

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

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

Present: Glenn A. Evans, Kristopher W. Jordan, James D. Ward

PUBLIC COMMENT

Brian Galligher, FEMA Declaration from the Wind Storm has been signed.

RESOLUTION NO. 08-1270

IN THE MATTER OF APPROVING THE RESOLUTIONS AND RECORDS OF THE PROCEEDINGS FROM REGULAR MEETING HELD OCTOBER 23, 2008 AS CONTAINED IN THE COUNTY’S OFFICIAL ELECTRONIC RECORDINGS OF THE PROCEEDINGS:

It was moved by Mr. Ward, seconded by Mr. Evans to approve the resolutions and records of the proceedings from regular meeting held October 23, 2008 as contained in the county’s official electronic recordings of the proceedings.

Vote on Motion Mr. Evans Aye Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 08-1271

IN THE MATTER OF APPROVING PURCHASE ORDERS, VOUCHERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1024:

It was moved by Mr. Evans, seconded by Mr. Ward to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1024 and Purchase Orders and Vouchers as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO's			
Kirk Williams	HVAC Boiler Replacement	40111402-5410	\$ 161,000.00
Ditch Maintenance	Basinger main and laterals	40311419-5328	\$ 14,781.90
Ditch Maintenance	Jone-Timms	40311422-5328	\$ 8,000.00
Increases			
Downes Hurst and Fishel	Legal Services	66290401-5361	\$ 11,722.41
Buehlers	Job and Family Services	22411602-5294	\$ 5,000.00
Meijer (add a line)	Job and Family Services	22411602-5294	\$ 3,500.00
JFS	Utilities	22411602-5348	\$ 5,000.00
Design Group	Architect Courts	40411444-5410	\$ 75,000.00
Vouchers			
Allied Tech	Emergency Pumping System	66290408-5335	\$ 9,900.00
Siemens	Bioxide Chemical	66290407-5290	\$ 15,786.54
Central Ohio Contractors	Sludge Disposal	66290403-5380	\$ 7,754.74
Malcolm Pirnie Inc.	Residuals Master Plan OECC	66290301-5301	\$ 268,963.47
State Of Ohio Treasurer	Crippled Children BCMH	10011102-5319	\$ 11,699.92
Kardex	Shelving Unit Willis	40111402-5410	\$ 120,812.00
City of Delaware	Prosecutor Fee Municipal	10011102-5301	\$ 14,630.00
Crabbe Brown	Legal Fees Sheriff	10011102-5361	\$ 4,382.41
Trident	Security	10011102-5301	\$ 8,113.14
Nikou	Day Care	22411610-5348	\$ 5,780.96
T & J Junior Academy	Day Care	22411610-5348	\$ 7,393.12
Delaware City School	Day Care	22411610-5348	\$ 7,220.69
Delaware City School	Day Care	22411610-5348	\$ 5,504.74
Delaware City School	Day Care	22411610-5348	\$ 11,022.55
Ameritcon Inc.	Repair of Clarifiers at OECC	66690302-5450	\$ 45,191.00
Limbach	HVAC CFOA	43111424-5410	\$ 59,511.00
Central Fire	Fire Protection CFOA	4311424-5410	\$ 18,678.76
Design Group	Design Services Courts Building	40411414-5410	\$ 83,831.38

Vote on Motion Mr. Jordan Aye Mr. Evans Aye Mr. Ward Aye

RESOLUTION NO. 08 -1272

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

It was moved by Mr. Ward, seconded by Mr. Evans to approve the following:

The Administrative Services Department is requesting that Cathleen Paulus attend a Workplace Safety

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

Congress in Worthington, Ohio October 28, 2008, at the cost of \$295.00.

The Emergency Management Agency is requesting that Brian Galligher attend a Class to Teach ICS 300 in Mercer County November 8, 2008, at no cost.

The Emergency Management Agency is requesting that Brian Galligher attend an Instruction Class on ICS 300 and 400 in Franklin County November 4-6, 2008, at no cost.

Juvenile Court is requesting that Pat Martin, Faith Walzak and Dodie Davenport attend a Mediation Round Table for Truancy in Columbus, Ohio September 12, 2008, at the cost of \$15. 00.

The Administrative Services Department is requesting that Dawn Huston and Lisa Iannotta attend a ADA Briefing in Columbus, Ohio November 12, 2008, at no cost.

The Engineer’s Office is requesting that Chris McGrew, Ron Ford John Russell, Jim Drumon and Phil Viers attend a 2008 Superintendent and Mechanics Conference in Mt. Sterling, Ohio October 22-23, 2008, at the cost of \$120.00.

The Engineer’s Office is requesting that Cathleen Paulus attend a American Traffic Safety Services Association Conference in Columbus, Ohio February 23, 2009, at the cost of \$125.00

Juvenile Court is requesting that Patty Cram attend a Preventing Child Abuse Meeting in Columbus, Ohio November 21, 2008, at the cost of \$20.00.

Vote on Motion Mr. Ward Aye Mr. Jordan Nay Mr. Evans Aye

RESOLUTION NO. 08-1273

IN THE MATTER OF APPROVING THE ANNUAL SUBSCRIPTION ADDENDUM OF THE SOFTWARE
LICENSE AGREEMENT WITH AFFIDAVIT MAKER FOR THE DELAWARE COUNTY SHERIFF’S OFFICE:

It was moved by Mr. Evans, seconded by Mr. Ward to approve the following:

Affidavit Maker
Software License
Agreement

This Addendum shall become part of and incorporated into the agreement entered into on October 21, 2004 by and between Affidavit Maker Software L.L.C. (“Licensor”), a Limited Liability Company having principle offices at Springfield, Ohio and the undersigned customer, the Delaware County Sheriff’s Office, 149 North Sandusky Street, Delaware, Ohio 43015, a County Law Enforcement Agency (“Licensee”). The Agreement and Addendum determine the rights and licenses granted to the Licensee in the Licensed Software Supplied by the Licensor hereunder.

LICENSE FEES AND CHARGES

The license fees and charges for the Licensed Product shall be calculated by the number of sworn Law Enforcement Officers who serve the Licensee on the effective date of this License Agreement, multiplied by the then current fees and charges for the Licensed Product.

The number of sworn Law Enforcement Officers who serve the Licensee on the effective date of this License Agreement and the current fees and charges for the Licensed Product follow:

82 personnel multiplied by \$23.00/person

Affidavit Maker Main Module	\$1,886.00
Affidavit Maker Juvenile Module	\$ 679.00
Affidavit Maker Video Training	no charge this term

The Term of this Agreement shall be
November 1, 2008 though October 31, 2009.

TOTAL DUE November 1, 2008 \$2,565.00

CUSTOMER PROGRAMMING FEES

During the term of this License Agreement, system consultation services, data conversion services, incorporation of Municipal Ordinances into the Licensed Product, and other services performed by Licensor shall be performed at an hourly rate of \$100.00 per hour.

Licensed Software installation on Licensed CPU’s other than those specified in Article 4 shall be performed at the rate of \$400.00 per year per CPU.

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

ANNUAL MAINTENANCE

Licensee shall be permitted to enter into annual Maintenance Agreements at pricing calculated by the number of sworn Law Enforcement Officers who serve the Licensee on the effective date of the Annual Maintenance Agreements. The Annual Maintenance Agreements shall be at the then current fees and charges for Annual Maintenance, provided that Annual Maintenance for the Main Affidavit Maker module shall not increase more than five percent (5%) per annum.

Should Licensee take advantage of the provisions of Section 4 (E) of this agreement and obtain additional software module(s) from Licensor, the Annual Maintenance for those additional module(s) shall be at the then current Fees and charges for Annual Maintenance of the Module(s) and shall be in addition to the Annual Maintenance for the Main Affidavit Maker Module. Annual Maintenance charges for these additional module(s) shall not increase more than five percent (5%) per annum from the initial Annual Maintenance fee of the additional module(s).

Vote on Motion Mr. Evans Aye Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 08-1274

IN THE MATTER OF ACCEPTING ROADS AND APPROVING RECOMMENDED SPEED LIMITS FOR SUMMERWOOD LAKES SECTION 1:

It was moved by Mr. Ward, seconded by Mr. Evans to release bonds and letters of credit and accept roads within the following:

Summerwood Lakes Section 1

The roadways to be accepted are as follows:

- An addition of 0.32 mile to **Township Road Number 1242, Streamside Drive**
- **Indian Summer Drive**, to be known as **Township Road Number 1595**

The Engineer also recommends that 25 mile per hour speed limits be established throughout the project.

The Engineer also request approval to return the Letter of Credit being held as maintenance surety to the developer, Homewood Corporation.

Vote on Motion Mr. Jordan Aye Mr. Evans Aye Mr. Ward Aye

RESOLUTION NO. 08-1275

IN THE MATTER OF ESTABLISHING STOP CONDITIONS FOR SUMMERWOOD LAKES SECTION 1:

It was moved by Mr. Ward, seconded by Mr. Evans to establish stop conditions for the following:

Stop Conditions – Summerwood Lakes Section 1

- On Township Road Number 1242, Streams ide Drive, at its intersection with Township Road Number 35, South 3B's & K Road
- On Township Road Number 1242, Streamside Drive, at its intersection with Township Road Number 1242, Streamside Drive (loop street)
- On Township Road Number 1595, Indian Summer Drive, at its intersection with Township Road Number 1242, Streamside Drive

Vote on Motion Mr. Ward Aye Mr. Jordan Aye Mr. Evans Aye

RESOLUTION NO. 08-1276

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

It was moved by Mr. Evans, seconded by Mr. Ward to approve the following work permits:

Permit #	Applicant	Location	Type of Work
U08-109	COLUMBIA GAS	HYATTS RD	INSTALL GAS MAIN
U08-110	SURBURBAN GAS	KINGSBURY RD	INSTALL GAS MAIN
U08-112	AT&T	FREEMAN RD	TRENCH UNDER ROAD
U08-111	WOW	SOUTH OLD STATE RD	PLACE CABLE IN ROW

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

U08-113	COLUMBIA GAS	PLUMB RD	INSTALL GAS MAIN			
Vote on Motion	Mr. Evans	Aye	Mr. Jordan	Aye	Mr. Ward	Aye

RESOLUTION NO. 08-1277

IN THE MATTER OF AWARDING THE BID TO AND APPROVING THE CONTRACT WITH B&K LEHNER EXCAVATING LLC FOR THE SHEETS #318 DITCH PETITION PROJECT:

It was moved by Mr. Ward, seconded by Mr. Evans to approve the following:

Sheets #318 Ditch Improvement Project Bid Opening of October 20, 2008

As the result of the above referenced bid opening, we recommend that an award be made to B&K Lehner Excavating LLC, the low bidder for the project. A copy of the bid tabulation is attached for your information.

Two copies of the Contract with B&K Lehner Excavating LLC are available for your approval.

CONTRACT

AGREEMENT, made and entered into this 27th day of October, 2008, by and between the DELAWARE COUNTY COMMISSIONERS, Delaware County, Ohio, and hereinafter designated as FIRST PARTY, and B&K LEHNER EXCAVATING LLC hereinafter designated as SECOND PARTY.

WITNESSETH, that said SECOND PARTY, for and in consideration of the sum of FORTY FIVE THOUSAND FOUR HUNDRED NINETEEN DOLLARS AND NINETY CENTS (\$45,419.90), based on unit prices on the attached Bid Blank, to be paid as hereinafter specified, hereby agrees to furnish unto said FIRST PARTY, all the necessary material, labor and equipment required to complete the project known as Sheets #318 Ditch Improvement Project, in accordance with plans, drawings, general specifications, Invitation to Bid for same hereto attached; which plans, drawings, general specifications and Invitation to Bid are hereby declared to be a part of this Contract.

SAID SECOND PARTY further agrees to furnish said materials and to do the said work and labor promptly, in a good, substantial and workmanship manner, under the direction of the Delaware County Engineer and Delaware County Soil and Water Conservation District. The owner intends that this project be finished no later than December 19th, 2008.

THE SECOND PARTY hereby agrees to indemnify and hold the County free and harmless from any and all claims for damages, costs, expenses, judgments or decrees, resulting from any operations of said SECOND PARTY, his sub-contractors, agents or employees.

Vote on Motion	Mr. Jordan	Aye	Mr. Evans	Aye	Mr. Ward	Aye
----------------	------------	-----	-----------	-----	----------	-----

RESOLUTION NO. 08-1278

IN THE MATTER OF APPROVING PERSONNEL ACTIONS:

It was moved by Mr. Evans, seconded by Mr. Ward to approve the following:

Anetrice Saunders has resigned her position with the Department of Job and Family Services; effective October 15, 2008.

Vote on Motion	Mr. Evans	Aye	Mr. Jordan	Aye	Mr. Ward	Aye
----------------	-----------	-----	------------	-----	----------	-----

RESOLUTION NO. 08-1279

IN THE MATTER OF AMENDING THE CHILD CARE PROVIDER CONTRACTS BETWEEN THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, THE DELAWARE COUNTY COMMISSIONERS AND CHILD CARE PROVIDERS AS LISTED:

It was moved by Mr. Ward, seconded by Mr. Evans to approve the following:

Kindercare Learning Center

AMENDMENT TO PURCHASE OF CHILD CARE SERVICES CONTRACT
AMENDMENT NO. 2

This amendment, effective September 24, 2008, is to amend the Purchase of Child Care Services Contract between the Delaware County Department of Job and Family Services and Kindercare Learning Center 96

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

Neverland Dr. entered into on the 1st day of January 2008.

Article 4. Cost and Delivery of Purchased Services:

(A) Payment Rates: The total amount of services to be reimbursed under this contract is increased from \$300,000.00 to \$450,000.00.

Vote on Motion Mr. Jordan Aye Mr. Evans Aye Mr. Ward Aye

RESOLUTION NO. 08-1280

IN THE MATTER OF AMENDING THE CHILD PLACEMENT SERVICES CONTRACTS BETWEEN THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, THE DELAWARE COUNTY COMMISSIONERS AND PROVIDERS AS LISTED:

It was moved by Mr. Ward, seconded by Mr. Evans to approve the following:

The Bair Foundation

AMENDMENT TO CONTRACT
For
Child Placement and Related Services
AMENDMENT NO. 1

This Amendment, effective October 9, 2008, is to amend the Contract for Child Placement and Related Services between the Delaware County Department of Job and Family Services, a department of the Delaware County Commissioners, and The Bair Foundation, entered into on the 1st day of July, 2008.

- I. Article IV. Reimbursement for Placement Services: Changes the amount reimbursable under the contract from \$10,000.00 to \$260,000.00.

Starr Commonwealth

AMENDMENT TO CONTRACT
For
Child Placement and Related Services
AMENDMENT NO. 1

This Amendment, effective October 9, 2008, is to amend the Contract for Child Placement and Related Services between the Delaware County Department of Job and Family Services, a department of the Delaware County Commissioners, and Starr Commonwealth, entered into on the 1st day of July, 2008.

- II. Article IV. Reimbursement for Placement and Related Services: Changes the amount reimbursable under the contract from \$170,000.00 to \$360,000.00.

Christian Children’s Home of Ohio

AMENDMENT TO CONTRACT
For
Child Placement and Related Services
AMENDMENT NO. 1

This Amendment, effective October 9, 2008, is to amend the Contract for Child Placement and Related Services between the Delaware County Department of Job and Family Services, a department of the Delaware County Commissioners, and Christian Children’s Home of Ohio, entered into on the 1st day of July, 2008.

- III. Article IV. Reimbursement for Placement Services: Changes the amount reimbursable under the contract from \$25,000.00 to \$90,000.00.

Vote on Motion Mr. Ward Aye Mr. Jordan Aye Mr. Evans Aye

RESOLUTION NO. 08-1281

IN THE MATTER OF APPROVING THE AGREEMENT BETWEEN THE DELAWARE COUNTY COMMISSIONERS; THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES , AS ADMINISTRATIVE AGENT OF THE DELAWARE COUNTY FAMILY AND CHILDREN FIRST COUNCIL, AND THE DELAWARE COUNTY BOARD OF DEVELOPMENTAL DISABILITIES FOR THE HELP ME GROW PROGRAM:

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008**

It was moved by Mr. Evans, seconded by Mr. Ward to approve the following agreement:

**2008-2009 CONTRACT
FOR THE PURCHASE OF SERVICES
BETWEEN THE DELAWARE COUNTY
DEPARTMENT OF JOB AND FAMILY SERVICES
AS ADMINISTRATIVE AGENT OF THE DELAWARE COUNTY FAMILY AND CHILDREN FIRST COUNCIL
AND
DELAWARE COUNTY BOARD OF DEVELOPMENTAL DISABILITIES**

This Contract is entered into this 1st day of October, 2008 by and between the Delaware County Department of Job and Family Services (hereinafter, "DCDJFS"), whose address is 140 North Sandusky Street, 2nd Floor, Delaware, Ohio 43015, the Delaware County Board of County Commissioners (hereinafter, "Board"), whose address is 101 North Sandusky Street, Delaware, Ohio 43015, and the Delaware County Board of Developmental Disabilities (hereinafter, "MRDD") whose address is 106 Stover Drive, Delaware, Ohio 43015 (hereinafter collectively, the "Parties").

PRELIMINARY STATEMENTS

WHEREAS, the Delaware County Family and Children First Council seeks qualified therapists to assist with the Help Me Grow program, and

WHEREAS, MRDD is qualified and willing to provide required services.

STATEMENT OF THE AGREEMENT

NOW, THEREFORE, the Parties mutually agree as follows:

1. PURPOSE OF CONTRACT:

MRDD hereby agrees to provide recruitment and training of qualified therapists to assist with the Help Me Grow program and compensate those therapists for services provided.

2. TERM:

This Agreement shall be effective October 1, 2008 through June 30, 2009.

3. SCOPE OF SERVICES/DELIVERABLES:

MRDD shall recruit a team of credentialed contracted therapists (up to 6) to be available on an "as needed" basis to assist the Help Me Grow Part C Eligibility Team.

4. FINANCIAL AGREEMENT:

A. PAYMENT PROCEDURES:

1.

1. MRDD shall compensate contracted therapists \$180.00 per evaluation (rate includes travel, evaluation write-up, and consultation as required).
2. DCDJFS shall compensate contracted therapists \$300.00 each for attending the Battelle Developmental Inventory day long training. This payment would be made to therapists once documentation of ten (10) assessments has been completed.
3. DCDJFS shall reimburse the Delaware County Board of Developmental Disabilities \$180.00 per evaluation for children who are determined to NOT be eligible for Early Intervention services.
- 2.

3.

B. MAXIMUM PAYMENT

4.

MRDD agrees to accept as full payment for services rendered in a manner satisfactory to the DCDJFS, the maximum amount of Sixteen Thousand Dollars (\$16,000).

5. LIMITATION OF SOURCE OF FUNDS:

The MRDD warrants that any costs incurred pursuant to this Contract will not be allowable to or included

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008**

as a cost of any other federally financed program in either the current or a prior period.

6. DUPLICATE BILLING/OVERPAYMENT:

The MRDD warrants that claims made to DCDJFS for payment, shall be for actual services rendered and do not duplicate claims made by the MRDD to other sources of funding for the same services. In case of overpayments, the MRDD agrees to repay the DCDJFS the amount of overpayment and that to which it is entitled.

7. INFORMATION REQUIREMENTS:

The MRDD will provide such information to DCDJFS as is necessary to meet the specific fiscal and program requirements contained in this Contract. This shall include a quarterly and year end report of services provided and outcomes achieved.

8. AVAILABILITY AND RETENTION OF RECORDS:

At any time, during regular business hours, with reasonable notice and as often as the DCDJFS, the Comptroller General of the United States, the State, or other agency or individual authorized by the DCDJFS may deem necessary, the MRDD shall make available to any or all the above named parties or their authorized representatives, all subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. The DCDJFS and the above named parties shall be permitted by the MRDD to inspect, audit, make excerpts, photo static copies and/or transcripts of any and all documents relating to all matters covered by this Contract.

The MRDD, for a minimum of three (3) years after reimbursement/compensation for services rendered under this Contract, agrees to retain and maintain, and assure that all of its subcontractors retain and maintain, all records, documents, writings and/or other information related to performance of this Contract. If an audit, litigation, or other action is initiated during the time period of this Contract, the MRDD shall retain and maintain, and assure that all of its subcontractors retain and maintain, such records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever is later.

Prior to the destruction of any records related to performance of this Contract, regardless of who holds such records, the MRDD shall contact the DCDJFS in writing to obtain written notification that such records may be destroyed. Such request for destruction of records must specifically identify the records to be destroyed.

9. INDEPENDENT FINANCIAL RECORDS:

The MRDD shall maintain independent books, records, payroll, documents, and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Such records shall at all reasonable times be subject to inspection, review, and/or audit by duly authorized federal, state, local, or DCDJFS personnel.

10. SERVICE DELIVERY RECORDS:

The MRDD shall maintain records of services provided under this Contract. Such records shall be subject at all reasonable times to inspection, review or audit by duly authorized federal, state and/or DCDJFS personnel.

11. RESPONSIBILITY FOR INDEPENDENT AUDIT:

The MRDD agrees, if required by the director of DCDJFS, to have conducted an independent audit of expenditures and records of service delivery associated with this Contract. The MRDD is responsible for any and all costs associated with such an independent audit and shall make copies of such independent audit available to DCDJFS without cost to DCDJFS.

12. RESPONSIBILITY OF AUDIT EXCEPTIONS:

The MRDD agrees to accept responsibility for receiving, replying to, and/or complying with any audit exception by any appropriate federal, state, local, or independent audit authority that is in any way associated with this Contract. The MRDD agrees to reimburse the DCDJFS and the Board the amount of any such audit exception.

13. INDEPENDENT CONTRACTORS:

The MRDD shall act in performance of this Contract as an independent contractor. As an independent contractor, the MRDD and/or its officers, employees, representatives, agents, volunteers

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008**

and/or servants are not entitled to any of the benefits enjoyed by employees of the Board, DCDJFS, and Delaware County.

14. **PARTIES RESPONSIBLE FOR THEIR OWN ACTIONS:** (Other than audit) The DCDJFS, the Board, and the MRDD, as governmental entities/political subdivisions, lack authority to indemnify. As such, the Parties agree to be and shall be responsible for their own actions resulting from their performance of and/or provision of services under this Contract. Therefore, the Parties agree to be individually and solely responsible for any and all claims, lawsuits, liability, losses, damages, injuries (including death), and/or related expenses that each may incur as a result of their own actions in the performance of and/or provision of services under this Agreement.

15. **TERMINATION:**

A. Termination for the Convenience:

The Parties may terminate this Contract at any time and for any reason by giving at least thirty (30) days advance notice, in writing, to the other Parties. The MRDD shall be entitled to receive compensation for any services satisfactorily performed hereunder through the date specified on the notice as the effective date for such termination.

B. Breach or Default:

Upon breach or default of any of the provisions, obligations, or duties embodied in this Contract, the aggrieved party shall provide written notice of the breach or default to the breaching or defaulting party and permit the breaching or defaulting party to remedy the breach or default within a specified reasonable period of time. If the breach or default is not satisfactorily remedied within the specified time period, this Contract may, at the election of the aggrieved party, be immediately terminated. The Parties may, without limitation, exercise any available administrative, contractual, equitable or legal remedies. In the event of such a breach or default, the MRDD shall be entitled to receive compensation for any services satisfactorily performed hereunder through the date of termination.

C. Waiver:

The waiver of any occurrence of breach or default is not and should not be interpreted as a waiver of any such subsequent occurrences. The Parties, without limitation, retain the right to exercise all available administrative, contractual, equitable or legal remedies. If any Party fails to perform an obligation or obligations under this Contract and such failure(s) is (are) waived by the other Parties, such waiver shall be limited to the particular failure(s) so waived and shall not be deemed to waive other failure(s). Waiver by any Party shall be authorized in writing and signed by an authorized Party representative.

D. Loss of Funding

It is understood by the MRDD that availability of funds for this Contract and thus this Contract is contingent on appropriations made by the Local, State and/or Federal government. In the event that the Local, State and/or Federal reimbursement is no longer available to the DCDJFS, the MRDD understands that changes and/or termination of this Contract will be required and necessary. Such changes and/or termination will be effective on the date that the Local, State and/or Federal reimbursement is no longer available, or later as otherwise stipulated in writing by the DCDJFS.

16. **SAFEGUARDING OF CLIENT:**

The Parties agree that the use or disclosure by any Party of any information concerning any individual eligible for services or programs provided pursuant to this Contract for any purpose not directly related with the administration of this Contract is strictly prohibited except upon the written consent of the DCDJFS and the individual or, if a minor, his/her responsible parent or guardian.

17. **CIVIL RIGHTS:**

DCDJFS and the MRDD agree that as a condition of this Contract, there shall be no discrimination against any client or any employee because of race, color, sex, religion, national origin, handicap, sexual orientation, or any other factor as specified in Title VI of the Civil Rights Act of 1964, Rehabilitation Act of 1973, and subsequent amendments. It is further agreed that the provider will comply with all appropriate federal and state laws regarding such discrimination and the right to and method of appeal will be made available to all persons under this Contract. Any agency found to be out of compliance with this paragraph may be subject to investigation by the Office of Civil Rights of the Department of Health and Human Services and termination of this Contract.

18. **ACCESSIBILITY OF PROGRAMS TO THE DISABLED/HANDICAPPED:**

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

The MRDD agrees as a condition of this Contract to make all services and/or programs provided pursuant to this Contract accessible to the disabled/handicapped. The MRDD further agrees as a condition of this Contract to comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), all requirements imposed by the applicable HHS regulations (45 CFR 8;4) and all guidelines and interpretations issued pursuant thereto. Any agency found to be out of compliance with this paragraph may be subject to investigation by the Office of Civil Rights of the Department of Health and Human Services and termination of this Agreement.

20. DRUG-FREE WORKPLACE:

The MRDD certifies and affirms that any staff, subcontractor, and/or independent contractor, including all field staff, agree to comply with all applicable state and federal laws regarding a drug-free workplace.

21. DMA FORM STATEMENT:

The MRDD certifies that it does not provide material assistance to any organization on the United States Department of State Terrorist Exclusion list. Pursuant to R.C. § 2909.33, the MRDD agrees make such certification by completing the declaration of material assistance/nonassistance described in R.C. § 2909.33(A) and understands that this Contract is contingent upon full completion of such certificate and “No” being the response to all questions in the Declaration portion of the certificate. Such certification is attached to this Contract and by this reference made a part of this Contract.

22. FINDINGS FOR RECOVERY:

The MRDD certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

23. NOTICES:

All notices which may be required by this Contract or by operation of any rule of law shall be sent via certified mail or personally delivered to the following individuals at the following addresses and shall be effective on the date received :

MRDD:

Robert Morgan
Director
MRDD
106 Stover Drive
Delaware, Ohio 43015

DCDJFS:

Mona Reilly
Director
DCDJFS
140 N. Sandusky St., 2nd Floor
Delaware, Ohio 43015

24. GOVERNING LAW:

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

25. SEVERABILITY:

If any item, condition, portion, or section of this Contract 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 Contract and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and be complied with.

26. ENTIRE AGREEMENT:

This Contract, along with all of its attachments, shall constitute the entire understanding and agreement between the Parties, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the Parties.

27. SIGNATURES:

Any person executing this Contract in a representative capacity hereby warrants that he/she has authority to sign this Contract or has been duly authorized by his/her principal to execute this Contract on such principal’s behalf.

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

28. EFFECT OF SIGNATURE:

The signatures of the Parties below indicate that the signers and the entities that they represent agree to be bound by all the terms and conditions of this Contract.

Vote on Motion Mr. Evans Aye Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 08-1282

IN THE MATTER OF APPROVING THE AGREEMENT BETWEEN THE DELAWARE COUNTY COMMISSIONERS; THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES AND SKY CLIMBER FOR INCUMBENT WORKER TRAINING FOR WIA PROGRAM PARTICIPANTS:

It was moved by Mr. Evans, seconded by Mr. Ward to approve the following agreement:

INCUMBENT WORKER TRAINING
AGREEMENT
BETWEEN THE DELAWARE COUNTY
DEPARTMENT OF JOB AND FAMILY SERVICES
AND
SKY CLIMBER

This Contract is entered into this 27th day of October, 2008 by and between the Delaware County Department of Job and Family Services (hereinafter, “DCDJFS”), whose address is 140 North Sandusky Street, 2nd Floor, Delaware, Ohio 43015, the Delaware County Board of County Commissioners (hereinafter, “Board”), whose address is 101 North Sandusky Street, Delaware, Ohio 43015, and Sky Climber (hereinafter, “SKY CLIMBER”) whose address is 1800 Pittsburgh Drive, Delaware, Ohio 43015 (hereinafter singly “Party,” collectively, “Parties”).

PRELIMINARY STATEMENTS

WHEREAS, SKY CLIMBER operates a non-government business or entity with adult employees in Delaware County, Ohio.

WHEREAS, DCDJFS has accepted federal Workforce Investment Act (WIA) funds for state fiscal year 2009 (“SFY 2009”) to provide Incumbent Worker Training (IWT) programs to adults as a part of its workforce development duties and needs to provide such services or contract out for services; and,

WHEREAS, SKY CLIMBER is willing to provide such services or contract out for services; and,

WHEREAS, SKY CLIMBER is willing to provide those services at an agreed-upon price.

STATEMENT OF THE AGREEMENT

NOW, THEREFORE, the Parties mutually agree as follows:

6. PURPOSE OF CONTRACT:

The purpose of this Contract is to state the covenants and conditions under which SKY CLIMBER, for and on behalf of DCDJFS, will provide Incumbent Worker Training to SKY CLIMBER’s existing employees in Delaware County, Ohio. Incumbent Worker Training (IWT) is to support training projects that will benefit local business and industry by assisting the skill development of **existing employees**, thereby increasing employee productivity and growth of the company, as well as assisting in keeping Delaware County and Area 7’s workforce competitive. The training is expected to lead to the creation of new jobs, retention of jobs, increased wages for better-trained workers, a higher-skilled workforce, and a more profitable business climate. IWT Program Information, the Application for IWT funding assistance from DCDJFS, the IWT Budget, and IWT Participant Information to be used in providing the Services are respectively described in detail and/or set forth in Appendix I (IWT Program Information), Appendix II (IWT Application), Appendix III (IWT Budget), and Appendix IV (IWT Participant Information) all of which are attached hereto and all of which by this reference are fully incorporated into and made a part of this Contract (hereinafter respectively “Appendix I”, “Appendix II”, “Appendix III.”, and “Appendix IV”)

7. TERM:

This Agreement shall be effective _____, 2008 retroactive to September 1, 2008 through June 30, 2009.

8. SCOPE OF SERVICES/DELIVERABLES:

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008**

The Services to be provided under this Contract to DCDJFS by SKY CLIMBER are set forth and are more fully described in Appendix I, II, and III.

9. FINANCIAL AGREEMENT:

C. PAYMENT PROCEDURES:

5.

6. The DCDJFS shall reimburse SKY CLIMBER in accordance with Appendix III for Services actually provided hereunder, as described above and in Appendix I, II, and III.

7.

8. To receive such reimbursement, SKY CLIMBER shall submit to DCDJFS proper monthly invoices for Services actually provided. Such reimbursement shall be paid by DCDJFS to SKY CLIMBER within thirty (30) days of receipt by DCDJFS of proper monthly invoices and accompanying documentation.

9.

D. MAXIMUM PAYMENT

10.

SKY CLIMBER agrees to accept as full payment for Services rendered in a manner satisfactory to DCDJFS, the lesser of the following: (1) The maximum amount of Seven Thousand Five Hundred Eighty Dollars and No Cents (\$ 7,580.00) or (2) the amount of actual expenditures made by SKY CLIMBER for purposes of providing the Services. It is expressly understood and agreed that in no event shall the total compensation to be reimbursed exceed the maximum of Seven Thousand Five Hundred Eighty Dollars and No Cents (\$ 7,580.00) . See Appendix III.

10. LIMITATION OF SOURCE OF FUNDS:

SKY CLIMBER warrants that any costs incurred pursuant to this Contract will not be allowable to or included as a cost of any other federally or state financed program in either the current or a prior period.

11. DUPLICATE BILLING/OVERPAYMENT:

SKY CLIMBER warrants that claims made to DCDJFS for payment, shall be for actual Services rendered and do not duplicate claims made by SKY CLIMBER to other sources of funding for the same Services. In case of overpayments, SKY CLIMBER agrees to repay the DCDJFS the amount of overpayment and that to which it is entitled.

12. INFORMATION REQUIREMENTS:

SKY CLIMBER will provide such information to DCDJFS as is necessary to meet the specific fiscal and program requirements contained in this Contract. This shall include reports, at intervals to be determined by the Parties, of Services provided and outcomes achieved. Such reports shall be on forms included in Appendix IV or as otherwise agreed by the Parties.

10. AVAILABILITY AND RETENTION OF RECORDS:

At any time, during regular business hours, with reasonable notice and as often as the DCDJFS, the Comptroller General of the United States, the State, or other agency or individual authorized by the DCDJFS may deem necessary, SKY CLIMBER shall make available to any or all the above named parties or their authorized representatives, all subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. The DCDJFS and the above named parties shall be permitted by SKY CLIMBER to inspect, audit, make excerpts, photo static copies and/or transcripts of any and all documents relating to all matters covered by this Contract.

SKY CLIMBER, for a minimum of three (3) years after reimbursement/compensation for services rendered under this Contract, agrees to retain and maintain, and assure that all of its subcontractors retain and maintain, all records, documents, writings and/or other information related to performance of this Contract. If an audit, litigation, or other action is initiated during the time period of this Contract, SKY CLIMBER shall retain and maintain, and assure that all of its subcontractors retain and maintain, such records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever is later.

Prior to the destruction of any records related to performance of this Contract, regardless of who holds such records, SKY CLIMBER shall contact the DCDJFS in writing to obtain written notification that such records may be destroyed. Such request for destruction of records must specifically identify the records to be destroyed.

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008**

11. INDEPENDENT FINANCIAL RECORDS:

SKY CLIMBER shall maintain independent books, records, payroll, documents, and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Such records shall at all reasonable times be subject to inspection, review, and/or audit by duly authorized federal, state, local, or DCDJFS personnel.

10. SERVICE DELIVERY RECORDS:

SKY CLIMBER shall maintain records of Services provided under this Contract. Such records shall be subject at all reasonable times to inspection, review or audit by duly authorized federal, state, local, and/or DCDJFS personnel.

11. RESPONSIBILITY FOR INDEPENDENT AUDIT:

SKY CLIMBER agrees, if required by the director of DCDJFS, to have conducted an independent audit of expenditures and records of service delivery associated with this Contract. SKY CLIMBER is responsible for any and all costs associated with such an independent audit and shall make copies of such independent audit available to DCDJFS without cost to DCDJFS.

12. RESPONSIBILITY OF AUDIT EXCEPTIONS:

SKY CLIMBER agrees to accept responsibility for receiving, replying to, and/or complying with any audit exception by any appropriate federal, state, local, or independent audit authority that is in any way associated with this Contract. SKY CLIMBER agrees to reimburse the DCDJFS and the Board the amount of any such audit exception.

14. INDEPENDENT CONTRACTOR:

SKY CLIMBER shall act in performance of this Contract as an independent contractor. As an independent contractor, SKY CLIMBER and/or its officers, employees, representatives, agents, volunteers and/or servants are not entitled to any of the benefits enjoyed by employees of the Board, DCDJFS, and Delaware County.

15. INDEMNITY:

- A. To the fullest extent of the law, SKY CLIMBER agrees to indemnify and hold DCDJFS, the Board, Delaware County and their respective board members, officials, officers, employees, volunteers, agents, servants and representatives (hereinafter "Indemnified Parties") free and harmless from any and all actions, claims, suits, demands, judgments, damages, losses and expenses, regardless of type or nature, actual or threatened, including but not limited to promptly retaining defense counsel to represent the Indemnified Parties, defending and protecting the same, and paying any and all attorney's fees, costs, and expenses, arising from any accident, injury, including death, damages, or occurrence, intentional or unintentional, known or unknown, foreseen or unforeseen, related in any manner to SKY CLIMBER's performance of this Contract. SKY CLIMBER further agrees that it shall undertake to defend, at its own expense, any and all actions, claims, suits, or demands brought against the Indemnified Parties by reason of or result of SKY CLIMBER's performance under this Contract, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, and expenses, including, but not limited to attorney's fees.
- B. SKY CLIMBER shall assume full responsibility for and shall indemnify DCDJFS, the Board, and Delaware County for any damage to or loss of any DCDJFS, Board, and/or Delaware County property, including but not limited to buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts resulting in whole or part from any acts or omissions, intentional or unintentional, of SKY CLIMBER or any board member, official, officer, employee, volunteer, agent, servant and/or representative of SKY CLIMBER.

15. INSURANCE

SKY CLIMBER shall carry and maintain throughout the life of the Contract such bodily injury and property damage liability insurance as will protect it and the Indemnified Parties against any and all claims for personal injury, including death, or property damage, which may arise from the performance of or operations under this Contract or from use of vehicles in connection therewith, and shall include coverage for indemnification as described above.

Prior to commencement of this Contract, SKY CLIMBER shall present to DCDJFS current certificates of insurance, and shall maintain such insurance during the term of this Contract. Said insurance shall, at a minimum, include the insurance specified below and the amount of coverage on said policies of

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008**

insurance shall be at least that which is specified below:

- a. Worker's Compensation Insurance as required by Ohio law and any other state in which work will be performed.
- b. Commercial General Liability Insurance with coverage in an amount equal to and covering all sums which the Contractor may or shall become legally obligated to pay as damages, but in an amount providing for a minimum of or at least one million dollars (\$1,000,000.00) coverage per occurrence with an annual aggregate of at least two million dollars (\$2,000,000.00), including coverage for subcontractors, if any are used, covering any and all work performed under this Contract.
- c. Umbrella or Excess Liability Insurance (over and above Commercial General Liability) with coverage in an amount equal to and covering all sums which Contractor may or shall become legally obligated to pay as damages, but in an amount providing for a minimum of at least two million dollars (\$2,000,000.00) of coverage.
- d. Auto/Vehicle Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work required under this Contract and/or used in providing services or otherwise for DCDJFS, the Board, Delaware County, and/or their various departments, with coverage in an amount equal to that required by law and covering all sums which Contractor may or shall become legally obligated to pay as damages, but in an amount providing for minimum coverage of at least three hundred thousand dollars (\$300,000.00) (Combined Single Limit) or, one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per accident for bodily injury and one hundred thousand dollars (\$100,000.00) per accident for property damage or more as may be required for particular vehicles or particular uses of vehicles as required by applicable law.

DCDJFS, the Board, and Delaware County must be named as "Additional Insured" on the policies listed in paragraphs (b), (c), and (d) above.

The insurance company needs to be identified for each insurance policy and coverage. The certificates of insurance are to be signed by a person authorized by the insurance company to bind coverage on its behalf.

All insurance shall be written by insurance companies licensed to do business in the State of Ohio.

The insurer shall provide thirty (30) days written notice to DCDJFS before any cancellation or non-renewal of insurance coverage. Failure to provide such written notice will obligate the insurer to provide coverage as if cancellation or non-renewal did not take place.

In addition to the rights and protections provided by the insurance policies as required above, DCDJFS, the Board, and Delaware County shall retain all such other and further rights and remedies as are available to it at law or in equity.

16. TERMINATION:

A. Termination for the Convenience:

The Parties may terminate this Contract at any time and for any reason by giving at least seven (7) days advance notice, in writing, to the other Parties. SKY CLIMBER shall be entitled to receive compensation for any services satisfactorily performed hereunder through the date specified on the notice as the effective date for such termination.

B. Breach or Default:

Upon breach or default of any of the provisions, obligations, or duties embodied in this Contract, the aggrieved Party shall provide written notice of the breach or default to the breaching or defaulting Party and permit the breaching or defaulting Party to remedy the breach or default within a specified reasonable period of time. If the breach or default is not satisfactorily remedied within the specified time period, this Contract may, at the election of the aggrieved Party, be immediately terminated. The Parties may, without limitation, exercise any available administrative, contractual, equitable or legal remedies. In the event of such a breach or default, SKY CLIMBER shall be entitled to receive compensation for any services satisfactorily performed hereunder through the date of termination.

C. Waiver:

The waiver of any occurrence of breach or default is not and should not be interpreted as a waiver of any such subsequent occurrences. The Parties, without limitation, retain the right to exercise all

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008**

available administrative, contractual, equitable or legal remedies. If any Party fails to perform an obligation or obligations under this Contract and such failure(s) is (are) waived by the other Parties, such waiver shall be limited to the particular failure(s) so waived and shall not be deemed to waive other failure(s). Waiver by any Party shall be authorized in writing and signed by an authorized Party representative.

D. Loss of Funding

It is understood by SKY CLIMBER that availability of funds for this Contract and thus this Contract is contingent on appropriations made by the Local, State and/or Federal governments. In the event that the Local, State and/or Federal reimbursement is no longer available to the DCDJFS, SKY CLIMBER understands that changes and/or termination of this Contract will be required and necessary. SKY CLIMBER agrees to hold harmless DCDJFS and the Board for any such changes and/or termination. Such changes and/or termination shall be effective on the date that the Local, State and/or Federal reimbursement is no longer available, or later as otherwise stipulated in writing by DCDJFS.

17. SAFEGUARDING OF CLIENT:

The Parties agree that the use or disclosure by any Party of any information concerning any individual eligible for Services provided pursuant to this Contract for any purpose not directly related with the administration of this Contract is strictly prohibited except upon the written consent of the DCDJFS and the individual or, if a minor, his/her responsible parent or guardian.

18. CIVIL RIGHTS:

DCDJFS and SKY CLIMBER agree that as a condition of this Contract, there shall be no discrimination against any client or any employee because of race, color, sex, religion, national origin, handicap, sexual orientation, or any other factor as specified in Title VI of the Civil Rights Act of 1964, Rehabilitation Act of 1973, and subsequent amendments. It is further agreed SKY CLIMBER will comply with all appropriate federal and state laws regarding such discrimination and the right to and method of appeal will be made available to all persons under this Contract. Any agency found to be out of compliance with this paragraph may be subject to investigation by the Office of Civil Rights of the Department of Health and Human Services and termination of this Contract.

19. ACCESSIBILITY OF PROGRAMS TO THE DISABLED/HANDICAPPED:

SKY CLIMBER agrees as a condition of this Contract to make all Services provided pursuant to this Contract accessible to the disabled/handicapped. SKY CLIMBER further agrees as a condition of this Contract to comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), all requirements imposed by the applicable HHS regulations (45 CFR 8;4) and all guidelines and interpretations issued pursuant thereto. Any agency found to be out of compliance with this paragraph may be subject to investigation by the Office of Civil Rights of the Department of Health and Human Services and termination of this Contract.

20. FAIR HEARING:

In accordance with state regulations, DCDJFS is charged with fulfilling responsibilities relative to appeals and/or state hearings brought or initiated by those receiving and/or participating in the Services. SKY CLIMBER, its providers, and their respective officials, officers, employees, agents, representatives, volunteers, and/or servants agree to and shall be under the direction of DCDJFS relative to any such appeals and/or state hearings. Additionally, SKY CLIMBER, its providers, and their respective officials, officers, employees, agents, representatives, volunteers, and/or servants agree to assist in the informational gathering and support processes related to the appeals and/or state hearing process and participation in the state hearing and/or appeal itself.

21. DRUG-FREE WORKPLACE:

SKY CLIMBER agrees to comply and certifies compliance with all applicable state and federal laws regarding drug-free workplace and shall have established and have in place a drug free workplace policy. SKY CLIMBER shall make a good faith effort to ensure that all of its and any of its providers officials, officers, employees, agents, representatives, volunteers, and/or servants will not purchase, use, or possess illegal drugs or abuse prescription drugs in any way.

22. DMA FORM STATEMENT:

SKY CLIMBER certifies that it does not provide material assistance to any organization on the United States Department of State Terrorist Exclusion list. Pursuant to R.C. § 2909.33, SKY CLIMBER agrees make such certification by completing the declaration of material assistance/no assistance described

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

in R.C. § 2909.33(A) and understands that this Contract is contingent upon full completion of such certificate and “No” being the response to all questions in the Declaration portion of the certificate. Such certification is attached to this Contract and by this reference made a part of this Contract.

23. CAMPAIGN FINANCE – COMPLIANCE WITH ORC § 3517.13

Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in said sections of the Revised Code are in compliance with the applicable provisions of section 3517.13 of the Revised Code. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled “Certification/Affidavit in Compliance With O.R.C. Section 3517.13.” Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract. Such certification is attached to this Contract and by this reference made a part thereof.

24. FINDINGS FOR RECOVERY:

SKY CLIMBER certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

25. NOTICES:

All notices which may be required by this Contract or by operation of any rule of law shall be hand delivered, sent via certified United States Mail, return receipt requested, or sent via a nationally recognized and reputable overnight courier, return receipt requested to the following individuals at the following addresses and shall be effective on the date received:

SKY CLIMBER:

Tim Hecker
Engineering Manager
SKY CLIMBER
1800 Pittsburgh Drive
Delaware, Ohio 43015

DCDJFS:

Mona Reilly
Director
DCDJFS
140 N. Sandusky St., 2nd Floor
Delaware, Ohio 43015

26. PUBLIC NOTICE

In any publicity release or other public reference, including media release, information pamphlets, etc. on the Services provided under this Contract, it will be clearly stated that the project is partially funded by ODJFS, through the Delaware County Commissioners and the DCDJFS.

27. GOVERNING LAW:

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

28. SEVERABILITY:

If any item, condition, portion, or section of this Contract 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 Contract and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and be complied with.

29. ENTIRE AGREEMENT:

This Contract, along with all of its attachments, shall constitute the entire understanding and agreement between the Parties, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the Parties.

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

30. SIGNATURES:

Any person executing this Contract in a representative capacity hereby warrants that he/she has authority to sign this Contract or has been duly authorized by his/her principal to execute this Contract on such principal’s behalf.

31. EFFECT OF SIGNATURE:

The signatures of the Parties below indicate that the signers and the entities that they represent agree to be bound by all the terms and conditions of this Contract.

Purpose

The purpose of the Incumbent Worker Training (IWT) is to support training projects that will benefit local business and industry by assisting the skill development of **existing employees**, thereby increasing employee productivity and growth of the company, as well as assisting in keeping Area 7’s workforce competitive. The training is expected to lead to the creation of new jobs, retention of jobs, increased wages for better-trained workers, a higher-skilled workforce, and a more profitable business climate.

Vote on Motion Mr. Jordan Aye Mr. Evans Aye Mr. Ward Aye

RESOLUTION NO. 08-1283

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE DELAWARE COUNTY
COMMISSIONERS AND KIRK WILLIAMS MECHANICAL SERVICES FOR BID PACKAGE 1 – HVAC
FOR THE BOILERS AND COOLING TOWER REPLACEMENT PROJECT, DELAWARE COUNTY, OHIO:

It was moved by Mr. Ward, seconded by Mr. Evans to approve the following:

DELAWARE COUNTY BOARD OF COMMISSIONERS
CONTRACT

This Contract made by and between:

*Kirk Williams Mechanical Services
2734 Home Road
Grove City, Ohio 43123*

(the “Contractor”) and the Delaware County Board of Commissioners (the “Owner”).

In consideration of the mutual promises herein contained, the Delaware County Board of Commissioners and the Contractor agree as set forth below:

ARTICLE 1

1.1 The Contractor shall perform the entire work described in the Contract Documents and reasonably inferable by the Contractor as necessary to produce the results intended by the Contract Documents, for:

*Boilers & Cooling Tower Replacements
Delaware, Ohio 43015
Bid Package One – HVAC*

ARTICLE 2

2.1 The Delaware County Board of Commissioners shall pay the Contractor for the performance of this Contract, subject to additions and deletions as provided in the Contract Documents, the amount of *One Hundred Sixty Thousand Seven Hundred Sixty One dollars* (the “Contract Price”), based upon the Bid Form, dated October 6, 2008, submitted by the Contractor.

Total Contract Amount = \$160,761.00

2.2 The Contract Price shall be paid in current funds by the Owner upon payment requests issued by the Contractor and approved by the Delaware County Board of Commissioners as provided in the Contract Documents.

ARTICLE 3

3.1 The Contractor shall diligently prosecute the Work and shall effect Contract Completion on or before 60 consecutive working days, following the date set forth in the Notice to Proceed, unless an extension of

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

- time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.
- 3.2 It is understood and agreed that all Work to be performed under the Contract shall be completed within the established Contract Completion time and that each applicable portion of the Work shall be completed upon the respective Milestone Completion Dates, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.
- 3.3 Upon failure to have all Work completed within the specified period of time, or to have the applicable portion of the Work completed upon the date of any Milestone Completion Date, the Delaware County Board of Commissioners shall be entitled to retain or recover from the Contractor, as liquidated damages, and not as a penalty, the applicable amount as set forth in the following table for each and every calendar day thereafter until Contract Completion, unless an extension of time is granted in accordance with the Contract Documents.
- 3.4 The amount of Liquidated Damages is agreed upon by and between the Contractor and the Delaware County Board of Commissioners because of the impracticality and extreme difficulty of ascertaining the actual amount of damage the Delaware County Board of Commissioners would sustain.

3.5 LIQUIDATED DAMAGES

<u>Contract Amount</u>	<u>Dollars Per Day</u>
\$1. To \$50,000	\$ 150.
More than \$50,000 to \$150,000	\$ 250.
More than \$150,000 to \$500,000	\$ 500.
More than \$500,000 to \$2,000,000	\$1,000
More than \$2,000,000 to \$5,000,000	\$2,000
More than \$5,000,000 to \$10,000,000	\$2,500
More than \$10,000,000	\$3,000

ARTICLE 4

- 4.1 Entire Agreement: The Bid Documents shall embody the entire understanding of the parties and form the basis of the Contract between the Delaware County Board of Commissioners and the Contractor. The Bid Documents shall be considered to be incorporated by reference into this Contract as if fully rewritten herein.
- 4.2 Governing Law: The Contract and any modification, amendments or alterations thereto shall be governed, construed and enforced by and under the laws of the State of Ohio. Any legal action arising pursuant to this Contract shall be brought in the courts of Delaware County, Ohio.
- 4.3 Severability: If any term or provision of the Contract, or the application thereof to any person or circumstance, is finally determined, to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Contract or the application of such term or provision to other persons or circumstances, shall not be affected thereby, and each term and provision of the Contract shall be valid and enforced to the fullest extent permitted by law.
- 4.4 Indemnification: To the fullest extent permitted by law, the Contractor shall indemnify, save and hold the Delaware County Board of Commissioners, its officers, agents, servants, and employees free and harmless of all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the Contractor's performance of this Contract. The Contractor shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the Delaware County Board of Commissioners by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees. No employee of the Contractor shall at any time be considered an agent or employee of the Delaware County Board of Commissioners.
- 4.5 Independent Contractor: Contractor agrees that no agency, employment, joint venture, or partnership has been or will be created between the parties hereto pursuant to the terms and conditions of this Contract. 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 which may accrue as a result of compensation received for services or deliverables rendered hereunder.
- 4.6 Assignability: The Contract shall be binding on the Contractor and the Delaware County Board of Commissioners, their successors and assigns, in respect to all covenants and obligations contained in the Contract Documents, but the Contract may not be assigned by the Contractor without the prior written consent of the Delaware County Board of Commissioners.

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

- 4.7 Findings for Recovery: The Contractor certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.
- 4.8 Homeland Security: Contractor certifies that it does not provide material assistance to any organization on the United States Department of State Terrorist Exclusion list. Pursuant to R.C. § 2909.33, Contractor agrees to make such certification by completing the declaration of material assistance/nonassistance described in R.C. § 2909.33(A) and understands that this Agreement is contingent upon full completion of such certificate and “No” being the response to all questions in the Declaration portion of the certificate. Such certification is attached to this Agreement and by this reference made a part of this Agreement.
- 4.9 Campaign Contributions Compliance with ORC § 3517.13: Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled “Certification/Affidavit in Compliance With O.R.C. Section 3517.13.” **Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract.** Such certification is attached to this Contract and by this reference made a part thereof.

ARTICLE 5

- 5.1 It is expressly understood by the Contractor that none of the rights, duties and obligations described in the Contract Documents shall be valid and enforceable unless the Delaware County Board of Commissioners first certifies funds are available.
- 5.2 The Contract shall become binding and effective upon the completion of 5.1 and execution by the Delaware County Board of Commissioners.

ARTICLE 6

- 6.1 This Contract has been executed in several counterparts, each of which shall constitute a complete original Contract, which may be introduced in evidence or used for any other purpose without production of any other counterparts.

Vote on Motion Mr. Ward Aye Mr. Jordan Aye Mr. Evans Aye

RESOLUTION NO. 08-1284

IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS FOR THE ALUM CREEK
WATER RECLAMATION FACILITY:

It was moved by Mr. Ward, seconded by Mr. Evans to approve the following:

Supplemental Appropriation			
66611904-5410	URF ACWRF/Building & Improvements	\$	4,000.00

Vote on Motion Mr. Jordan Aye Mr. Evans Aye Mr. Ward Aye

RESOLUTION NO. 08-1285

IN THE MATTER OF REJECTING ALL BIDS FOR CONSULTANT SERVICES FOR GENERAL PLANNING
AND PERMITTING OF THE CENTRAL ALUM CREEK SANITARY SEWER IMPROVEMENTS:

It was moved by Mr. Ward, seconded by Mr. Evans to approve the following:

Whereas the Board of County Commissioners has recently advertised the public bid for Consultant Services for general planning and permitting of the Central Alum Creek Sanitary Sewer Improvements, and

Whereas the Board of County Commissioners has awarded the bid to Central Alum Creek, LLC, and

Whereas Central Alum Creek LLC has communicated that they are no longer interested in performing the work as described by the bid, and

This Resolution shall take effect and be in force immediately upon passage.

(COPIES OF EXHIBITS "A" AND "B" ARE AVAILABLE IN THE DELAWARE COUNTY SANITARY

Vote on Motion Mr. Ward Aye Mr. Jordan Aye Mr. Evans Aye

IN THE MATTER OF ADOPTING A RESOLUTION DECLARING A NECESSITY AND THE INTENT OF THE DELAWARE COUNTY BOARD OF COMMISSIONERS TO APPROPRIATE PROPERTY:

Permanent Parcel Number: 319-411-02-022-000

CONSTRUCTION OF AN EXTENSION OF THE COUNTY SANITARY SEWER SYSTEM IN LIBERTY TOWNSHIP

IT WAS MOVED BY: MR. WARD AND SECONDED BY: MR. EVANS TO APPROVE THE FOLLOWING:

WHEREAS, the Board of Delaware County Commissioners (“Board”) deems it necessary to construct, re-construct, improve, maintain, repair and operate a sanitary sewer that will extend from the Daventry Park Subdivision to the Wingate Farms Subdivision along Olentangy River Road in Liberty Township, Delaware County, Ohio (“Improvement”); and,

WHEREAS, the Board has determined the necessity for such Improvement and the necessity that such Improvement be made; and,

WHEREAS, the Board has determined that additional land is necessary for such Improvement.

NOW THEREFORE, BE IT RESOLVED, by the Board of Delaware County Commissioners (the "Board"):

That it is deemed necessary and it is hereby declared to be the intention of the Board to appropriate a permanent easement and a temporary easement on, across, above and or under certain real estate owned by Steve R. Harmon and Amy L. Pope Harmon described in Exhibit "A, page 1" attached hereto, and by this reference incorporated herein, all for construction, re-construction, improvement, maintenance, repair and operation of a sanitary sewer that will extend from the Daventry Park Subdivision to the Wingate Farms Subdivision along Olentangy River Road in Liberty Township, Delaware County, Ohio; and,

That the legal description of said permanent easement and the temporary easement is attached hereto as Exhibit "A, page 2" and by this reference incorporated herein; and,

That the Board directs the County Prosecuting Attorney to commence the appropriation proceedings on behalf of the Board; and,

This Resolution shall take effect and be in force immediately upon passage.

(COPIES OF EXHIBITS "A" AND "B" ARE AVAILABLE IN THE DELAWARE COUNTY SANITARY ENGINEER'S DEPARTMENT.)

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

Vote on Motion Mr. Evans Aye Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 08-1289

IN THE MATTER OF ADOPTING A RESOLUTION DECLARING A NECESSITY AND THE INTENT OF THE DELAWARE COUNTY BOARD OF COMMISSIONERS TO APPROPRIATE PROPERTY:

PROPERTY OWNER: EVELYN DURHAM SUGAR

PROPERTY LOCATION: 8350 OLENTANGY RIVER ROAD
DELAWARE, OH 43015

Permanent Parcel Numbers: 319-411-02-020-000
319-411-02-021-000

PURPOSE OF APPROPRIATION:

CONSTRUCTION OF AN EXTENSION OF THE COUNTY SANITARY SEWER SYSTEM IN LIBERTY TOWNSHIP

IT WAS MOVED BY: MR. EVANS AND SECONDED BY: MR. WARD TO APPROVE THE FOLLOWING:

PREAMBLE

WHEREAS, the Board of Delaware County Commissioners (“Board”) deems it necessary to construct, re-construct, improve, maintain, repair and operate a sanitary sewer that will extend from the Daventry Park Subdivision to the Wingate Farms Subdivision along Olentangy River Road in Liberty Township, Delaware County, Ohio (“Improvement”); and,

WHEREAS, the Board has determined the necessity for such Improvement and the necessity that such Improvement be made; and,

WHEREAS, the Board has determined that additional land is necessary for such Improvement.

RESOLUTION

NOW THEREFORE, BE IT RESOLVED, by the Board of Delaware County Commissioners (the "Board"):

SECTION 1:

That it is deemed necessary and it is hereby declared to be the intention of the Board to appropriate a permanent easement and a temporary easement on, across, above and or under certain real estate owned by Evelyn Durham Sugar described in Exhibit “A, page 1” attached hereto, and by this reference incorporated herein, all for construction, re-construction, improvement, maintenance, repair and operation of a sanitary sewer that will extend from the Daventry Park Subdivision to the Wingate Farms Subdivision along Olentangy River Road in Liberty Township, Delaware County, Ohio; and,

SECTION 2:

That the legal description of said permanent easement and the temporary easement is attached hereto as Exhibit “A, page 2” and by this reference incorporated herein; and,

SECTION 3:

That the Board directs the County Prosecuting Attorney to commence the appropriation proceedings on behalf of the Board; and,

SECTION 4:

This Resolution shall take effect and be in force immediately upon passage.

(COPIES OF EXHIBITS “A” AND “B” ARE AVAILABLE IN THE DELAWARE COUNTY SANITARY ENGINEER’S DEPARTMENT.)

Vote on Motion Mr. Jordan Aye Mr. Evans Aye Mr. Ward Aye

**COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008**

DISCUSSION ON POSSIBLE CHANGES TO THE PROPERTY TAX ROLLBACK

Mr. Jordan moved to make the 1.8 mil collection continuous; the motion died for lack of a second.

RESOLUTION NO. 08-1290 (IN THE MATTER OF AMENDING RESOLUTION NO. 07-543 APPROVING A REDUCTION IN THE RATE OF TAXATION ON REAL PROPERTY IN DELAWARE COUNTY, PURSUANT TO R.C. 5705.313)

(This resolution was moved by Mr. Evans and seconded by Mr. Ward but, was tabled with resolution 08-1291 and no vote was taken)

RESOLUTION NO. 08-1291

IN THE MATTER OF TABLING RESOLUTION NO. 08-1290

It was moved by Mr. Ward, seconded by Mr. Jordan to table resolution no. 08-1290 (In The Matter Of Amending Resolution No. 07-543 Approving A Reduction In The Rate Of Taxation On Real Property In Delaware County, Pursuant To R.C. 5705.313).

WHEREAS, on May 7, 2007, the Board of Commissioners of Delaware County (the "Board") adopted Resolution No. 07-543, approving a reduction in the rate of taxation on real property in Delaware County, pursuant to R.C. 5705.313; and

WHEREAS, the Board may amend such a Resolution, pursuant to R.C. 5705.313; and

WHEREAS, the Board of Commissioners of Delaware County has determined that it is appropriate to reduce the rate of real property tax that the County currently levies for current expenses within the ten-mill limitation; and

WHEREAS, the current millage rate for current expenses of the County is 2.8 mills, and the number of mills not currently levied is 1.6 mills, which includes a 1.0 mill reduction established by Resolution No. 98-616 and a 0.6 mill reduction established by Resolution No. 06-1175, resulting in an actual current levy of 1.2 mills; and

WHEREAS, the current 1.0 mill property tax reduction approved in Resolution 98-616 shall expire on December 31, 2008; and

WHEREAS, section 5705.313(A)(1) of the Revised Code authorizes a board of county commissioners that has adopted a resolution pursuant to section 5739.021 or 5739.026 of the Revised Code to adopt an accompanying resolution reducing the rate of any property tax the county currently is levying for current expenses within the ten-mill limitation; and

WHEREAS, this Board adopted a replacement sales and use tax pursuant to sections 5739.021, 5741.021, 5739.026 and 5741.023 of the Revised Code; and

WHEREAS, the Board extended the above mentioned sales and use tax and provided for the allocation of funds in Resolution No.07-542 with the intent of providing for future capital needs, including the need of a new Courts Building, and since funding for the Courts Building has not been established, the Board desires to continue tax relief for the owners of real property in Delaware County until such time as funding is necessary for future capital improvements projects, including a Courts Building, and

WHEREAS, the Board desires to provide tax relief to the owners of real property in Delaware County by continuing the reduction in the rate of real property tax, pursuant to section 5705.313(A), in the amount of 1.6 mills, to be effective for a continuing period of time unless and until a resolution is adopted pursuant to section 5705.313(C) of the Revised Code; and

WHEREAS, the replacement sales and use tax will generate revenue in excess of the 1.6 mills reduction in the rate of real property tax enacted herein;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY, OHIO:

Section 1. Resolution No. 07-543 is hereby amended and replaced with this Resolution.

Section 2. Pursuant to section 5705.313(A)(2) of the Revised Code, and in order to provide tax relief for the owners of real property in Delaware County, the rate of real property tax currently levied for Delaware County's current expenses within the ten-mill limitation is hereby reduced by an amount

COMMISSIONERS JOURNAL NO. 51 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 27, 2008

equal to 1.6 Mills for each dollar of valuation on each One Hundred Dollars (\$100.00) of appraised value. The current millage rate for current expenses of the County is hereby reduced from 2.8 mills to 1.2 mills. Said reduction shall be effective beginning with tax year 2008, payable 2009, and henceforth for a continuing period of time unless and until a resolution is adopted pursuant to section 5705.313(C) of the Revised Code.

Section 3. The Clerk of the Board shall, this day, deliver a certified copy of this Resolution to the County Auditor.

Vote on Motion	Mr. Ward	Aye	Mr. Jordan	Aye	Mr. Evans	Nay
----------------	----------	-----	------------	-----	-----------	-----

There being no further business the meeting adjourned.

Glenn A. Evans

Kristopher W. Jordan

James D. Ward

Letha George, Clerk to the Commissioners