

COMMISSIONERS JOURNAL NO. 52 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD SEPTEMBER 17, 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. 09-1153

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD SEPTEMBER 10, 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 September 10, 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
(Refer To Cd Minutes For Entire Record)

-Comments On Proposed Resolution Authorizing Byers Kia Of Berlin Township The Use Of A Temporary Force Main Sanitary Sewer Connection At Or Near Grief Parkway

- 1. Ray Armstrong, Berlin Township Zoning Inspector-In Support Of Resolution
- 2. Mike Shade, Attorney For Byers Kia- In Support of Resoltuion

-Comments On Terminating Enterprise Zone Agreement No. 215-02-02 With Nippert Company (Luvata)

- 3. Stephen D. Martin, Manos, Martin, Pergrain &. Dietz Co., Lpa

RESOLUTION NO. 09- 1154

IN THE MATTER OF RECOGNIZING ZACHARY TAYLOR MYERS FOR HIS DEDICATION TO HIS COUNTRY AND DELAWARE COUNTY:

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

Whereas, Zachary Myers was a 2006 graduate of Delaware Hayes High School; and

Whereas, Zachary Myers enlisted in the United States Army to serve his country; and

Whereas, Zackary Myers had a sense of duty to his country and felt he had an obligation to do "the right thing" by serving in Iraq; and

Whereas, on September 8th, 2009, while on a mission with the 545 MP Company he was killed in action serving his country and those in Delaware County, and

Whereas, Delaware County would like to honor one of our fallen soldiers by recognizing his contribution to the community; and

Whereas, the City of Delaware will be coordinating a tribute to Zachary Myers when the specifics of the arrangements are released

Now Therefore Be It Resolved, the Board of Commissioners of Delaware County, Ohio authorizes the County Administrator to coordinate with the City of Delaware to pay tribute and recognize Zachary Myers for his dedication to his Country and Delaware County.

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

RESOLUTION NO. 09-1155

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0916, MEMO TRANSFERS IN BATCH NUMBERS MTAPR0619:

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It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0916, memo transfers in batch numbers MTAPR0916 and Purchase Orders as listed below:

PR Number	Vendor Name	Line Desc	Line Account	Line Amount	Line Number
R0906336	AMERICAN ARBITRATION ASSOC	ARBITRATION OF OSTRANDER	21011113 - 5361	\$7,500.00	0001

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO Decreases			
Oxford School-GlickRoad	Child Care	22411610-5348	\$22,000.00
Carrie Bennett	Child Care	22411610-5348	\$15,000.00
Karen Bumpus	Child Care	22411610-5348	\$ 2,000.00
Lisa Burrell	Child Care	22411610-5348	\$ 5,000.00
Kathy Dudding	Child Care	22411610-5348	\$12,000.00
Ashley Evener	Child Care	22411610-5348	\$10,000.00
Tammy Graham	Child Care	22411610-5348	\$15,000.00
Darlene Hill	Child Care	22411610-5348	\$10,000.00
Kim Miller	Child Care	22411610-5348	\$10,000.00
Tina Millisor	Child Care	22411610-5348	\$17,000.00
Lisa Rucker	Child Care	22411610-5348	\$ 9,000.00
Christina Shaffer	Child Care	22411610-5348	\$ 5,000.00
Kim Smith	Child Care	22411610-5348	\$ 5,000.00
Erin Tope	Child Care	22411610-5348	\$20,000.00
Kim Van Dyke	Child Care	22411610-5348	\$ 5,000.00
Buckeye Valley SACC	Child Care	22411610-5348	\$22,000.00
JS Campbell/Goddard	Child Care	22411610-5348	\$30,000.00
KinderCare S. Cleveland Ave	Child Care	22411610-5348	\$ 5,000.00
Oxford –Blazer Parkway	Child Care	22411610-5348	\$70,000.00
PO Increases			
Jelly Bean Junction	Child Care	22411610-5348	\$ 7,500.00
Kiddie Academy	Child Care	22411610-5348	\$20,000.00
Adventure Academy	Child Care	22411610-5348	\$10,000.00
Nancy Lucas	Child Care	22411610-5348	\$10,000.00
Nicole Working	Child Care	22411610-5348	\$ 7,000.00
Brooksedg	Child Care	22411610-5348	\$10,000.00
Dawnya Coleman	Child Care	22411610-5348	\$10,000.00
Patricia Jones	Child Care	22411610-5348	\$13,000.00
Brianna Kinniard	Child Care	22411610-5348	\$ 5,000.00
Noah's Ark	Child Care	22411610-5348	\$10,000.00
T&J Junior	Child Care	22411610-5348	\$10,000.00
The Learning Center/ Sunbury	Child Care	22411610-5348	\$60,000.00
Liberty Community	Child Care	22411610-5348	\$30,000.00
Lilly Pad	Child Care	22411610-5348	\$10,000.00
Nikou	Child Care	22411610-5348	\$25,000.00
Kindercare New Albany	Child Care	22411610-5348	\$20,000.00
LaPetite Polaris	Child Care	22411610-5348	\$10,000.00
LaPetite Sawmill	Child Care	22411610-5348	\$10,000.00
Jelly Bean	Child Care	22411610-5348	\$10,000.00
Kiddie Academy	Child Care	22411610-5348	\$30,000.00
KinderCare Innovation	Child Care	22411610-5348	\$ 5,000.00

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

RESOLUTION NO. 09-1156

SETTING TIME AND DATE FOR VIEWING AND PUBLIC HEARING FOR CONSIDERATION OF A PETITION REQUEST FROM THE BOARD OF GENOA TOWNSHIP TRUSTEES FOR THE DELAWARE COUNTY BOARD OF COMMISSIONERS TO RELEASE A RIGHT-OF-WAY EASEMENT ON LOT 7498 OF SHEFFIELD PARK, SECTION 3, PHASE A; TO RELEASE A RIGHT-OF-WAY EASEMENT ON LOT 1250 OF KNOFF SUBDIVISION NO. 2; AND TO VACATE A PLATTED, UNDEVELOPED PORTION OF RIGHT-OF-WAY OF LOT 1250 OF KNOFF SUBDIVISION NO. 2 (0.114 ACRES OF LOT 7498 SHEFFIELD PARK AND 0.210 ACRES OF RIGHT-OF-WAY OF TOWNSHIP ROAD 110-JAYCOX ROAD) IN GENOA TOWNSHIP:

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

Whereas, on September 3, 2009 the Delaware County Commissioners received a petition filed by the Genoa Township Trustees, For The Delaware County Board Of Commissioners To Release A Right-Of-Way Easement On Lot 7498 Of Sheffield Park, Section 3, Phase A; To Release A Right-Of-Way Easement On Lot 1250 Of Knoff Subdivision No. 2; And To Vacate A Platted, Undeveloped Portion Of Right-Of-Way Of Lot 1250 Of Knoff Subdivision No. 2 (0.114 Acres Of Lot 7498 Sheffield Park And 0.210 Acres Of Right-Of-Way Of Township Road 110-Jaycox Road) In Genoa Township, and

Whereas, The Genoa Township Trustees' request was passed with A Resolution dated August 12, 2009;

Therefore be it Resolved, the Delaware County Commissioners will on **Thursday, October 8, 2009, at 1:30PM** view the proposed vacation petition request.

Further Be It Resolved, on **Monday October 12, 2009, at 9:30AM** a Public Hearing will be held to consider said vacation petition request at the Office of the Board of County Commissioners, 101 North Sandusky Street Delaware, Ohio.

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

RESOLUTION NO. 09 -1157

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Administrative Services Department is requesting that Lisa Iannotta attend a Labor and Employment Law Update in Columbus, Ohio September 21, 2009. No Cost

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

RESOLUTION NO. 09-1158

IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE DELAWARE COUNTY ADULT COURT SERVICES AND THE DELAWARE AREA CAREER CENTER:

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

Whereas, the Director of Adult Court Services recommends approval of the Delaware Area Career Center ABLE Program agreement;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the Delaware Area Career Center ABLE Program agreement.

PROFESSIONAL SERVICES AGREEMENT

Whereas Delaware County Adult Court Services is in need of an on-site ABLE/GED class on Monday evenings and the Delaware Area Career Center ABLE Program is willing to provide such services at an agreed upon cost, the Parties hereby agree that:

1. NATURE OF EMPLOYMENT

The Delaware Area Career Center/ABLE Program will provide an on-site ABLE/GED class for court-involved persons at 22 Court Street, Delaware OH 43015.

The ABLE/GED class will meet for two hours, from 5:30-7:30 PM. All class members will have a pre and post assessment using the TABE (Test of Adult Basic Education) to document learner progress, as required by the Ohio Board of Regents/ABLE office.

The instructor, Kristin Jones, will track attendance and follow-up with students when they are absent. Adult court students may also enroll in the on-line ABLE/GED class and work with the on-line instructor, Norman Seese. There is no cost for the on-line class and all students are encouraged to register for this class also, since their brick and mortar class meets only 1x per week.

2. TERM OF EMPLOYMENT

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The evening class will begin on Monday, July 6, 2009, and end on Monday, June 30, 2010. (44 weeks)

There will be no ABLÉ classes on the following dates: September 7, November 23, December 21, December 28, January 18, February 15, April 5, and May 31.

3. PAYMENT AND REIMBURSEMENT

Cost of services: Payment shall be \$35.00 per hour with a total allowance of 3 hours per class (2 hours of class time plus 1 hour of preparation time). Total cost per class will be \$105.00. Total cost of services rendered will be \$4620.00. Services will be invoiced quarterly. This agreement shall be funded by the Ohio Department of Rehabilitation and Corrections Community Corrections Act Grant. Delaware County may terminate this agreement if the funding is cut or reduced.

4. APPLICABLE LAW

The parties here to agree that it is their intention that this Agreement and the performance hereunder be construed in accordance with the laws of the State of Ohio. Any legal action arising pursuant to this Contract shall be filed in and heard before the courts of Delaware County, Ohio.

5. INDEMNIFICATION

To the fullest extent permitted by law, the Delaware Area Career Center ABLÉ Program 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 Delaware Area Career Center ABLÉ Program's performance of this Contract. The Delaware Area Career Center ABLÉ Program 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 Delaware Area Career Center ABLÉ Program shall at any time be considered an agent or employee of the Delaware County Board of Commissioners.

6. INSURANCE

General Liability Coverage: Delaware Area Career Center ABLÉ Program shall maintain commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence with an annual aggregate of not less than \$2,000,000, including coverage for subcontractors, if any.

Automobile Liability Coverage: Delaware Area Career Center ABLÉ Program shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles.

Workers' Compensation Coverage: Delaware Area Career Center ABLÉ Program shall maintain workers' compensation coverage as required by the laws of the State of Ohio.

Additional Insureds: The County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Contract in the policies required by Subsection 4.5.

Proof of Insurance: Prior to the commencement of any work under this Contract, Delaware Area Career Center ABLÉ Program shall furnish the County with properly executed certificates of insurance for all insurance required by this Contract. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Delaware Area Career Center ABLÉ Program will replace certificates for any insurance expiring prior to completion of work under this Contract.

7. WAIVER

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

8. ASSIGNMENT

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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, but the Contract may not be assigned by the Delaware Area Career Center ABLE Program without the prior written consent of the Delaware County Board of Commissioners.

9. FINDINGS FOR RECOVERY

Delaware Area Career Center ABLE Program certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

10. 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 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.

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

RESOLUTION NO. 09-1159

IN THE MATTER OF APPROVING THE COMMUNICATIONS SYSTEM AGREEMENT BETWEEN DELAWARE COUNTY AND MOTOROLA, INC. FOR PRODUCTS AND SERVICES FOR THE ADDITION OF ONE 800 MHZ CHANNEL TO DELAWARE COUNTY'S EXISTING ASTRO P25 SYSTEM FOR THE COUNTYWIDE DIGITAL 800 MHZ RADIO SYSTEM:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve The Communications System Agreement Between Delaware County And Motorola, Inc. For Products And Services For The Addition Of One 800 Mhz Channel To Delaware County's Existing Astro P25 System For The Countywide Digital 800 Mhz Radio System;

Whereas, the 911 Communications Director and the Public Safety Systems Administrator recommends approval of the contract;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approves The Communications System Agreement Between Delaware County And Motorola, Inc. For Products And Services For The Addition Of One 800 Mhz Channel To Delaware County's Existing Astro P25 System For The Countywide Digital 800 Mhz Radio System;

Further Be It Resolved, that the Commissioners approve a Purchase Order Request to Motorola, Inc. in the amount of \$472,623.00 (21411306-5450).

(A copy of the agreement is available in the Commissioners' Office until no longer of administrative value).

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

RESOLUTION NO. 09-1160

IN THE MATTER OF TERMINATING ENTERPRISE ZONE AGREEMENT NO. 215-02-02 WITH NIPPERT COMPANY (LUVATA):

It was moved by Mr. Hanks, seconded by Mr. Thompson to approve the following:

WHEREAS, the Delaware County Board of Commissioners, via Resolution Number 91-693, designated an area in the City of Delaware as an Enterprise Zone and has encouraged the acquisition of and investment in real and personal property therein; and

WHEREAS, the Director of Development of the State of Ohio re-certified said area in the City of Delaware, as a Delaware County Enterprise Zone, effective the 29th day of August, 2001; and

WHEREAS, The Nippert Company received tax incentives for a expansion project in said zone under Chapter 5709 of the Ohio Revised Code; and

WHEREAS, Sam Dong Ohio, Inc. purchased Nippert Company (Luvata) copper processing facility at 801 Pittsburgh Drive on April 30, 2009, and

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WHEREAS, Sam Dong has notified the County and City that it will not be requesting assignment or transfer of either the Enterprise Zone or Community Reinvestment Area Agreements.

NOW THEREFORE, PURSUANT TO THE FOREGOING, BE IT HEREBY RESOLVED by the Board of Commissioners, County of Delaware, State of Ohio, as follows:

1. Effective as of the date of the passage of this Resolution, the tax exemption granted to The Nippert Company (Luvata) for the Enterprise Zone Agreement #215-02-02 dated April 29, 2002, for the Project located at 801 Pittsburgh Drive in the City of Delaware, Ohio, shall be terminated.
2. The Delaware County Director of Economic Development is directed to formally notify the Delaware County Auditor, the Ohio Department of Development, the Ohio Department of Taxation, the Delaware City School District and the Delaware Joint Vocational School of this action.

Letter dated August 27, 2009
Manos, Martin, Pergrain & Dietz Co., LPA
Attorneys at Law
50 North Sandusky Street
Delaware, Ohio 43015-1926
Stephen D. Martin
740-363-1313, ext. 204
Fax 740-362-3288 [e-mail: smartin@mmpolaw.com](mailto:smartin@mmpolaw.com).

The City of Delaware, Ohio
ATTN: R. Thomas Homan, City Manager
1 South Sandusky Street
Delaware, OH 43015

Board of Commissioners of Delaware County, Ohio
ATTN: Gus Comstock, Economic Development Director
101 North Sandusky Street
Delaware, OH 43015

Gentlemen:
RE: Project Address: 801 Pittsburg Drive, Delaware, Ohio 43015

Enterprise Zone Agreement
Agreement Reference: EZ215-02-02
Agreement Date: April 29, 2002
Abated Parcel: 41922001017877
Parcel: 4192200101702 and 41921006006000
Legislation: Resolution 02-29

Community Reinvestment Act Agreement
Agreement Reference: CRA 041-01135-102-001
Agreement Date: April 29, 2002
Abated Parcel: 41922001017877, 41921006006878 and 41921006006877
Parcel: 41922001017002 and 41921006006000
Legislation: Ordinance 02-57

As you are both aware, at the time the above-referenced agreements were entered into, the taxpayer/property owner which was party to the agreement was The Nippert Company. As you both also know, thereafter The Nippert Company's name was changed to Luvata Ohio, Inc. As you are both further aware, the Tax Incentive Review Committee's recommendations for TIRC Year 2008, from its meeting on March 4, 2009, were to continue both agreements, with the comment on each that there had been a "...presentation on how economic slowdown has affected slowdown and caused layoffs and created a 4-day work week."

Additionally, as both of you are most aware, on April 30, 2009 Luvata Ohio, Inc. sold the real property at 801 Pittsburg Drive, Delaware, Ohio subject to CRA 041-01135-1 02-001 and the personal property subject to EZ215-02-02 to Sam Dong Ohio, Inc. The Community Reinvestment Area Agreement provides in § 16 thereof that it is not transferrable or assignable without the express, written approval of the City of Delaware (O.R.C. § 3735.671(C)(8)). The Enterprise Zone Agreement provides in § 17 that it is not transferrable or assignable without the express written approval of the City of Delaware and of Delaware County.

This letter shall constitute notice on behalf of Sam Dong Ohio, Inc. that it will not be requesting- assignment or transfer of either the subject Enterprise Zone: Agreement (EZ215-02- 02) or the Community Reinvestment Area Agreement (CRA 041-01135-102-001), and Sam Dong Ohio, Inc. will not be filing with the State Department of

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Taxation tax form DTE 913 pursuant to ¶ 8 of the subject Enterprise Zone Agreement.

I assume that the Community Reinvestment Act Agreement can be terminated by the City of Delaware with an appropriate ordinance, but, in the event that it is deemed necessary to also have a termination agreement to which Sam Dong Ohio, Inc. is to be a party, please provide me with a copy of the proposed termination agreement or have City Attorney Bennington contact me. I assume that the termination of the Enterprise Zone Agreement will be effectuated by the adoption of an appropriate ordinance by City Council and the adoption of an appropriate resolution by the Board of Commissioners, but, in the event that a termination agreement to which Sam Dong Ohio, Inc. is to be a party is deemed appropriate, please provide me with the proposed termination agreement, or have either or both Mr. Bennington and the necessary attorney from Delaware County Prosecutor David Yost's office contact me.

Thank you for your courtesy and cooperation.

Sincerely,
 Stephen D. Martin

bsd

c Sam Dong Ohio, Inc., Leon Malloy, President Sam Dong Ohio, Inc., David Brantley

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

RESOLUTION NO. 09-1161

IN THE MATTER OF APPROVING AGREEMENT TO ESTABLISH A REGIONAL COUNCIL OF GOVERNMENT (COG) BY AND BETWEEN THE CITY OF DUBLIN, THE CITY OF WORTHINGTON, AND DELAWARE COUNTY FOR RADIO COMMUNICATIONS:

It was moved by Mr. Hanks, seconded by Mr. Thompson to approve the Council Of Government Agreement (Cog) By And Between Delaware County, The City Of Dublin And The City Of Worthington For Radio Communications.

Whereas, the County Administrator recommends approval of the agreement;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approves The Council Of Government Agreement (Cog) By And Between Delaware County, The City Of Dublin And The City Of Worthington For Radio Communications.

AGREEMENT TO ESTABLISH A REGIONAL COUNCIL OF GOVERNMENT

This Agreement To Establish A Regional Council Of Government (this "Agreement") is entered into by and between the City of Dublin, an Ohio municipal corporation ("Dublin"), the City of Worthington, an Ohio municipal corporation ("Worthington"), and Delaware County, a county validly existing under the laws of the State of Ohio ("Delaware") (Dublin, Worthington and Delaware individually referred to herein as a "Party" or collectively as the "Parties".)

Recitals

WHEREAS, the Parties each arrange for the provision of police and fire services to the residents of their respective political subdivisions;

WHEREAS, each Party utilizes its own technology and resources in dispatching police and fire personnel to serve their respective residents;

WHEREAS, the Parties have determined that combining these resources and collaborating to create an improved system with enhanced technology, redundancy, spectrum efficiency, and interoperability will better serve the residents of each Party's political subdivision (the "System");

WHEREAS, Delaware has secured a certain EMA grant to assist in the funding of necessary equipment for the System; and

WHEREAS, the Parties desire to enter into this Agreement to create a regional council of government in order to most effectively and efficiently manage the System.

NOW, THEREFORE, the Parties hereby agree as follows:

Provisions

- 1. Creation of a Regional Council of Government.** In order to most effectively and efficiently manage the System, the Parties hereby agree to create a regional council of government (the "COG") in accordance

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with federal and state law, and pursuant to Ohio Revised Code § 167.01.

2. **Powers of the COG.** The COG shall have the authority to perform all functions necessary to establish, improve, maintain, unwind and dispose of the System. Specifically, and notwithstanding the preceding sentence, the COG shall have the authority to:
 - a. Enter into contractual arrangements for services as deemed necessary and appropriate for the betterment of the System;
 - b. Enter into contractual arrangements with other political subdivisions for the provision of services;
 - c. Employ staff to assist in the operations of the COG;
 - d. Purchase or lease or otherwise provide for supplies, materials, equipment and facilities deemed necessary and appropriate for the betterment of the System;
 - e. Accept and raise monies for the operation of the COG and for the betterment of the System; and
 - f. All other powers and authorities available to the COG as set forth in Chapter 167 of the Ohio Revised Code.
3. **Governing Board of the COG.** The business of the COG shall be managed by a governing board consisting of one (1) representative from each Party and any subsequently added political subdivisions (the "Governing Board"). The representative from each Party shall be the highest ranking employee of that Party (e.g. City Manager, County Administrator) or a designee of that employee. The representative from the original members of the COG (Dublin, Worthington, Delaware) shall be the City Manager, County Administrator, or a designee of that employee. All representatives of the Governing Board shall have been appointed through formal action taken by a political subdivision.
4. **Addition of Member Communities.** Additional political subdivisions may apply for membership in the COG. The addition of political subdivisions and the terms and conditions of the additional political subdivision's entry into the COG shall require the unanimous consent of the representatives of the Governing Board.
5. **Providing Dispatch Services to Political Subdivisions.** Those political subdivisions that the COG provides dispatch or any other services to shall not be members of the COG and shall not have a representative on the Governing Board of the COG unless added as a member to the COG pursuant to the requirements of this Agreement.
6. **Withdrawal From the COG.** Any member of the COG may withdraw its membership in the COG by formal action of that political subdivision, and upon providing three hundred sixty-five (365) days advance written notice to the Governing Board. The withdrawing member shall be responsible for its share of financial obligations of the COG incurred up to the official date of withdrawal, and shall not have any voting rights during the three hundred sixty-five day notice period.
7. **Dissolution of the COG.** The COG may be dissolved by formal action taken by the legislative authorities of the three original members (Dublin, Worthington, Delaware) of the COG. If one or more of these parties are no longer members of the COG, then the COG may be dissolved by formal action taken by the legislative authorities of each of the then current members of the COG. Any dissolution shall be subject to the licensing requirements of the Federal Communications Commission. Upon dissolution, any monies remaining in an account utilized for the operation of the COG shall first be employed to unwind and meet any debt or other obligation necessary for the dissolution of the COG. The remaining balance shall be distributed equally between the then remaining members of the COG.
8. **Adoption of the Code of Regulations.** The Parties hereby adopt the attached code of regulations of the COG ("Code of Regulations"), in its entirety, as the binding regulations of the COG and the Governing Board. The Code of Regulations may be amended by a majority vote of the Governing Board, provided that such amendments shall not conflict with the terms of this Agreement.
9. **Finances of the COG.**
 - a. **Budget and Cost-Sharing Approval.** Approval of the budget of the COG, and any associated cost-sharing proposals, shall require unanimous consent by the representatives of the Governing Board.
 - b. **Fiscal Year.** The COG shall conduct its operations based upon a calendar fiscal year (January 1st to December 31st).

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- c. Acceptance of Funding.** The COG may accept funding from member political subdivisions, state and federal grant sources, and any other source. A majority of a quorum of the Governing Board shall be required to accept any such funding.
 - d. Spending and Purchasing Within the Budget.** Expenditures to be made by the COG that are within the agreed upon budget shall require majority consent by a quorum of the Governing Board.
 - e. Spending and Purchasing Outside of the Budget.** Expenditures to be made by the COG that are outside of the agreed upon budget shall require unanimous consent by the representatives of the Governing Board.
 - f. Physical Assets of the COG.** Those physical assets that each COG member provides to the COG, for use by the COG, shall be classified as either a Type 1 physical asset or a Type 2 physical asset. Type 1 physical assets shall remain with the COG member that initially provided the asset to the COG upon the withdrawal or removal of that member from the COG, or upon the dissolution of the COG. Type 2 physical assets shall be considered the physical assets of the COG, and upon the withdrawal or removal of the member initially providing the Type 2 asset to the COG, the Type 2 physical asset shall remain an asset of the COG. Upon dissolution of the COG, a Type 2 physical asset shall revert back to the member that initially provided the asset. The Governing Board shall maintain a schedule of those assets that are Type 1 assets, and those that are Type 2 physical assets. It is the responsibility of that member initially providing an asset for use by the COG to determine whether that asset is a Type 1 or Type 2 physical asset, and to ensure that this asset is listed on the appropriate schedule.
- 10. Responsibilities and Technical Requirements for System Operations.** The Governing Body shall, by unanimous consent, adopt a policy manual setting forth the responsibilities and technical requirements that each member of the COG must adhere to in the interest of effective and efficient management of the System.
- 11. Indemnification.**
- a. In General.** Any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, suit or proceeding, whether civil, criminal, administrative or investigative, other than a suit by or in the right of the COG, by reason of the fact that the person is or was a representative of the Governing Board, officer, employee or agent of COG, or is or was serving at the request of the COG as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, be indemnified by the COG for expenses, including reasonable attorney fees, judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if done in good faith and in a manner reasonably believed to be in the best interests of the COG and, with respect to any criminal action or proceeding, had no reasonable cause to believe conduct was unlawful. Termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not create a presumption that the person did not act in good faith and in a manner which was reasonably believed to be in the best interests of the COG and, with respect to any criminal action or proceeding, had reasonable cause to believe that the conduct was unlawful.
 - b. Indemnification Against Expenses.** Any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, suit or proceeding by or in the right of the COG to procure a judgment in its favor by reason of the fact that the person is or was a representative of the Governing Board, officer, employee or agent of the COG, or is or was serving at the request of COG as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the COG against expenses, including reasonable attorney fees, actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if done in good faith and in a manner reasonably believed to be in the best interests of the COG. However, no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of duty to the COG unless, and only to the extent that, the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as such court shall deem proper.
 - c. Procedure.** Any indemnification under this Section (unless otherwise ordered by a court of competent jurisdiction) shall be made by the COG only as authorized in the specific case upon a determination that the indemnification of the officer, employee or agent is proper in the circumstances because the applicable standard of conduct set forth in this Section, has been met. Such determination shall be made (a) by the Governing Board by a majority vote of a

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quorum consisting of representatives who were not parties to or threatened with such action, suit or proceeding; or (b) if such a quorum is not obtainable or even if obtainable, a quorum of disinterested members so directs, by independent legal counsel in a written opinion. Notwithstanding the provisions of this Section, to the extent that a representative of the Governing Board, officer, employee or agent of the COG has been successful on the merits or otherwise, in defense of any action, suit or proceeding referred to in such sections, or in defense of any claim, issue or matter, in any event the person be indemnified against expenses (including reasonable attorney fees) actually and reasonably incurred in that connection. Reasonable attorney fees shall not be paid by the COG if the person has obtained counsel apart from counsel designated by the Governing Board.

- d. Prior Payment.** Expenses incurred in defending a civil or criminal action may be paid by the COG before final disposition of such action. Such expenses may be authorized by the Governing Board in a specific case only upon receipt by the COG of a request on behalf of the Governing Board representative, officer, employee or agent to repay such amount unless it shall finally be determined that the person is entitled to be indemnified in such amount by the COG.
- e. Non-Exclusive.** The indemnification provided by this Section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled by any law of the State of Ohio, agreement or other means, both as to action taken in an official capacity and as to action in another capacity while holding such office and shall continue as to a person who has ceased to be a Governing Board representative, officer, employee or agent and such rights shall inure to the benefit of such person's heirs, executors and administrators.

12. Miscellaneous. The Parties agree to the following miscellaneous provisions:

- a.** The terms of this Agreement (including any exhibits, schedules and attachments hereto) constitute the entire agreement between the parties with respect to the matters set forth herein, and any amendment to this Agreement must be set forth in writing and agreed to by the Parties and any subsequently added member community.
- b.** This Agreement and any amendment hereof may be executed and delivered in counterparts, including by a facsimile transmission thereof, each of which shall be deemed an original.
- c.** This Agreement shall be governed by the laws of the State of Ohio.

**BYLAWS
OF
THE REGIONAL COUNCIL OF GOVERNMENT**

The City of Dublin, the City of Worthington, and Delaware County, in accordance with Section 167.04 of the Ohio Revised Code, do hereby establish these Bylaws of the Regional Council of Government.

**ARTICLE I
NAME AND MISSION**

SECTION 1.1 Name. The name of this regional organization is _____ (_____ or COG). The COG has been formed in accordance with an Agreement to Establish a Regional Council of Government and all other purposes set forth in these Bylaws, and encompasses the municipalities of Dublin and Worthington, and the County of Delaware, and other municipalities, township and counties as may be added in the future (individually referred to herein as "Member" and collectively as "Members").

SECTION 1.2 Mission. Each Member of the COG utilizes its own technology and resources in dispatching police and fire personnel to serve their respective residents. The mission of the COG is to allow the Members to collaborate in order to create an improved dispatching system with enhanced technology, redundancy, spectrum efficiency, and interoperability ("System") that will better serve the residents of each Member's political subdivision.

**ARTICLE II
POWERS**

SECTION 2.1 Powers. The COG shall have the authority to perform all functions necessary to establish, improve, maintain, unwind and dispose of the System. Specifically, and notwithstanding the preceding sentence, the COG shall have the authority to:

- a.** Enter into contractual arrangements for services as deemed necessary and appropriate for the betterment of the System;
- b.** Enter into contractual arrangements with other political subdivisions for the provision of

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services;

- g.** Employ staff to assist in the operations of the COG;
- h.** Purchase or lease or otherwise provide for supplies, materials, equipment and facilities deemed necessary and appropriate for the betterment of the System;
- i.** Accept and raise monies for the operation of the COG and for the betterment of the System; and
- j.** All other powers and authorities available to the COG as set forth in Chapter 167 of the Ohio Revised Code.

In addition, the COG shall exercise powers conferred by applicable federal, state and local laws, regulations, ordinances, rules and policies as well as those powers transferred to it by its members permitted under the Constitution of the State of Ohio and the Ohio Revised Code.

**ARTICLE III
MEMBERS**

Section 3.1 Founding Members. The municipalities of Dublin and Worthington, and the County of Delaware, have created the COG pursuant to Ohio Revised Code Section O.R.C. 167.0 et seq. in accordance with federal and state law, and accordingly, these political subdivisions, acting through their respective legislative authorities, are the principal members of COG.

Section 3.2 Membership Dues. Financial responsibility for operation of COG rests with legislative authorities of the Members that have created or have been added to the COG. Basic dues to support operations of the COG shall be determined by the Governing Board and members shall pay their respective share according to the plan determined by the Governing Board. Basic dues may be increased or decreased by the Governing Board each year.

Section 3.3 Suspension of Membership Any Member whose dues remain unpaid for a period in excess of ninety (90) days after commencement of the fiscal year on each July 1 may be subject to suspension of membership. Suspension of membership may be undertaken by a majority vote of the Governing Board and may provide for curtailment of voting authority or services and for such other penalties as the Governing Board may direct in each case. Notice of any Member's eligibility for suspension shall be given at regular intervals to the Governing Board and in writing to the member's highest ranking employee and/or the legislative body, at the direction of a majority vote of the Governing Board.

**ARTICLE IV
GOVERNING BOARD**

Section 4.1 Duties of Governing Board. The business of the COG shall be managed by the Governing Board as established in the Agreement to Establish a Regional Council of Government. The Governing Board shall exercise all powers of the COG which are not otherwise required to be exercised by COG Members.

Section 4.2 Composition; Alternates; Term. The Governing Board shall consist of one (1) representative from each Member and any subsequently added political subdivisions. The representative from each Member shall be the highest ranking employee of that Member (e.g. City Manager, County Administrator) or a designee of that employee. All representatives of the Governing Board shall have been appointed through formal action taken by a political subdivision.

Board positions shall be granted based on requirements of this section and individual Board representatives shall be specified annually at the first meeting. The legislative authority within each political subdivision shall be responsible for assuring appropriate representation according to this section.

Each representative of the Board shall be entitled to vote on all matters submitted to the Board for a vote.

(a) Each person who is a representative of the Governing Board shall designate an alternate to act in the absence of such representative. Alternates shall possess full powers in all matters which come before the Governing Board. Each alternate shall be considered a Board representative with respect to all actions taken in capacity as an alternate, including any duties as an officer or committee member. Designation of an alternate shall be in writing and must be submitted to the Governing Board. Each designation shall be effective for no more than one (1) year from the date it is submitted to the Governing Board. Each person who is a member of the Governing Board may revoke or modify the designation at any time in writing and submit it to the Governing Board.

(b) Each person who is a representative of the Governing Board may elect to vote by written proxy on any matter submitted to the Board. The issuance of a proxy shall not affect weighted voting rights.

(c) Each person who is a representative of the Governing Board and any alternate designated by such

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member shall vacate board representation immediately upon ceasing to hold the public office or position which originally entitled such person to become a representative of the Governing Board. The successor of such representative shall be designated in the same manner as the vacating representative was selected.

(d) The Governing Board is authorized to take appropriate measures to insure attendance and a quorum, including limitations on speaking or similar rights of non-attending representatives, but no such measure shall operate to diminish the vote of any representative government or collection of communities.

Section 4.3 Officers; Election; Qualification; Term of Office; Resignation.

(a) At the first meeting in January each year the Governing Board shall elect a President, First Vice President, Secretary and Treasurer. The Governing Board may also elect additional Vice Presidents, one or more Assistant Secretaries and one or more Assistant Treasurers. Each officer shall hold office until the next annual meeting of the Governing Board or until such officer's successor is elected and qualified or until such officer's resignation, removal or death. Upon approval by the Board one person may serve both as Secretary and Treasurer.

(b) Any officer may resign at any time upon written notice to the Secretary of the Governing Board. The Secretary of the Governing Board shall thereafter notify all other representatives of the Governing Board.

(c) The Governing Board may remove any officer for cause at any time but such removal shall be without prejudice to the representation rights of the COG Member represented by such officer.

(d) Any vacancy occurring in any office which is caused by death, resignation, removal or otherwise shall be filled for the unexpired portion of the term by appointment by the President (except that the Vice President shall succeed the President as set forth below) with approval of the Governing Board within thirty (30) days of that vacancy.

(e) No member organization shall have more than one board member serving concurrently as an officer. This limitation does not apply in the case of officers serving as First or Second Vice President, Assistant Secretary or Assistant Treasurer. This limitation shall not apply if the Governing Board votes unanimously to appoint an officer from a member organization that already has officer representation.

(f) President. The President of the Governing Board shall be the chief policy officer of the COG and shall exercise all powers and duties in leadership of the COG as are generally associated with such office including, but not limited to, the power to execute such documents and instruments authorized by resolutions adopted by the Governing Board. The President shall represent the COG before bodies of the State and Federal government and shall be an ex officio voting member of all standing committees. The President shall also be responsible for execution of all directives and resolutions adopted by the Governing Board.

(g) First Vice President. The First Vice President, in the absence or disability of the President, shall perform duties and exercise powers of the President. In addition, the First Vice President shall perform such other duties prescribed by the Governing Board or President.

(h) Secretary. The Secretary shall give notice of all meetings of the Governing Board and shall perform such other duties prescribed by the Governing Board or President, under whose supervision the Secretary acts. The Secretary shall keep the corporate seal of the COG, if any, and when authorized by the Governing Board, affix it to an instrument which shall be attested to either by the signature of the Secretary, Treasurer or an Assistant Secretary. In the absence of the Secretary, the President or designee shall appoint a member to perform the duties of the Secretary.

(i) Treasurer. The Treasurer or designee (or Secretary in the absence or disability of the Treasurer) shall have custody of the COG funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the COG, and shall deposit all funds and securities of the COG in depositories designated by the Governing Board. The Treasurer shall disburse funds as directed by the Governing Board, taking proper vouchers for such disbursements, and shall give the President and other representatives of the Governing Board a periodic accounting of all transactions and the financial condition of the COG. The Treasurer shall perform such other duties prescribed by the Governing Board or President. The Treasurer shall be the fiscal officer required of the Ohio Revised Code, and the Treasurer need not be a representative of the Governing Board.

(j) Vice Presidents, Assistant Secretaries and Assistant Treasurers. In the absence or disability of the First Vice President, Secretary or Treasurer, the Second Vice President, Assistant Secretaries or Assistant Treasurers in the order designated by the Governing Board, shall perform the duties of the First Vice President, Secretary or Treasurer, respectively, and shall have full powers of the office.

Section 4.4 Vacancies. A vacancy in the Governing Board shall be filled by a public official designated in the same manner as the vacating representative was selected, to hold office for the whole or balance of the term to which such representative was elected or until such representative's successor is elected and qualified or until earlier resignation, removal from office or death.

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Section 4.5 Removal. A majority of the representatives of the Governing Board at any time may remove for cause any other representative. Removal must occur at a special meeting duly called for this purpose or at a regular meeting of the Governing Board where notice of this purpose has been established at the immediately preceding Board meeting. The successor to such representative or alternate shall be designated in the same manner as the removed representative was selected. If the representative removed is the highest ranking employee of a Member, the legislative authority of that Member shall appoint that Member's successor representative.

Section 4.6 Compensation of Board Members. A representative of the Governing Board shall not receive compensation for services other than ordinary and incidental expenses, except that a representative may be reimbursed for other reasonable expenses approved by a majority of the Governing Board. The COG considers attendance at meetings of the Governing Board and its committees to be public employment on the same basis that any Board member or alternate is considered in public employment for the public position that determined qualification for membership on the Governing Board.

**ARTICLE V
ORGANIZATION OF GOVERNING BOARD**

Section 5.1 Regular Meetings. Regular meetings of the Governing Board shall be determined and published annually at the principal offices of the COG or such other location and time as the Board designates.

Section 5.2 Special Meetings. Special meetings of the Governing Board may be called at any time by the President or by a majority of Board representatives upon written notice delivered to the President or Secretary of the Governing Board. Such request shall state the purposes of the proposed meeting.

Section 5.3 Notice of Meetings. Except as otherwise provided in these Regulations or by law, written notice stating the time, place and purpose in case of a special meeting, shall be delivered to each Board representative at least seven (7) days before a regular meeting and four (4) days prior to any special meeting, either personally, by regular mail, by email, by fax or by telephone.

Section 5.4 Presiding Officer. Meetings of the Governing Board shall be presided over by the President or, in the President's absence, by the First Vice President or next succeeding officer. The Secretary shall act as secretary at all meetings and in the Secretary's absence the President may appoint any person to act as secretary of such meeting.

Section 5.5 Ratification: Action Without a Meeting. The Governing Board, acting at a meeting at which a quorum is present, may ratify any action taken by or on behalf of the COG. Any action normally taken at a meeting may be taken without a meeting if consent in writing, setting forth the action to be taken, is signed by all representatives of the Governing Board and if such action without a meeting is otherwise not prohibited by applicable law.

Section 5.6 Electronic Meeting. The Governing Board may hold meetings electronically, either via teleconference, video conference, or any other form of electronic communication whereby each Board representative is able to audibly hear the other representatives in the meeting.

Section 5.7 Quorum. A majority of Board representatives shall constitute a quorum to transact business. Once established for any meeting of the Board, a quorum shall presume to continue unless otherwise noted on the record that a quorum is absent. The act of a majority of Board representatives present at a meeting at which a quorum is present shall be the act of the Governing Board. Any representative of the Governing Board who has a personal or financial interest in a contract or transaction which is before the Governing Board, or who is an owner or principal of a private and nonpublic entity with an interest in a matter before the Governing Board, may be counted for the purpose of determining the presence of a quorum at a meeting of the Board. Such interested member, however, shall not participate in any discussions of the Board with respect to that matter and shall not vote on such matters.

Section 5.8 Public Meetings. All meetings of the Governing Board shall be open to the public pursuant to the Ohio Sunshine Law, Revised Code Section 121.22 et.seq. Executive sessions and other closed meetings shall be held only as permitted by law.

**ARTICLE VI
COMMITTEES, SUBCOMMITTEES, ADVISORY COUNCILS AND TASK FORCES**

Section 6.1 Establishment of Committees, Subcommittees Advisory Councils and Task Forces. The President of the Governing Board with its approval may establish various Standing Committees, Subcommittees, Advisory Councils and Task Forces deemed necessary or appropriate to provide advice and policy recommendations to the Governing Board relating to the mission of the COG.

Unless the Governing Board otherwise provides, each Standing Committee, Subcommittee, Advisory Council or Task Force may make, alter and repeal rules to conduct its business. In the absence of such rules, each

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Standing Committee, Subcommittee, Advisory Council or Task Force shall conduct business in the same manner as the Governing Board conducts business. Appendix I contains the table defining the purpose, membership, duration, creation, appointment and reporting responsibilities of Standing Committees, Subcommittees, Advisory Councils and Task Forces. This table shall be used to establish these bodies unless otherwise stated in the Code.

**ARTICLE VII
INDEMNITY**

Section 7.1 In General. Any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, suit or proceeding, whether civil, criminal, administrative or investigative, other than a suit by or in the right of the COG, by reason of the fact that the person is or was a Board representative, officer, employee or agent of the COG, or is or was serving at the request of the COG as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, be indemnified by the COG for expenses, including reasonable attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if done in good faith and in a manner reasonably believed to be in the best interests of the COG and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful. Termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not create a presumption that the person did not act in good faith and in a manner which was reasonably believed to be in the best interests of the COG and, with respect to any criminal action or proceeding, had reasonable cause to believe that the conduct was unlawful.

Section 7.2 Indemnification Against Expenses. Any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, suit or proceeding by or in the right of COG to procure a judgment in its favor by reason of the fact that the person is or was a Board representative, officer, employee or agent of COG, or is or was serving at the request of the COG as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the COG against expenses, including reasonable attorney fees, actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if done in good faith and in a manner reasonably believed to be in the best interests of the COG. However, no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of duty to the COG unless, and only to the extent that, the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as such court shall deem proper.

Section 7.3 Procedure. Any indemnification under Sections 7.1 and 7.2 (unless otherwise ordered by a court of competent jurisdiction) shall be made by the COG only as authorized in the specific case upon a determination that indemnification of the officer, employee or agent is proper in the circumstances because the applicable standard of conduct set forth in Sections 7.1 and 7.2. has been met. Such determination shall be made (a) by the Governing Board by a majority vote of a quorum consisting of representatives who were not parties to or threatened with such action, suit or proceeding; or (b) if such a quorum is not obtainable or even if obtainable, a quorum of disinterested representatives so directs, by independent legal counsel in a written opinion. Notwithstanding the provisions of Sections 7.1 and 7.2 of this Article VIII, to the extent that a Board representative, officer, employee or agent of the COG has been successful on the merits or otherwise, in defense of any action, suit or proceeding referred to in such sections, or in defense of any claim, issue or matter, in any event the person be indemnified against expenses (including reasonable attorney's fees) actually and reasonably incurred in that connection. Reasonable attorney fees shall not be paid by the COG if the person has obtained counsel apart from counsel designated by the Board.

Section 7.4 Prior Payment. Expenses incurred in defending a civil or criminal action may be paid by the COG before final disposition of such action. Such expenses may be authorized by the Governing Board in a specific case only upon receipt by the COG of a request on behalf of the Board representative, officer, employee or agent to repay such amount unless it shall finally be determined that the person is entitled to be indemnified in such amount by the COG.

Section 7.5 Non-Exclusive. The indemnification provided by this Article VII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled by any law of the State of Ohio, agreement or other means, both as to action taken in an official capacity and as to action in another capacity while holding such office and shall continue as to a person who has ceased to be a Board representative, officer, employee or agent and such rights shall inure to the benefit of such person's heirs, executors and administrators.

**ARTICLE VIII
AMENDMENTS**

This Code of Regulations may be altered, amended or repealed only by a majority vote of the Governing Board.

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**ARTICLE IX
MISCELLANEOUS**

Section 9.1 Checks and Notes. Certain checks or demands for money and notes of the COG shall be signed by the officer authorized by these Bylaws. The signature may be a facsimile when authorized by the Governing Board.

Section 9.2 Seal. The Governing Board may provide a seal containing the name of the COG and it is kept by the Secretary. Duplicate seals may be kept and used by other officers of the COG.

Section 9.3 Notices. Whenever notice is required to be given to any person it may be given to such person either personally or by sending a copy through the mail or similar modern method, to the address appearing on the books of the COG. If notice is sent by mail it shall be deemed to have been delivered to the addressee when deposited in the United States mail for transmission to such person.

Section 9.4 Waiver of Notice. Any notice required to be given to any person may be waived in writing by the person entitled to such notice before the meeting. Attendance at any meeting by any person entitled to notice, either in person or by a duly designated alternate, shall constitute a waiver of notice of such meeting by such person except where such person attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully convened.

Section 9.5 Captions. Captions and headings in this Code of Regulations are for convenience only and in no way define or limit the scope or intent of any provision or section.

Assets

Delaware/Dublin/Worthington 800MHz System Advisory Committee

08/12/09

Type 1 Assets

Type 1 physical assets shall remain with the COG member that initially provided the asset to the COG upon the withdrawal or removal of that member from the COG, or upon the dissolution of the COG.

- Delaware County
 - Zone controller
 - Non-COG owned fiber connectivity
 - Console Embassy Switch
 - System Key
- Dublin
 - Avery Road Tower Access
 - Hard Road Tower Access
 - DubLink fiber optics
- Worthington
 - Huntley Road Tower – Ground rights/access

Type 2 Assets

Type 2 physical assets shall be considered the physical assets of the COG, and upon the withdrawal or removal of the member initially providing the Type 2 asset to the COG, the Type 2 physical asset shall remain an asset of the COG.

- Seven system frequencies
- Repeaters, transmitters, combiners and other radio equipment installed at the Avery Road, Hard Road and Huntley Road tower sites.
- COG installed fiber optics and laterals
- Dispatch consoles at Dublin (5) and Worthington (3)
- Huntley Road Tower, generator and shelter
- Console Central Electronics Banks
- Network management clients at Dublin
- MOSCAD installation at tower sites

(A copy of the agreement and Exhibits is available in the Commissioners' Office until no longer of administrative value).

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

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RESOLUTION NO. 09-1162

IN THE MATTER OF APPROVING PERSONNEL ACTIONS:

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

The Director of Environmental Services Recommends to approve the payout of accrued vacation and one-fourth of sick leave accrual due to the death of employee Joseph Evans; effective date September 12, 2009.

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

RESOLUTION NO. 09-1163

IN THE MATTER OF APPROVING CHANGE ORDER #00004 FOR BID PACKAGE 09 – PLUMBING AND FINAL PAYMENTS TO FOX MECHANICAL AND THE QUANDEL GROUP FOR THE NEW HEADQUARTERS AND FACILITIES FOR THE COUNCIL FOR OLDER ADULTS, DELAWARE COUNTY, OHIO:

It was moved by Mr. Hanks, seconded by Mr. Thompson to approve change order #00004 for Bid Package 09 - Plumbing:

Whereas, the County Administrator recommends approval of the change order and payments ;

Therefore Be It Resolved, that the Delaware County Board of Commissioners approves the following change order and payments:

Fox Mechanical Company

Original Contract	\$	418,000.00
Amount previously approved	\$	88,746.04
Change Order #00004	\$	<u>4,970.14</u>
Revised Contract Amount	\$	511,716.18

Further Be It Resolved, that the Delaware County Board of Commissioners approves the following

PR Number	Vendor Name	Line Desc	Line Account	Line Amount	Line Number
R0905126	QUANDEL GROUP INC	CONST MAN CFOA	43111424 -5410	\$18,037.00	0001
	FOX MECHANICAL	PLUMBING CFOA	43111424-5410	\$4,970.14	0001

	<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
Voucher				
	Quandel Group	Construction Manager CFOA	43111424-5410	\$18,037.00
	Fox Mechanical	Plumbing CFOA	43111424-5410	\$ 4,970.14

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

RESOLUTION NO. 09-1164

IN THE MATTER OF AUTHORIZING BYERS KIA, LOCATED IN BERLIN TOWNSHIP THE CONSTRUCTION, INSTALLATION, AND USE OF A TEMPORARY SANITARY FORCE MAIN AT OR NEAR ITS PREMISES:

It was moved by Mr. Hanks, seconded by Mr. Thompson to approve the following resolution.

Whereas, the Board of Commissioners is interested in promoting business growth and development in Delaware County; and

Whereas, the Board of Commissioners established and operates the Delaware County Regional Sewer District; and

Whereas, Byers owns 5.637 acres, more or less, known as 5342 and 5308 Columbus Pike, further identified as Parcel Numbers 41833001070000 and 41833001069000 and operates a business known as Byers Kia at these locations; and

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Whereas, Byers has obtained approved zoning and preliminary and final development plans for Phase One of their project and preliminary plan approved for Phases Two and Three; and

Whereas, Byers has commenced work on the enlargement of its current structure and additional parking area improvements in compliance with its approved development plan timeline; and

Whereas, Byers is not capable of proceeding with its planned business expansion with its current on lot wastewater system and needs the use of a centralized sewer system; and

Whereas, Byers Kia, Inc., understands that tying into the Delaware County sanitary sewer presently located along Greif Parkway provides the necessary sanitary sewer service for its proposed development and growing their business plan, and

Whereas, Greif, Inc. as part of its approval process with Delaware County and Berlin and Liberty Townships, provided, per a recorded subdivision plat, for a twenty foot sanitary sewer easement; and

Whereas, the sanitary sewer easement as platted could also serve the Carl Skeels property consisting of 3.95 acres, more or less and known as Parcel Number 41833001067000 and the Ed Ross Construction Company property consisting of 9.04 acres, more or less, and known as Parcel Numbers 4183300107100, 41833001072000, 41944003057000 and 41944003056000; and

NOW THEREFORE, PURSUANT TO THE FOREGOING, BE IT HEREBY RESOLVED by the Board of Commissioners, County of Delaware, State of Ohio as follows:

1. Effective the date of passage of this Resolution, Byers Kia, located in Berlin Township, is authorized to connect to the Delaware County Regional Sewer District through the construction and installation of a temporary sanitary force main at or near Grief Parkway. Prior to doing so, Byers shall do the following: Deliver a set of plans to the Delaware County Sanitary Engineers Office for review, obtain and execute the necessary easements, obtain the necessary permits, and pay the appropriate Sewer District capacity fees as set by the Board of Commissioners.
2. Byers Kia will be responsible for paying all costs associated with the construction and installation of the temporary force main, pumps, and other required equipment. See Letter attached hereto and incorporated herewith as Exhibit A.
3. Byers Kia agrees, at its cost, to connect to a permanent sanitary sewer at such time as the permanent sanitary sewer becomes available. See Letter attached hereto and incorporated herewith as Exhibit A.

(A copy of the agreement is available in the Commissioners' Office Economic Development Department until no longer of administrative value).

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

**Commissioners' Committees Reports
(Refer To Cd Minutes For Entire Record)**

Commissioners O'Brien

- Attended EMA Meeting On Monday
- Attended The 911 Board Meeting On Tuesday-Highway Patrol
- Attended Board Of Revision On Wednesday
- Attended A DKMM Board Workforce Board Meeting On Wednesday
- Agricultural Meeting Held Delaware County Bank
- Today Will Attend A Central Ohio Youth Center Meeting

Commissioner Hanks

- Speaker At A National Association Meeting
- Columbus State Article In Dispatch
- Port Authority Web Tool Link
- Attended The Rail Road Task Force Meeting

Commissioner Thompson

- Dkmm Planning Policy Committee-HR Delaware County Reviewing Job Description For New Director
- Village Academy Speaker

RESOLUTION NO. 09-1165

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF PENDING OR IMMINENT LITIGATION:

COMMISSIONERS JOURNAL NO. 52 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD SEPTEMBER 17, 2009

It was moved by Mr. O'Brien, seconded by Mr. Hanks to adjourn into Executive Session at 10:50AM.

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

RESOLUTION NO. 09-1166

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 11:45AM.

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

RESOLUTION NO. 09-1167

IN THE MATTER OF ADJOURNING THE MEETING:

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

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

Todd Hanks

Ken O'Brien

Tommy Thompson