

COMMISSIONERS JOURNAL NO. 52 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JULY 9, 2009

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

Present: Todd Hanks, Ken O'Brien, Tommy Thompson

RESOLUTION NO. 09-810

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JULY 6, 2009:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on July 6, 2009; 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. Thompson Aye Mr. O'Brien Aye Mr. Hanks Aye

PUBLIC COMMENT

RESOLUTION NO. 09-811

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0708, MEMO TRANSFERS IN BATCH NUMBERS MTAPR0708:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0708, memo transfers in batch numbers MTAPR0708, and Purchase Orders as listed below:

PR Number	Vendor Name	Line Desc	Line Account	Line Amount	Line Number
R0904825	PARK ENTERPRISE CONSTRUCTION CO INC	FY 2008 STREET IMPROVEMENTS	23011703 - 5365	\$64,500.00	0001
R0904825	PARK ENTERPRISE CONSTRUCTION CO INC	RLF STREET IMPROVEMENTS	23111709 - 5365	\$9,100.00	0002
R0905327	BUCKEYE POWER SALES INC	REPLACEMENT GENERATOR FOR GOLF VILLAGE PUMP	66290308 - 5450	\$22,229.00	0001
R0905373	OHIO REGIONAL DEVELOPMENT CORP	DCHIP 2009 SERVICES	23111711 - 5365	\$5,544.00	0001

Vendor	Description	Account	Amount
PO Decrease			
Human Resources	Lab Testing/Background Checks	22411605-5380	\$ 500.00
Downes Fishel	Legal Services	22411605-5361	\$ 5,000.00
Whitney Ink	Printing Services	22411605-5313	\$ 2,000.00
Licking County JFS	Contract Monitoring	22411605-5348	\$ 10,000.00

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PO'S Increases

Learning Center of Sunbury	Day Care	22411610-5348	\$ 20,000.00
Downes Fishel	Legal Services (line 1)	66290301-5361	\$ 3,000.00
Downes Fishel	Legal Services (line 2)	66290401-5361	\$ 3,000.00

Vote on Motion Mr. O'Brien Aye Mr. Thompson Aye Mr. Hanks Aye

RESOLUTION NO. 09-812

SETTING DATE AND TIME FOR A PUBLIC HEARING TO DISCUSS THE POSSIBLE ISSUANCE BY THE COUNTY OF HAMILTON, OHIO OF APPROXIMATELY \$30,000,000 IN PRINCIPAL AMOUNT OF HEALTHCARE FACILITIES IMPROVEMENT AND REFUNDING REVENUE BONDS (EPISCOPAL RETIREMENT HOMES), SERIES 2009:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve the following:

Whereas, the Delaware County Commissioners will hold a Public Hearing for the possible issuance by the County of Hamilton, Ohio of Healthcare Facilities Improvement and Refunding Revenue Bonds (Episcopal Retirement Homes), Series 2009;

Therefore Be it resolved, the Delaware County Commissioners approve the setting of the date and time for the Public Hearing for the possible issuance by the County of Hamilton, Ohio of Healthcare Facilities Improvement and Refunding Revenue Bonds (Episcopal Retirement Homes), Series 2009.

**NOTICE OF PUBLIC HEARING
HEALTHCARE FACILITIES REVENUE BONDS**

The Board of County Commissioners of the County of Delaware, Ohio (the "County"), will hold a Public Hearing on **Thursday July 30, 2009 at 9:45a.m.** in the meeting room of such board in the Carnegie Library at 101 North Sandusky Street, Delaware, Ohio 43015-1732, to discuss the possible issuance by the County of Hamilton, Ohio of approximately \$30,000,000 in principal amount of Healthcare Facilities Improvement and Refunding Revenue Bonds (Episcopal Retirement Homes), Series 2009, which may be issued in one or more series (the "Bonds") pursuant to Section 339.15 and Chapter 140 of the Ohio Revised Code. The proceeds of the Bonds would be used (i) to reimburse Episcopal Retirement Homes, Inc., an Ohio non-profit corporation (the "Corporation") for funds it has advanced in the approximate amount of \$6,000,000 to either construct cottages at the Deupree Campus (3939 Erie Avenue, Cincinnati, Ohio 45208) or make capital improvements to Marjorie P. Lee Home Campus (3550 Shaw Avenue, Cincinnati, Ohio 45208) (together, the "2009 Project"), and (ii) to refund the County of Hamilton, Ohio Variable Rate Demand Healthcare Facilities Improvement and Refunding Revenue Bonds (Episcopal Retirement Homes, Inc.), Series 2005 (in an approximate amount of \$24,000,000). **THE BONDS SHALL NOT REPRESENT OR CONSTITUTE A DEBT OR PLEDGE OF THE FAITH AND CREDIT OR THE TAXING POWER OF THE COUNTY.** The primary user of the hospital facilities is presently anticipated to be the Corporation. Interested persons are invited to attend this public hearing and will be given an opportunity to express their views concerning the proposed issuance of the Bonds. Persons wishing to submit written comments should send them to the following address prior to the hearing date: County of Delaware, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015-1732, Attn: David Cannon, Administrator.

Vote on Motion Mr. Hanks Aye Mr. Thompson Aye Mr. O'Brien Aye

RESOLUTION NO. 09-813

IN THE MATTER OF APPROVING A LEASE AGREEMENT BETWEEN THE DELAWARE COUNTY COMMISSIONERS; THE DELAWARE COUNTY SHERIFF AND THE AMERICAN NATIONAL RED CROSS FOR RADIO EQUIPMENT:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve the following:

Whereas, the Sheriff recommends approval of the following Agreement;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the following Agreement With The American National Red Cross For Certain Radio Equipment:

**LEASE AGREEMENT WITH THE AMERICAN NATIONAL RED CROSS FOR
CERTAIN RADIO EQUIPMENT**

This Lease Agreement (hereinafter "Agreement") is entered into this 9th day of July, 2009 by and between the Delaware County Sheriff (hereinafter, "Sheriff"), whose address is 149 North Sandusky Street,, Delaware, Ohio 43015, the Delaware County Board of Commissioners (hereinafter, "Board"), whose address is 101 North Sandusky Street, Delaware, Ohio 43015, (hereinafter Sheriff and Board collectively, the "County") and the

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American National Red Cross (hereinafter, "Red Cross") whose address is 380 Hills -Miller Road, Delaware, Ohio 43015 (hereinafter the Sheriff, Board, and Red Cross collectively, the "Parties.")

PURPOSE OF CONTRACT:

The purpose of this Agreement is to state the covenants and conditions under which the County will lease to the Red Cross certain Radio Equipment as listed in "Exhibit A" (hereinafter collectively "Radio Equipment") attached hereto and by this reference incorporated herein and made a part of this Agreement.

WITNESSETH

WHEREAS, the County has certain "Radio Equipment" currently housed and maintained at the Delaware County Sheriff's Office 844 US 42 North Delaware, Ohio 43015; and,

WHEREAS, the county is not currently using such Radio Equipment; and,

WHEREAS, the Red Cross has a need for and desires to use such Radio Equipment to establish a radio communications network; and,

WHEREAS, the County wishes to lease said. Radio Equipment to the Red Cross and the Red Cross desires to lease such Radio Equipment from the County.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the mutual promises set forth herein, the Parties hereby agree as follows:

1. Term. The initial term of this Agreement (hereinafter "Initial Term") shall be for a period of one (1) year commencing on the date upon which the Red Cross is first given access to the Radio Equipment (hereinafter "Commencement Date").

If this Agreement has not been terminated, then upon the expiration of the Initial Term, the term of this Agreement shall automatically be extended from year to year thereafter.

2. Rent. For purpose of this Agreement, the term "Contract Year" shall mean the period of twelve (12) months following the Commencement Date and each successive twelve (12) month period thereafter.

- A. Rent for the Radio Equipment per each Contract Year is One Dollar (\$1.00.)
- B. Rent shall be due from the Red Cross to the County on the first (1st) day of each Contract Year.
- C. Rental payments shall be made to the Sheriff. Checks shall be made payable to the "Delaware County Sheriff."
- D. Rental payments not received by the Sheriff within sixty (60) days of the due date shall result in the automatic termination of this Agreement. Upon such termination, all Radio Equipment shall be immediately returned to the Sheriff.

3. General Conditions. During the term of this Agreement, the Red Cross agrees to be responsible for the Radio Equipment as follows:

- A. to maintain the Radio Equipment in good functional and operational condition; and,
- B. to be responsible for any damages, loss or theft to the Radio Equipment; and,
- C. to repair or replace any of the Radio Equipment that is damaged, lost or stolen; and,
- D. to the properly use the Radio Equipment; and,
- E. to be responsible for any maintenance or required repairs of the Radio Equipment; and,
- F. to obtain and maintain licensing for operation of the Radio Equipment as is required for use of the Radio Equipment pursuant to local, state, or federal laws or regulations; and,
- G. to return the Radio Equipment upon the termination of the lease in the same condition it was received, normal wear and tear expected.

4. Location of Radio Equipment. The Radio Equipment will be housed and utilized at the Sheriff's Office located at 844 US 42 North Delaware, Ohio 43015. The Radio Equipment nor any part thereof shall at any time be removed from that location.

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5. Recall of Equipment. The County reserves the right to immediately recall all or any portions of the Radio Equipment at any time and for any reason and with no advance notice. Such a recall will act as a termination of the Agreement. Notice of any such recall will be communicated as soon as practically possible to the Director of the Red Cross.
6. Sublease or Assignment. This Agreement shall not be sublet or assigned.
7. Independent Contractor. The Red Cross shall act in performance of this Agreement as an independent contractor. As an independent contractor, the Red Cross and/or its officers, officials, board, employees, representatives, agents, volunteers and/or servants are not entitled to any of the benefits enjoyed by employees of the Board, Sheriff, and/or Delaware County, Ohio.
8. Indemnification. The Red Cross shall provide indemnification as follows:
- A. To the fullest extent of the law and without limitation, the Red Cross agrees to indemnify and hold free and harmless the Board, Sheriff, Delaware County, Ohio and all of their respective boards, officers, officials, employees, volunteers, agents, servants and representatives (hereinafter collectively "Indemnified Parties") from any and all actions, claims, suits, demands, judgments, damages, losses, costs, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to the Red Cross's performance of this Contract. The Red Cross agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that the Red Cross shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, and expenses. The Red Cross further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that the Contractor shall 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. The Red Cross shall assume full responsibility for, pay for, and shall indemnify and hold free and harmless the Indemnified Parties from any harm, damage, destruction, injury, or loss, regardless of type or nature, known or unknown, realized or unrealized, to any property, real or personal, belonging to the Indemnified Parties or others, including but not limited to real estate, buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts arising out of or resulting in whole or in part from any acts or omissions negligent or accidental, actual or threatened, intentional or unintentional of the Red Cross.
- C. To the fullest extent of the law and without limitation, the Red Cross agrees to indemnify and hold free and harmless the Indemnified Parties from any and all actions, claims, suits, demands, judgments, damages, losses, costs, penalties, fines, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any violation of governmental laws or regulations, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to the Red Cross's performance of this Agreement. The Red Cross agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that the Red Cross shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, and expenses. The Red Cross further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that the Red Cross shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, penalties, fines, and expenses, including, but not limited to attorney's fees.
9. Insurance. The Red Cross shall carry and maintain throughout the life of the Agreement such bodily injury and property damage liability insurance as will sufficiently protect it and the Indemnified Parties against any and all claims for personal injury, including death, illness, bodily harm, or property damage, which may arise out of or result from the performance of or operations under this Agreement or from the use of any vehicle(s) in connection therewith, and shall include coverage for indemnification as described above.

The Red Cross shall also carry and maintain throughout the life of the Agreement insurance on the Radio Equipment in an amount sufficient to fully replace the Radio Equipment should it be damaged, lost, stolen, or destroyed.

Prior to commencement of this Agreement, the Red Cross shall present to the Sheriff current certificates of insurance, and shall maintain current such insurance during and throughout the entire term of this Contract. The Indemnified Parties must be named as "Additional Insured" on the required insurance policies required herein and shall be listed on the certificates of insurance as "Additional Insured."

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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 the County 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.

If there is any change in insurance carrier or liability amounts, a new certificate of insurance must be provided to the Sheriff within seven (7) calendar days of change.

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

10. Termination.

A. Termination for Convenience

Either Party may terminate this Agreement at any time and for any reason by giving at six (6) months advance written notice to the other Party.

B. Breach or Default of Contract:

Upon breach or default of any of the provisions, obligations, or duties embodied in this Agreement, the an 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 Agreement 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.

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 either Party fails to perform an obligation or obligations under this Agreement and such failure(s) is (are) waived by the other Party, such waiver shall be limited to the particular failure(s) so waived and shall not be deemed to waive other failure(s).

11. Notices. All notices, payments or other communications required to be made pursuant to or in connection with this Agreement shall be sent registered or certified mail to the party entitled to receive such notice and/or payment as follows:

A. Sheriff Walter L. Davis, III

Delaware County Sheriffs Office 149 North Sandusky Street
Delaware, Ohio 43015

B. Delaware County Board of County Commissioners c/o County Administrator Dave Cannon

101 North Sandusky Street
Delaware, Ohio 43015

C. The American National Red Cross

380 Hills -Miller Road Delaware, Ohio 43015

12. Findings for Recovery. The Red Cross certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

13. DMA Form Statement. The Red Cross 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 Red Cross agrees to make such certification by completing the declaration of material assistance/no assistance 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.

14. Campaign Finance — Compliance with O.R.C. § 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

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Code are in compliance with the applicable provisions of section 3517.13 of the Revised Code. The Red Cross, 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 with, and/or performing the Contract. Such certification is attached to this Contract and by this reference made a part thereof

15. Equal Employment Opportunity. In fulfilling the obligations and duties of the Agreement, the Red Cross shall not discriminate against any employee or applicant for employment on the basis of race, religion, national origin, color, creed, gender, sexual orientation, age, Vietnam-era Veteran status, or disability, as defined in the Americans with Disabilities Act.

The Red Cross shall ensure that applicants are hired and that employees are treated during employment without regard to any of the listed factors. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

The Red Cross agrees to post in conspicuous places, available to employees and applicants for employment, notices stating that the Red Cross complies with all applicable federal and state non-discrimination laws. The Red Cross shall incorporate the foregoing requirements of this section in all of its contracts for any of the work prescribed herein, and shall require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

16. Drug Free Workplace. The Red Cross agrees to comply with all applicable state and federal laws regarding drug-free workplace and shall have established and have in place a drug free workplace policy. The Red Cross shall make a good faith effort to ensure that all of its employees will not purchase, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way.

17. Inspection and Maintenance of Records and Work Papers/Audit. At any time, during regular business hours, with reasonable notice and as often as the County or their representatives may deem necessary, the Red Cross shall make available to any or all the above named parties or their authorized representatives, all subcontracts, invoices, receipts, payrolls, personnel records, reports, documents and all other information or data relating to all matters covered by this Agreement. The County or their representatives shall be permitted by the Red Cross to inspect, audit, make excerpts, photo static copies and/or transcripts of any and all documents relating to all matters covered by this Agreement.

18. 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.

19. Severability. The provisions of this Agreement are to be severable so that in the event any part or portion thereof shall be held to be illegal, unenforceable or contrary to the public policy of the State of Ohio or any state or jurisdiction, the remaining portions of this Agreement shall remain in full force and effect.

20. Entire Agreement. This Agreement constitutes the entire understanding between the parties hereto and supersedes all prior and contemporaneous agreements, arrangements, negotiations and understandings between the parties relating to the subject matter of this agreement.

21. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

ADDENDUM "A"

This document identifies the Radio Equipment referred to in the Agreement between the Sheriff, Board, and the Red Cross.

Make	Model	Description	Serial Number	Value
Ericsson	SXHM01	Repeater Cabinet	1697939	499.99
G.E.	Mastr III	Repeater	1697939	4,341.76
Decibel Products	DB4048	Duplexer	166555	699.99
VHF	High-band	Antenna	None	399.99

Vote on Motion Mr. Thompson Aye Mr. O'Brien Aye Mr. Hanks Aye

COMMISSIONERS' COMMITTEES REPORTS
Refer to CD minutes for entire record

Commissioner O'Brien

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Attended 911 Board Meeting; hiring of new director. Will be having interviews next week; if the commissioners are interested in meeting with the top tier applicants a special Commissioners session might be needed on Wednesday July 15, 2009.

- Attended Family Children's First Meeting
- Met with County Engineer

Commissioner Hanks

- meetings with companies on economic development opportunities
- thanks to Kyle Rohrer for his help on the hotel tax questions
- thanks to Dave Cannon for working on possible fiber optic resolution

Commissioner Thompson

- had a meeting with a member of the Fair Board; still interested in having a joint meeting
- had a meeting with Delaware City Manager, idea of re-establishing the county wide intergovernmental group

RESOLUTION NO. 09-814

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT, EMPLOYMENT, DISMISSAL, DISCIPLINE, PROMOTION, DEMOTION OR COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL AND FOR LAND ACQUISITION:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to adjourn into Executive Session at 9:50AM.

Vote on Motion Mr. Thompson Aye Mr. O'Brien Aye Mr. Hanks Aye

RESOLUTION NO. 09-815

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to adjourn out of Executive Session at 10:35AM.

Vote on Motion Mr. O'Brien Aye Mr. Thompson Aye Mr. Hanks Aye

RESOLUTION NO. 09-816

IN THE MATTER OF ADJOURNING THE MEETING:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to adjourn the meeting.

Vote on Motion Mr. Hanks Aye Mr. Thompson Aye Mr. O'Brien Aye

Todd Hanks

Ken O'Brien

Tommy Thompson

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Letha George, Clerk to the Commissioners