

**COMMISSIONERS JOURNAL NO. 80 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD, MAY 9, 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

**1
RESOLUTION NO. 24-374**

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD MAY 6, 2024:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on May 6, 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 Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

**2
PUBLIC COMMENT**

**3
RESOLUTION NO. 24-375**

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR 0508, MEMO TRANSFERS IN BATCH NUMBERS MTAPR 0508:

It was moved by Mr. Benton, seconded by Mrs. Lewis, to approve Then and Now Certificates, payment of warrants in batch numbers CMAPR 0508, memo transfers in batch numbers MTAPR 0508, and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
(P2402980) Office City Express	Capital Projects	42311453-5450	\$22,949.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Account</u>	<u>Amount</u>
R2403231	SANITARY ENGINEER	CONCORD SCIOTO MILLAGE - ADMINISTRATIVE EXPENSES	66911900 - 5301	\$9,755.00

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

**4
RESOLUTION NO. 24-376**

IN THE MATTER OF A TRANSFER OF FUNDS:

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

Transfer of Funds		
From:	To:	
10011102-5801	42011438-4601	\$857,175.97
Commissioners General/Cash Transfer	Capital Improvements Reserve/Interfund Revenues	

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

**COMMISSIONERS JOURNAL NO. 80 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD, MAY 9, 2024**

**5
RESOLUTION NO. 24-377**

IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS AND A REDUCTION OF APPROPRIATIONS

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

Supplemental Appropriations		
10031301-5301	Sheriff Deputies/Contracted Prof Services	14,200.00
10031301-5320	Sheriff Deputies/Software and Computer Services	60,000.00
Appropriation Reduction		
42311453-5450	Capital Acquisitions & Project/Machinery & Equip (>\$5,000)	74,200.00

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

**6
RESOLUTION NO. 24-378**

IN THE MATTER OF RECOMMENDING A MEMBER TO BE RE-APPOINTED TO THE DELAWARE AIRPORT COMMISSION:

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

WHEREAS, the City of Delaware, Ohio has created and established an Airport Commission for the City in Chapter 175, Ordinance 00-50 of the Code of Ordinances; and

WHEREAS, one (1) member of the Airport Commission must be recommended for appointment by the Delaware County Board of Commissioners (the "Board of Commissioners"); and

WHEREAS, the term of the current member recommended by the Board of Commissioners will expire June 30, 2024, and the member occupying that seat has applied for re-appointment;

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

Section 1. The Board hereby recommends the re-appointment of Christopher Acker as a member of the Delaware Airport Commission for the term commencing on July 1, 2024 and ending on June 30, 2027.

Section 2. The Clerk of the Board is directed to cause delivery of a copy of this Resolution upon the Mayor of the City of Delaware.

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

**7
RESOLUTION NO. 24-379**

IN THE MATTER OF APPROVING A CONSTRUCTION SERVICES AGREEMENT FOR DEL-TR1478-0.39 WHICH INCLUDES CONSTRUCTION OF A 602-FOOT SHARED USE PATH ALONG RAIL TIMBER WAY IN ORANGE TOWNSHIP:

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

WHEREAS, on December 20, 2004, the Delaware County Board of Commissioners (the "Board") adopted Resolution No. 04-1565, establishing the Olentangy Crossings Redevelopment Tax Equivalent Fund for the purpose of financing public infrastructure improvements that benefit the Olentangy Crossing TIF area; and

WHEREAS, the County Engineer recommends that, for the benefit of the public and, more specifically, the property within the Olentangy Crossing TIF area, the Board construct a 602-foot segment of shared use path along Rail Timber Way as depicted in the construction plans prepared by the County Engineer entitled DEL-TR1478-0.39 (the "Project"); and

WHEREAS, the Board has determined that expenses for the Project are eligible and appropriate uses of Olentangy Crossing TIF revenues, pursuant to Resolution No. 04-1565; and

WHEREAS, the County Engineer has received a proposal from Strawser Paving Company to construct the Project for a cost not to exceed \$74,962.61;

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

**COMMISSIONERS JOURNAL NO. 80 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD, MAY 9, 2024**

Section 1. The Board hereby finds and determines that the Project provides direct benefit to the property within the Olentangy Crossing TIF area, as described in Resolution No. 04-1565, and that the Project is an eligible public infrastructure improvement to be paid from the Olentangy Crossings Redevelopment Tax Equivalent Fund.

Section 2. The Board hereby approves the following Construction Services Agreement:

CONSTRUCTION SERVICES AGREEMENT

This Agreement is made and entered into on May 9, 2024, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Strawser Paving Company, 1595 Frank Road, Columbus, Ohio 43223 (“Contractor”), hereinafter collectively referred to as the “Parties.”

1 SERVICES PROVIDED BY CONTRACTOR; SPECIFICATIONS

- 1.1 The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation/traffic maintenance services, and perform and complete all work required for the construction of the improvements embraced in the project known as “DEL-TR 1478-0.39 Rail Timber Way Shared Use Path Project”, and required supplemental work for the project (collectively, the “Services”).
- 1.2 The Services shall be rendered by the Contractor in strict accordance with the plans and specifications for DEL-TR 1478-0.39 Rail Timber Way Shared Use Path Project, as approved by the Delaware County Engineer, and the Contractor’s Bid Proposal, dated April 29, 2024 (the “Proposal”). The plans, specifications, and Proposal are incorporated by reference made herein.
- 1.3 The State of Ohio, Department of Transportation, Construction and Material Specifications, dated January 1, 2023, and the noted Proposal Notes, Special Provisions, Supplemental Specifications and Standard Construction Drawings shall govern the Services unless otherwise directed by the Delaware County Engineer. Within the State of Ohio, Department of Transportation, Construction and Material Specification, wherever the word “State” occurs, it is to mean County. Wherever the word “Department” occurs, it is to mean County. Wherever the words “Director”, “Deputy Director” or “Engineer” occur or any other reference to a State of Ohio employee, it is to mean the Delaware County Engineer.
- 1.4 In the event of a conflict between the terms and conditions stated in this Agreement, consisting of pages 1 through 5, and any of the documents incorporated by reference herein, the following order of precedence shall apply: (a) the terms and conditions stated herein; (b) the plans and specifications as approved by the Delaware County Engineer; (c) the State of Ohio, Department of Transportation, Construction and Material Specifications; (d) the Proposal.

2 SUPERVISION OF SERVICES

- 2.1 The County hereby designates the Delaware County Engineer as the agent of the County for this Agreement.
- 2.2 The Delaware County Engineer shall have the authority to review changes to, and commencement or suspension 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 COMPENSATION

- 4.1 The County shall pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Proposal for the respective items of work completed for the sum not to exceed Seventy-Four Thousand Nine Hundred Sixty-Two Dollars and Sixty-One Cents (\$74,962.61) subject to additions and deductions as the Parties may mutually agree in writing.
- 4.2 The compensation specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, tools, and materials necessary to complete the Services.

5 PAYMENT

**COMMISSIONERS JOURNAL NO. 80 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD, MAY 9, 2024**

- 5.1 Compensation shall be paid in accordance with the Proposal, based on invoices submitted by the Contractor and approved by the Delaware County Engineer.
- 5.2 Invoices shall be submitted to the Delaware County 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.
- 5.3 The County shall pay invoices within thirty (30) days of receipt.

6 COMMENCEMENT; EXTENSIONS

- 6.1 The Contractor shall commence Services upon written order from the Delaware County Engineer and shall complete the Services promptly, diligently, and in a workmanlike manner, all in accordance with the plans and specifications.
- 6.2 In the event that unforeseen and unavoidable delays prevent the timely completion of the Services, the Contractor may make a written request for time extension, and the Delaware County Engineer may grant such an extension, provided that all other terms of the Agreement are adhered to.

7 INDEMNIFICATION

- 7.1 The Contractor shall indemnify, defend 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.

8 INSURANCE; BONDS

- 8.1 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.
- 8.2 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.
- 8.3 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.
- 8.4 Additional Insureds: Delaware County, its elected officials and employees, shall be included as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 8.1 and 8.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 8.5 Proof of Insurance: Prior to the commencement of any work 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 work under this Agreement.
- 8.6 Performance Bond: The Contractor shall furnish a performance and payment bond as security for faithful performance of this Agreement and for the payment of all persons performing labor on the project under this Agreement and furnishing materials in connection with this Agreement. The surety on such bond shall be a duly authorized surety company satisfactory to the County. The bond shall be for one hundred percent (100%) of the contract price. The bond shall meet the requirements of O.R.C. 153.54. Attorneys-in-Fact who sign a bond must file with each bond a certified and effectively dated copy of their power of attorney.
- 8.7 Guarantee Period: The Contractor shall guarantee all materials and equipment furnished for a period of one year from the date of Substantial Completion. The Contractor warrants and guarantees for a period of one year from the date of Substantial Completion of the improvement that it is free from all defects due to faulty materials or workmanship, and the Contractor shall promptly make corrections as may be necessary by reason of such defects. The County will give

**COMMISSIONERS JOURNAL NO. 80 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD, MAY 9, 2024**

notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make repairs, adjustments, or other work, which may be made necessary by such defects, the County may do so and charge the Contractor the cost thereby incurred. The Performance Bond shall remain in full force and effect through the guarantee period.

9 MISCELLANEOUS TERMS AND CONDITIONS

- 9.1 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.
- 9.2 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.**
- 9.3 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.
- 9.4 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.
- 9.5 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.
- 9.6 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.
- 9.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 9.8 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.
- 9.9 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 work 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.
- 9.10 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

**COMMISSIONERS JOURNAL NO. 80 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD, MAY 9, 2024**

faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.

- 9.11 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of work 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. 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 work 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 Aye

8

ADMINISTRATOR REPORTS

CA Davies – attended a Board of Elections board meeting; they will be needing more voting machines before the presidential election. Attended the DCFA retreat and meeting on 05/08/24.

DCA Huston – nothing to report.

Attorney Hochstettler – nothing to report.

9

COMMISSIONERS' COMMITTEES REPORTS

Commissioner Lewis – nothing to report.

Commissioner Benton – will be attending a water tower tank jacking on 05/11/24; attended the DCFA meeting on 05/08/24; also attended the Ohio Chamber “State of Business” event last week.

Commissioner Merrell – will be attending the MORPC meeting today at 1:30 pm.

10

RESOLUTION NO. 24-380

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

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

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

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

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

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

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

**COMMISSIONERS JOURNAL NO. 80 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD, MAY 9, 2024**

Section 1. The Board hereby adjourns into executive session for consideration of Employment and Compensation of a Public Employee or Public Official.

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

**11
RESOLUTION NO. 24-381**

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

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

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

There being no further business, the meeting adjourned.

Jeff Benton

Barb Lewis

Gary Merrell

Jennifer Walraven, Clerk to the Commissioners