Project Number 23035

This Amendment No. 1 to the Owner’s Agreement dated September 11, 2023 for **Ravines at Hoover**, is made and entered into this 22nd day of February, 2024, by and between **Romanelli and Hughes Building Company** (“Owner”) and the **Board of County Commissioners of Delaware County Ohio** (“County Commissioners”) (hereinafter collectively referred to as the “Parties”).

ARTICLE 1 – AMENDMENT

Both Parties mutually agree to amend the Owner’s Agreement as follows:

- A. The Owner elects to change the Option chosen for this project from Option 2 to Option 1.
- B. The Owner shall execute a bond, certified check, irrevocable letter of credit, or other approved financial warranties in accordance with Option 1 of the Owner’s Agreement.

ARTICLE 2 – REMAINING PROVISIONS

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

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

14
RESOLUTION NO. 24-157

IN THE MATTER OF APPROVING DEVELOPER’S AGREEMENT FOR ORANGE SUMMIT NORTH:

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

WHEREAS, the Engineer recommends approving the Developer’s Agreement for Orange Summit North;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Developer’s Agreement for Orange Summit North, as follows:

DEVELOPER’S AGREEMENT
PROJECT NUMBER: 22100

- 1) The OWNER is constructing a development known as Orange Summit North (the “Development”), which will include a new roadway access to Shanahan Road and contribute to the need for improvements to Shanahan Road or other roadways in the vicinity of the Development which shall be constructed by the COUNTY (the “Improvements”).
- 2) On or before June 1, 2025, the OWNER shall pay to the COUNTY Two Hundred Ninety One Thousand Dollars and No Cents (\$291,000.00), mutually agreed to be the OWNER’S proportional share of, and contribution toward, the cost and expense of the Improvements. OWNER further agrees that such contribution may be used as determined by the COUNTY for improvements to Shanahan Road, or any other public roadway in the vicinity thereof, benefitting the Development.
- 3) The OWNER may provide a bond, irrevocable letter of credit, or other approved financial warranty in the amount of Two Hundred Ninety One Thousand Dollars and No Cents (\$291,000.00), payable to the BOARD OF COUNTY COMMISSIONERS, to insure the faithful performance of this AGREEMENT. Said financial warranty will be released and returned to the OWNER within thirty (30) days of the receipt of payment as required in Section 2 hereof.
- 4) To the extent the OWNER, either directly or through its agents or contractors, performs any work within the COUNTY’s right-of-way, the OWNER shall indemnify and hold the COUNTY free and harmless from any and all claims for damages of every nature arising or growing out of the work.

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- 5) The OWNER further agrees that any violation of or noncompliance with any of the provisions as stipulations of this AGREEMENT shall constitute a breach of contract, and the Delaware County Engineer shall have the right to suspend or terminate any permit for access to or work within the COUNTY right-of-way.
- 6) If the OWNER should become unable to carry out the provisions of this AGREEMENT, the OWNER’S heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this AGREEMENT.
- 7) In consideration whereof, the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO hereby grants to the OWNER or his agent the right and privilege to access the Improvements stipulated herein, subject to the issuance of a right-of-way work permit.

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

**15
RESOLUTION NO. 24-158**

IN THE MATTER OF APPROVING THE PLAT OF SUBDIVISION FOR THE RAVINES AT HOOVER:

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

WHEREAS, The Ravines at Hoover, LLC has submitted the plat of subdivision for The Ravines at Hoover, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of subdivision for The Ravines at Hoover:

The Ravines at Hoover:

Situated in the State of Ohio, County of Delaware, Township of Genoa, Farm Lots 4, 6 and 7, Section 1, Township 3, Range 17, United States Military Lands, being all of that 42.804 acre tract of land as conveyed to Ravines at Hoover, LLC, of record in Official Record 1970, Page 2796, being of record in the Recorder’s Office, Delaware County, Ohio. Cost: \$174.00 (\$3.00 per buildable lot)

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

**16
RESOLUTION NO. 24-159**

IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH THE MANNIK & SMITH GROUP, INC. FOR DEL-CR30-2.80~SUNBURY ROAD AND BIG WALNUT IMPROVEMENTS:

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

WHEREAS, section 305.15 of the Revised Code provides that a Board of Commissioners may enter into contracts with any person, firm, partnership, association, or corporation qualified to perform engineering services in the state; and

WHEREAS, the County Engineer has received proposals from consulting firms interested in providing services for the project known as DEL-CR30-2.80~Sunbury Road and Big Walnut Improvements; and

WHEREAS, the County Engineer has selected the consulting firm of The Mannik & Smith Group, Inc., through a qualifications based selection process, has negotiated a fee and agreement to provide the required services for general engineering, and requests that the Board enter into Contract with said firm;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the following Professional Services Agreement:

**PROFESSIONAL SERVICES AGREEMENT
DEL-CR30-2.80~ Sunbury Road and Big Walnut Road Improvements
Contract #E1807**

This Agreement is made and entered into this 26th day of February, 2024, by and between the **Delaware County Board of Commissioners**, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015

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(“County”), and **The Mannik & Smith Group, Inc.**, 1160 Dublin Road, Suite 100, Columbus, Ohio 43215, (“Consultant”), each individually referred to herein as a “Party” and collectively referred to as the “Parties.”

1 SERVICES PROVIDED BY CONSULTANT

- 1.1 The Consultant shall provide professional design services to the County for the road improvement project known as Sunbury Road and Big Walnut Road Improvements (DEL-CR30-2.80, PID 1807), consisting of a single-lane modern roundabout with lighting and drainage improvements at the intersection of Sunbury Road and Big Walnut Road, with such professional design services including the preparation of construction and right of way plans (the “Services”).
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 The Services shall be more fully described in, and rendered by the Consultant in accordance with, the following documents, to be retained and on file with each Party, and by this reference fully incorporated into this Agreement:
- 1.3.1 Scope of Services last revised: January 17, 2024
1.3.2 Scope Narrative last revised: January 4, 2024
1.3.3 Mannik & Smith Group Scope and Fee Proposal last revised: January 16, 2024

2 SUPERVISION OF SERVICES

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

3 AGREEMENT AND MODIFICATIONS

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

4 FEES AND REIMBURSABLE EXPENSES

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Fee Proposal and other documents enumerated in Section 1.3 and as follows:
- a. For all Services described in the Scope and Fee Proposal as “Base Fee,” the lump sum fee shall be **\$234,689.00**.
- b. For all Services described in the Scope of Services and Fee Proposal as “If Authorized,” payment shall be made based on a lump sum amount authorized by the Project Manager for each authorized task as specified in the Fee Proposal, the total of which shall not exceed **\$54,289.00**.
- 4.2 The Project Manager may authorize partial lump sum payments for itemized tasks in “If Authorized Services” with written consent of the Consultant when the Project Manager determines the necessity therefor.
- 4.3 Total compensation under this Agreement shall not exceed **\$288,978.00** without a subsequent written modification signed by both Parties.
- 4.4 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the Services as set forth in the Scope of Services.

5 NOTICES

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

County Engineer:

Name: Delaware County Engineer
Attn: Tiffany A. Jenkins, P.E.

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Address: 1610 State Route 521, P.O. Box 8006, Delaware, Ohio 43015

Telephone: 740-833-2400

Email: tjenkins@co.delaware.oh.us

Consultant:

Name of Principal in Charge: The Mannik & Smith Group, Inc.
Donald R Kitzmiller, P.E.

Address of Firm: 1160 Dublin Road, Suite 100

City, State, Zip: Columbus, Ohio 43215

Telephone: 614-441-4222

Email: dkitzmill@manniksmithgroup.com

6 PAYMENT

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

7 NOTICE TO PROCEED; COMPLETION; DELAYS AND EXTENSIONS

- 7.1 The Consultant shall commence Services upon written Notice to Proceed ("Authorization") from the Project Manager and shall complete the Services by June 1, 2025.
- 7.2 Consultant shall not proceed with any "If Authorized" tasks without written Authorization.
- 7.3 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Consultant may make a written request for time extension, and the Project Manager may grant such an extension provided that all other terms of the Agreement are adhered to.

8 SUSPENSION OR TERMINATION OF AGREEMENT

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

9 CHANGE IN SCOPE OF SERVICES

- 9.1 In the event that significant changes to the Scope of Services are required during performance of the Services, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall not take effect unless and until approved in a writing signed by both Parties.

10 OWNERSHIP

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

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

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

11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT

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

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

12 INDEMNIFICATION

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

13 INSURANCE

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

13.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.

13.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.

13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the services hereunder. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.

13.5 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 13.1 and 13.2. Consultant shall require all of its subcontractors to provide like endorsements.

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

14 MISCELLANEOUS TERMS AND CONDITIONS

14.1 Prohibited Interests: Consultant agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Consultant further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.

14.2 Independent Contractor: The Parties acknowledge and agree that Consultant is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Consultant also agrees that, as an independent contractor, Consultant assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Consultant**

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

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

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

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

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

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

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RESOLUTION NO. 24-160

IN THE MATTER OF AWARDING A BID AND APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND BRENNSTUHL CONSTRUCTION INC. FOR THE LANETTA LANE DRAINAGE IMPROVEMENT PROJECT:

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

Lanetta Lane Drainage Improvement Project Bid Opening of February 2, 2024

WHEREAS, as the result of the above referenced bid opening, the County Engineer recommends that a bid award be made to Brennstuhl Construction Inc., the low bidder for the project; and

WHEREAS, the County Engineer recommends approval of the contract between the Delaware County Commissioners and Brennstuhl Construction Inc., 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 Brennstuhl Construction Inc., for the Lanetta Lane Drainage Improvement Project:

CONTRACT

THIS AGREEMENT is made this 26th day of February, 2024, by and between Brennstuhl Construction Inc. 500 South Main Street Bellville Ohio 44818, 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 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 “Lanetta Lane 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 EIGHTY-NINE THOUSAND EIGHT HUNDRED TWENTY-THREE DOLLARS AND EIGHTY-SIX CENTS (\$89,823.86), 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 Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Absent

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RESOLUTION NO. 24-161

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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:

PERMIT #	APPLICANT	LOCATION	TYPE OF WORK
UT2024-0041	COLUMBIA GAS	HYATTS ROAD	EXCAVATE TEST POT HOLE
UT2024-0042	SPECTRUM	CAMPDEN LAKES	ROAD BORE
UT2024-0043	COLUMBIA GAS	HYATTS ROAD	INSTALL GAS LINE
UT2024-0044	VERIZON	GREENLAWN DRIVE	UTILITY POLE INSTALLATION
UT2024-0045	AEP	PIATT ROAD	REPLACE & INSTALL POLES
UT2024-0046	AEP	E ORANGE RD	REPLACE POLES

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

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ADMINISTRATOR REPORTS**

CA Daviess – Nothing to report.

DCA Huston – Nothing to report.

Attorney Hochstettler – Nothing to report

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COMMISSIONERS’ COMMITTEES REPORTS**

Commissioner Lewis – Nothing to report

Commissioner Merrell – Attended the EMS Oath of Office Ceremony on 02/23/24, also attended the Mock Convention at OWU on 02/24/24

There being no further business, the meeting adjourned.

Jeff Benton

Barb Lewis

Gary Merrell

Jennifer Walraven, Clerk to the Commissioners