

COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 12, 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

9:30 AM 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

RESOLUTION NO. 09-1275

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD OCTOBER 8, 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 October 8, 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. 09-1276

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1009, MEMO TRANSFERS IN BATCH NUMBERS MTAPR1009:

It was moved by Mr. Hanks, seconded by Mr. O'Brien to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1009, memo transfers in batch numbers MTAPR1009 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Decrease			
Petroleum Traders	Gasoline	10011106-5228	\$ 40,000.00
Pitney Bowes	Postage	10011105-5331	\$ 10,000.00
PO Increase			
Beems	Gasoline	10011106-5228	\$ 40,000.00
American Electric	EMS Service	10011303-5338	\$ 3,000.00
Accent Communications	EMS Service	10011303-5338	\$ 200.00
Alloway	Lab Services OECC	66290304-5301	\$ 2,500.00

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

RESOLUTION NO. 09 -1277

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Facilities Department is requesting that Jon Melvin attend a Construction Claims Seminar in Dublin, Ohio November 19, 2009, at the cost of \$199.00 (Fund Number 10011105).

The Administrative Services Department is requesting that Brad Euans attend a Worker's Comp Self Insured Seminar in Dublin, Ohio October 13, 2009, at the cost of \$55.00. (Fund Number 61311923).

The Administrative Services Department is requesting that Gina Fasone attend a Hiring Fair in Marion County

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October 13, 2009, at no cost.

The Environmental Services Department is requesting that Walt Thompson attend a Wastewater Mathematics Course in Dayton, Ohio October 21, 2009, at the cost of \$155.00 (Fund Number 66290301 and 66290410).

The Environmental Services Department is requesting that Chad Antle, David Finney, Matt Lambert, Jack Smelker and Blake Jordan attend a Key Contract Provisions and Project Delivery Considerations at Bricker and Eckler LLP October 22, 2009, at the cost of 10.00. (Fund Number 66211902).

The Code Compliance Department is requesting that Bill Johnson and Duane Matlack attend an Ohio Manufactured Homes Commission Training Workshop in Marysville, Ohio October 28 and 29, 2009, the cost of \$120.00. (Fund Number 10011301).

The 911 Communications Department is requesting that Bob Greenlaw, Sharon Creamer, Lisa Sessley, and Kathy Coy attend a DDTI User's Group Conference in Columbus, Ohio October 21, 2009, at no cost.

Juvenile Court is requesting that Dana Wisecarver attend a Family Violence Prevention Summit 2009 in Newark, Ohio October 28-29, 2009, at the cost of \$355.49. (Fund Number 27826325).

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

RESOLUTION NO. 09-1278

IN THE MATTER OF A LIQUOR LICENSE REQUEST FROM BLAZIN WINGS INC. DBA BUFFALO WILD WINGS GRILL AND BAR AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

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

Whereas, the Ohio Division of Liquor Control has notified both the Delaware County Board of Commissioners and the Liberty Township Trustees that Blazin Wings INC. DBA Buffalo Wild Wings Grill and Bar, located at 3878 Attucks Drive Liberty Township Powell, Ohio 43065, has requested a DSI permit, and

Whereas, the Liberty Township Trustees have not filed an objection, the Delaware County Sheriff has responded- no known reason for a hearing to be requested and the Delaware County Commissioners have received no objections.

Therefore Be it Resolved, The Clerk of the Board shall complete the necessary forms and notify the Ohio Division of Liquor Control that no objections are made and no hearing is requested by this Board of County Commissioners.

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

RESOLUTION NO. 09-1279

IN THE MATTER OF APPROVING AN END-USER LICENSE AGREEMENT BETWEEN THE BOARD OF DELAWARE COUNTY COMMISSIONERS; THE DELAWARE COUNTY TREASURER AND JAGUAR SOFTWARE DEVELOPMENT, INCORPORATED:

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

Whereas, the Delaware County Treasurer recommends approval of the End-User License Agreement with Jaguar Software Development, Incorporated:

Therefore Be It Resolved, that the Commissioners approves the End-User License Agreement between The Board of Delaware County Commissioners; the Delaware County Treasurer and Jaguar Software Development, Incorporated.

**JAGUAR SOFTWARE DEVELOPMENT, INCORPORATED
END-USER LICENSE AGREEMENT**

THIS END-USER LICENSE AGREEMENT (this "Agreement") is made as of the date shown below, by and between Jaguar Software Development, Incorporated, a corporation organized under the laws of the State of Illinois, with its principal place of business at 915 West Monroe, Sullivan, Illinois 61951 ("Licensor"). and The Board of County Commissioners of Delaware County, Ohio ("Board") and Jon Peterson, Delaware County Treasurer ("Treasurer") with offices at 140 North Sandusky Street, Floor, Delaware, Ohio 43015 ("Licensee").

The parties hereto agree as follows:

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Section 1
DEFINITIONS

1.1. "Licensed Program" means the package of computer programs and data in machine-readable form and related materials, including documentation and listings, identified in Exhibit A attached hereto and all upgrades, enhancements or improvements to such software program subsequently provided to Licensee by Licensor or its authorized agents.

Section 2
LICENSE

2.1. In consideration of the payment of the license fees set forth herein, Licensor grants Licensee, and Licensee accepts, a nonexclusive license to use the Licensed Program subject to the following terms and conditions.

2.2. Licensee agrees that the Licensed Program may be used only on computer equipment owned, leased, or otherwise controlled by Licensee or one of its affiliates or majority-owned subsidiaries. Licensee agrees that it will not assign, sublicense, transfer, pledge, lease, rent, or share its rights under this Agreement except that licensee is permitted to transfer and assign the Licensed Program and this Agreement in accordance with Section 6.2. Licensee agrees that it may not reverse assemble, reverse compile, or otherwise translate the Licensed Program.

2.3. Upon loading the Licensed Program into its computer, Licensee may retain the original compact disk (CD) of the Licensed Program for backup purposes. In addition, Licensee may make a reasonable number of copies of the Software on CD (or other media) for the sole purpose of backup in the event the original CD of the Licensed Program is damaged or destroyed. Any copies made of the Licensed Program shall include Licensor's copyright and other proprietary notices. Except as authorized under this section, no copies of the Licensed Program or any portions thereof may be made by Licensee or any person under Licensee's authority or control.

2.4. Licensee may receive the Licensed Program in more than one medium. Regardless of the type or size of medium Licensee receives, Licensee agrees to use only one medium that is appropriate for its single computer. Licensee agrees not to use or install the other medium on another computer. Licensee further agrees not to loan, rent, lease or otherwise transfer the other medium to another user.

Section 3
FEES AND PAYMENTS

3.1. The License fee for the Licensed Program is specified in Exhibit A (hereinafter referred to as "License Fee"). Licensee agrees to pay one half (50%) of the License Fee upon execution of this Agreement and the remaining one half after Licensee accepts the Licensed Program in accordance with the Acceptance procedures provided in Section 3.2. The final one half of the License Fee shall be due in full thirty (30) days from the date of Acceptance (as defined in Section 3.2).

3.2. Licensee shall have thirty (30) days from the date of installation of the Licensed Program to use the Licensed Program, subject to the terms of this Agreement, on an evaluative basis ("Evaluation Period"). During the Evaluation Period Licensee can reject and return the Licensed Program for any reason. If the Licensee rejects the Licensed Program, the Licensee shall have no further obligation under this Agreement and the entire portion of the License Fee already paid by the Licensee shall be refunded in full to the Licensee. If Licensee does not reject and return the Licensed Program prior to the end of the Evaluation Period, Licensee shall be deemed to have accepted the Licensed Program ("Acceptance") and the end of the Evaluation Period shall serve as the Acceptance Date.

3.3. Licensee agrees to pay a maintenance fee a listed in Exhibit A to cover Licensor's support of the Licensed Program mentioned in Section 4 of this Agreement for a term of one year starting from the date of Acceptance.

3.4. Licensee is exempt from all taxes and upon request will provide written proof of such exemption. In the event that Licensee is subject to any taxes, Licensee shall be solely responsible for payment of any taxes (including sales or use taxes, intangible taxes, and property taxes) resulting from its acceptance of this License and Licensee's possession and use of the Licensed Program, exclusive of taxes based on Licensor's income. Licensor reserves the right to have Licensee pay any such taxes as they fall due to Licensor for remittance to the appropriate authority.

3.5. Licensor reserves the right to change its maintenance fee no more than once annually on 90 days advance notice (to apply on a prospective basis only). Any such increase shall not (a) exceed the lesser of five percent (5%) or the Consumer Price Index for the current year; and (b) be effective until the commencement of the subsequent year of maintenance coverage.

3.6. All fees are payable within thirty (30) days of invoice.

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Section 4
MAINTENANCE

4.1. Licensor shall maintain the Licensed Program in the manner specified in Exhibit A. However, Licensor offers maintenance only for the most current version of the Licensed Program issued by Licensor from time to time, so Licensee must make sure to obtain and substitute or incorporate all new releases or fixes issued by Licensor pursuant to its warranty and maintenance programs.

4.2. Ninety (90) days prior to the one year anniversary of the Acceptance, Licensee shall have an option to continue receiving Licensor's maintenance of the Licensed Program in the manner specified in Exhibit A. Licensee can exercise its option from the time that the option initially arises to one year from the Acceptance Date. If Licensee exercises its option, then Licensee will receive Licensor's maintenance for the Licensed Program for a period of one year from the one year anniversary of the Acceptance Date upon Licensee's payment of a renewal fee to be determined by Licensor, subject to the limitations on fee increases under Section 3.5.

Section 5
LICENSEE'S RESPONSIBILITIES

5.1. Licensee agrees to be responsible for selecting an operator who is qualified to operate the Licensed Program on Licensee's own equipment and is familiar with the information, calculations, and reports that serve as input and output of the Licensed Program. Licensor reserves the right to refuse assistance or to charge additional fees if an operator seeks assistance with respect to such basic background information or any other matters not directly relating to the operation of the Licensed Program.

5.2. The Licensed Program is designed for use with the peripheral equipment and accessories specified in Exhibit A. Except as agreed otherwise in writing, Licensor assumes no responsibility under this Agreement for obtaining or providing such equipment. Licensee is also responsible for ensuring a proper environment and proper utilities for the computer system on which the Licensed Program will operate.

5.3. Except as agreed otherwise in writing, Licensor assumes no responsibility under this Agreement for converting Licensee's data files for use with the Licensed Program.

Section 6
PROPRIETARY PROTECTION AND RESTRICTIONS

6.1. Licensee acknowledges and agrees that the Licensed Program is a proprietary product of Licensor protected under U.S. copyright law and international copyright treaties, as well as other intellectual property laws and treaties. Licensee further acknowledges and agrees that Licensor shall have sole and exclusive ownership of all right, title, and interest in and to the Licensed Program, including associated intellectual property rights, and all modifications and enhancements thereof (including ownership of all intellectual property rights, such as trade secrets and copyrights, pertaining thereto), subject only to the rights and privileges expressly granted to Licensee herein by Licensor. This Agreement does not provide Licensee with title or ownership of the Licensed Program, but only a right of limited use thereof. Licensee agrees to keep the Licensed Program free and clear of all claims, liens, and encumbrances.

6.2. Licensee agrees not to use, copy, modify, or distribute the Licensed Program (electronically or otherwise), or any copy, adaptation, transcription, or merged portion thereof, except as expressly authorized by Licensor. Licensee agrees not to reverse assemble, reverse compile, or otherwise translate the Licensed Program. Licensee's rights may not be transferred, leased, assigned, or sublicensed except for a transfer of the Licensed Program in its entirety to (1) a successor in interest to all or substantially all of Licensee's business or assets who assumes the obligations of this Agreement or (2) any other party who is reasonably acceptable to Licensor, agrees to be bound by the terms of this Agreement, and pays a reasonable administrative fee intended to cover Licensor's attendant costs. No service bureau work, multiple-user license, or time-sharing arrangement is permitted, except as expressly authorized by Licensor. Licensee agrees not to install the Licensed Program in any other computer system or use it at any other location not occupied by Licensee (or one of Licensee's affiliates or majority-owned subsidiaries) without Licensor's express authorization obtained in advance (which will not be unreasonably withheld); provided that Licensee may transfer the Licensed Program to another computer temporarily if the computer where the program was originally installed is inoperable. If Licensee uses, copies, or modifies the Licensed Program or if Licensee transfers possession of any copy, adaptation, transcription, or merged portion of the Licensed Program to any other party in any way not expressly authorized by Licensor, Licensor may terminate Licensee's license upon written notice and failure of Licensee to cure within ten (10) days.

6.3. Licensee hereby authorizes Licensor to enter its premises in order to inspect the Licensed Program in any reasonable manner during regular business hours to verify Licensee's compliance with the terms hereof.

6.4. Licensee acknowledges that, in the event of Licensee's breach of any of the foregoing

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provisions, Licensor will not have an adequate remedy in money or damages. Licensor shall therefore be entitled to obtain an injunction against such breach from any court of competent jurisdiction immediately upon request. Licensor's right to obtain injunctive relief shall not limit its right to seek further remedies.

6.5. If a third party claims that Licensee's use of the Licensed Program infringes its patent, copyright, or trade secret, or any similar intellectual property right, Licensor will indemnify, hold Licensee harmless from and defend Licensee against that claim at Licensor's expense and pay all reasonable costs and expenses incurred by Licensee, costs of settlement, and all damages that a court finally awards, provided that Licensee promptly notifies Licensor in writing of the claim, and allows Licensor to control, and cooperates with Licensor in, the defense or any related settlement negotiations. If such a claim is made or appears possible, Licensee agrees to permit Licensor to enable Licensee to continue to use the Licensed Program, or to modify or replace them, provided all material functionality is preserved. If Licensor determines that none of these alternatives is reasonably available, Licensee agrees to return the Licensed Program on Licensor's written request, and Licensee will then receive a full and complete refund of the entire License Fee paid by Licensee to Licensor for such Licensed Program.

6.6. Licensor has no obligation for any claim based on Licensee's modification of the Licensed Program or its combination, operation, or use with any product, data, or apparatus not specified or provided by Licensor, provided that such claim solely and necessarily is based on such combination, operation, or use and such claim would be avoided by combination, operation, or use with products, data, or apparatus specified or provided by Licensor.

6.7. THIS SECTION STATES LICENSOR'S ENTIRE OBLIGATION TO LICENSEE WITH RESPECT TO ANY CLAIM OF INFRINGEMENT.

Section 7

LIMITED WARRANTY AND LIMITATION OF LIABILITY

7.1. Licensor warrants, for Licensee's benefit alone, that the Licensed Program conforms in all material respects to the specifications for the current version of the Licensed Program set forth in Exhibit A. This warranty is expressly conditioned on Licensee's observance of the operating, security, and data-control procedures set forth in the User's Manual included with the Licensed Program. The failure of the Licensed Program to conform materially to the specifications provided in Exhibit A shall be deemed a "Material Defect".

7.2. Licensor is not responsible for obsolescence of the Licensed Program that may result from changes in Licensee's requirements. The foregoing warranty shall apply only to the most current version of the Licensed Program issued by Licensor from time to time. Licensor assumes no responsibility for the use of superseded, outdated, or uncorrected versions of the Licensed Program.

7.3. Except for maintenance pursuant to Section 4 of this Agreement, Licensee shall have no remedy against Licensor for any Material Defect in the Licensed program for which Licensor is responsible if the Material Defect is not brought to Licensee's attention within 90 days of the date of Acceptance. For any Material Defect in the Licensed Program for which Licensor is responsible and in which the Material Defect has been brought to Licensee's attention within 90 days of Acceptance, Licensor shall attempt through reasonable effort to correct or cure any reproducible defect by issuing corrected instructions, a restriction, or a bypass and in the event Licensor does not correct or cure such nonconformity or defect after it has had a reasonable opportunity to do so, Licensee may elect to return the Licensed Program for a full and complete refund of the entire License Fee or to receive a replacement of the defective or nonconforming module of the Licensed Program. Licensor shall not be obligated to correct, cure, or otherwise remedy any nonconformity or defect in the Licensed Program if Licensee has made any unauthorized changes whatsoever to the Licensed Program, if the Licensed Program has been misused or damaged in any respect, if Licensee has not reported to Licensor the existence and nature of such nonconformity or defect promptly upon discovery thereof, or Licensor is not employed by Licensee, at the time of Licensee's awareness of the defect, to maintain the Licensed Program pursuant to Section 4 of this Agreement.

7.4. Licensor also warrants the following:

- (a) **Ownership and Right to Grant.** Licensor represents that it is the owner of all right, title and interest in and to the Licensed Program and that it has the right to grant to Licensee the license granted hereunder free and clear of any liens and encumbrances.
- (b) **Time Bombs Warranty.** Licensor warrants that the Licensed Program is free of features such as "back doors" "trojan horses" and "time bombs" through which the Licensed Program could be disabled either directly or indirectly via remote access. **Virus Warranty.** Licensor warrants that the Licensed Program is free of any and all computer viruses and that Licensor has taken all reasonable steps to ensure that the Licensed Program is free of such viruses.
- (d) **Professional Services Warranty.** Licensor warrants that all services rendered hereunder shall be rendered in a professional manner consistent with general industry practices.

7.5. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND TO THE MAXIMUM

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EXTENT PERMITTED BY APPLICABLE LAW, LICENSOR DISCLAIMS ANY AND ALL PROMISES, REPRESENTATIONS, AND WARRANTIES, EITHER EXPRESS OR IMPLIED. WITH RESPECT TO THE LICENSED PROGRAM, INCLUDING, BUT NOT LIMITED TO, ITS CONDITION, ITS CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS, ANY NEGLIGENCE, AND ITS MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE.

7.6. The cumulative liability of Licensor to Licensee for all claims relating to the Licensed Program and this Agreement, including any cause of action sounding in contract, tort, or strict liability, shall not exceed the total amount of all license fees paid to Licensor hereunder. This limitation of liability is intended to apply without regard to whether other provisions of this Agreement have been breached or have proven ineffective. This limitation of liability shall not apply to the indemnification provided in Section 6.5 hereof. Licensor shall have no liability for loss of data or documentation, it being understood that Licensee is responsible for reasonable backup precautions.

7.7. In no event shall either party be liable to the other for any loss of profits; any incidental, special, exemplary, or consequential damages; or any claims or demands, even if advised of the possibility of such claims or demands. This limitation upon damages and claims is intended to apply without regard to whether other provisions of this Agreement have been breached or have proven ineffective.

7.8. Licensee acknowledges that it may have additional rights under certain laws (e.g., consumer laws) that do not allow the exclusion of implied warranties, or the exclusion or limitation of certain damages. If such laws apply, Licensor's exclusions or limitations do not apply to Licensee.

7.9. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL LICENSOR BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE LICENSED PROGRAM, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES AND JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO LICENSEE.

Section 8
SOURCE CODE ESCROW

8.1. If requested by Licensee, Licensor shall promptly place the source code version of the Licensed Program (the "Program Source Code") in the possession of a reputable Escrow Agent for the benefit of the Licensee. Licensor, Licensee, and the Escrow Agent shall in good faith negotiate an agreement mutually agreeable to the parties ("Escrow Agreement") which shall include provisions protecting the confidentiality and non-disclosure of the Program Source Code and shall provide for release of the Program Source Code upon the occurrence of certain events, including, but not limited to, Licensor's failure to fulfill its support or maintenance obligations.

Section 9
TERM OF AGREEMENT; TERMINATION

9.1. Licensee's license of the Licensed Program shall become effective upon delivery of the Licensed Program to Licensee and shall continue in perpetuity, unless sooner terminated as provided herein.

9.2. This Agreement may be terminated as follows:

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

(b) Breach or Default: Upon breach or default of any of the provisions, obligations, or duties embodied in this Agreement, the aggrieved party shall provide written notice of the breach or default to the breaching or defaulting party and permit the breaching or defaulting party to remedy the breach or default within a specified reasonable period of time. If the breach or default is not satisfactorily remedied within the specified time period, this 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. In the event of such a breach or default, the Licensor shall be entitled to receive compensation for any services satisfactorily performed hereunder through the date of termination.

(c) Effect of Waiver of any Occurrence of Breach or Default: 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)

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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).

9.3. Upon termination of this Agreement, all rights granted to Licensee will terminate and revert to Licensor. Promptly upon termination of this Agreement for any reason or upon permanent abandonment of Licensee's possession or use of the Licensed Program, Licensee agrees to return or destroy, as requested by Licensor, all copies of the Licensed Program in Licensee's possession (whether modified or unmodified), and all other materials pertaining to the Licensed Program (including all copies thereof). Licensee further agrees to certify its compliance with such restriction upon Licensor's request.

Section 10
MISCELLANEOUS

10.1. Any notices required or permitted under this Agreement shall be in writing and delivered in person or sent by registered or certified mail, return receipt requested, with proper postage affixed.

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

10.3. No modification of this Agreement shall be binding unless it is in writing and is signed by authorized representatives of both parties.

10.4. In the event that any of the terms of this Agreement are or become or are declared to be invalid or void by any court or tribunal of competent jurisdiction, such term or terms shall be null and void and shall be deemed severed from this Agreement and all the remaining terms of this Agreement shall remain in full force and effect.

10.5. Independent Contractor: Licensor agrees that no agency, employment, joint venture, or partnership has been or will be created between the parties hereto pursuant to the terms and conditions of this Agreement. Licensor also agrees that, as an independent contractor, Licensor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums which may accrue as a result of compensation received for services or deliverables rendered hereunder.

10.6. Indemnity: Licensor shall indemnify and hold harmless the Board, the Treasurer, Delaware County, Ohio, and their respective officers, agents, and employees from any and all losses, claims, damages, lawsuits, costs, judgements, expenses or any other liabilities which they may incur as a result of bodily injury, sickness, disease or death, injury to or destruction of tangible property including the loss of use resulting therefrom, caused in whole or in part by the negligent act or omission or intentional act of Licensor, any subcontractor, any person directly or indirectly employed by any of them or any person for whose acts any of them by be liable.

10.7. Insurance: Licensor shall carry and maintain throughout the life of the Agreement such bodily injury and property damage liability insurance as will protect it and the Board, the Treasurer, Delaware County, Ohio and their respective board members, officers, employees, agents, representatives, servants, and volunteers against any and all claims for personal injury, including death or property damage, which may arise from the performance of or operations under this Agreement or from the use of vehicles in connection therewith, and shall include coverage for indemnification as described above.

10.8. Equal Opportunity Employment: In fulfilling the obligations and duties of this Agreement, Licensor 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.

Licensor 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 compensations and selection for training including apprenticeship.

Licensor agrees to post in conspicuous places, available to employees and applicants for employment, notices stating that Licensor complies with all applicable federal and state non-discrimination laws. Licensor shall incorporate the foregoing requirements of this section in all of its Agreements 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.

10.9. Drug Free Workplace: Licensor 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. Licensor 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.

10.10. DMA Form Statement: Licensor certifies that it does not provide material assistance to any organization

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on the United States Department of State Terrorist Exclusion list, which list may be found on the Ohio Homeland Security web site at: <http://www.homelandsecurity.ohio.aov/>. Pursuant to R.C. § 2909.33, Licensor 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.

10.11. Campaign Finance — Compliance With ORC 3517.13: Ohio Revised Code Section 3.517.131(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association. Including without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in said sections of the Revised Code are in compliance with the applicable provision of section 3517.13 of the Revised Code. The Licensor, 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 Agreement will prohibit the Licensee from entering, proceeding with, and/or performing the Agreement. Such certification is attached to this Agreement and by this reference made a part thereof.

10.12. Findings for Recovery: Licensor certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

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

Licensor:
Jon Peterson
Delaware County Treasurer
140 North Sandusky Street, 1st Floor
Delaware, Ohio 43015
Fax: (740) 833-2479

Licensor:
Sean Creviston, President
Jaguar Software Development, Inc.
915 West Monroe Street
Sullivan, Illinois 61951
Fax: (217) 728-8125

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

10.15. THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF EACH PARTIES OBLIGATIONS AND RESPONSIBILITIES AND SUPERSEDES ANY OTHER PROPOSAL, REPRESENTATION, OR OTHER COMMUNICATION BY OR ON BEHALF OF EITHER PARTY RELATING TO THE SUBJECT MATTER HEREOF.

**EXHIBIT A
IDENTIFICATION OF LICENSED PROGRAMS:**

Software Module	#	Purpose
MirrorImage Payment Processing Bundle (up to 8,000 accounts)	1	Provides for Image Capture, Repair, Balancing, Research, and Reporting functions. This software bundle also provides the ability to create electronic deposit files that may be transmitted directly to a financial institution for deposit.
CAR/LAR Up to 400k Items/Year	1	Recognition of hand written amounts on checks (up to 400,000 checks in a 12 month period)
ICR up to 400k Fields/Year	1	Recognition of hand written or machine printed data from remittance stubs (up to 400,000 fields in a 12 month period)
IQA up to 400k Items/Year	1	Image Quality testing (up to 400,000 checks in a 12 month period)
MI-Archive Server	1	Provides access to SQL Server database for storing and retrieving item data and images.
Accounting Interface	1	Export file in format that is readable by Licensee's accounts receivable system.
X9 Electronic Deposit	1	Export check images and MICR data in ANSI X9.37 format for

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	the purpose of electronically depositing items to a financial institution.
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II. LOCATION OF LICENSEE'S FACILITY:

140 North Sandusky Street, 1st Floor, Delaware, Ohio 43015

III. LICENSE FEES:

Software Module	Unit Price	Extended Price	Annual Maintenance Fee
MirrorImage Payment Processing Bundle (up to 8,000 accounts)	\$3,544.00	\$3,544.00	\$744.24
CAR/LAR Up to 400k Items/Year	\$1,000.00	\$1,000.00	\$210.00
ICR/IQA 400k Fields/Year	\$752.00	\$752.00	\$157.92
Barcode	\$719.00	\$719.00	-----
MI-Archive Server	\$2,550.00	\$2,550.00	\$535.50
Accounting Interface	\$1,235.00	\$1,235.00	\$259.35
X9 Electronic Deposit	Included	Included	
TOTALS		\$9,800.00	\$1,907.01

IV. DELIVERY DATE FOR LICENSED SOFTWARE:

The software will be installed within 30 days of the execution of this agreement.

V. NECESSARY PERIPHERAL EQUIPMENT AND ACCESSORIES:

Canon CR-180 Image Transport

VI. MAINTENANCE SERVICES:

Preventive Maintenance: Licensor will (a) advise Licensee of problems encountered by other users of the MirrorImage products which Licensor believes are likely to affect Licensee in a materially adverse manner, (b) perform the remedial work required to correct such problems encountered by other users of the MirrorImage products, and (c) review data provided by Licensee on the operation of the MirrorImage products to ascertain potential problems.

Error Correction: Licensor will attempt through reasonable effort to correct any reproducible defect in the MirrorImage products that affect Licensee in a materially adverse manner and are reported to Licensor during the Maintenance period. Licensor is not responsible for correcting any errors which (a) are not reproducible, or (b) Licensee fails to provide Licensor with a description of the parameter(s), procedure(s), or condition(s) which resulted in such condition in sufficient detail to permit Licensor to isolate the error.

Telephone Support: Licensor will provide telephone support Monday through Friday, from 9:00 a.m. to 5:00 p.m. CST, excluding holidays. Outside of the indicated support hours, Licensee may leave a message at Licensor's support line, and a representative of Licensor will return the call the next business day.

Updates and Enhancements: Licensor will provide Licensee with any updates and enhancements to the MirrorImage products listed in Section I above for no additional cost at the time such versions are generally made available to other users of the MirrorImage products. Licensor reserves the right to make such updates and enhancements to the MirrorImage products as it deems necessary and appropriate.

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

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

RESOLUTION NO. 09-1280

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

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

Whereas, Delaware County contracts with Child Care providers in accordance with state and federal regulations, and

Whereas, the Director of Job & Family Services recommends approval of the following contract amendments;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the following contract amendments for Child Care providers:

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Worthington Christian

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

This amendment, effective August 23, 2009 is to amend the Purchase of Child Care Services Contract between the Delaware County Department of Job and Family Services and Worthington Christian entered into on the 1st day of January, 2009

<u>RATE CHANGES:</u>	Hourly
Summer School Age	\$ 6.40

Kindercare/Oak Creek

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

This amendment, effective August 23, 2009 is to amend the Purchase of Child Care Services Contract between the Delaware County Department of Job and Family Services and Kindercare/Oak Creek entered into on the 1st day of January, 2009

<u>RATE CHANGES:</u>	Hourly
Summer School Age	\$ 6.40

Little Prep School

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

This amendment, effective August 23, 2009 is to amend the Purchase of Child Care Services Contract between the Delaware County Department of Job and Family Services and Little Prep School entered into on the 1st day of January, 2009

<u>RATE CHANGES:</u>	Hourly
Summer School Age	\$ 6.72

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

RESOLUTION NO. 09-1281

IN THE MATTER OF ACCEPTANCE OF THE SANITARY SEWERS FOR GLEN OAK 5:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to accept the sanitary sewers for ownership, operation, and maintenance by Delaware County as follows:

Whereas, the Director of Environmental Services recommends accepting sanitary sewers for ownership, operation, and maintenance by Delaware County as follows:

Glen Oak 5 1,872 feet of 8- inch sewer 9- manholes

Therefore be it resolved, that the Board of Commissioners approve and accept the above sanitary sewers for ownership, operation, and maintenance by Delaware County.

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

RESOLUTION NO. 09-1282

IN THE MATTER OF APPROVING THE SANITARY SUBDIVIDER'S AGREEMENT FOR ALUM CROSSING SECTION 2 PHASE A:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to accept the following Sanitary Subdivider's Agreement:

Alum Crossing Section 2 Phase A

**SUBDIVIDER'S AGREEMENT
DELAWARE COUNTY SANITARY ENGINEER**

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THIS AGREEMENT executed on this 12th day of October 2009, by and between ROCKFORD HOMES, INC. and the BOARD OF COUNTY COMMISSIONERS of Delaware County, Ohio, as evidenced by the ALUM CROSSING SECTION 2 PHASE A Subdivision Plat filed with the Delaware County Recorder, Delaware County, Ohio, is governed by the following considerations and conditions, to wit:

The SUBDIVIDER shall upon executing this AGREEMENT pay to the DELAWARE COUNTY SANITARY ENGINEER **\$56,050.00**, representing the payment of fifty percent (50%) of the capacity charges then in effect for each single family residential connection, for **19** equivalent single family residential connections. The remaining capacity charge shall be fifty percent (50%) of the rate currently in effect at the time connection is made and shall be paid for each single family residential connection upon application to the DELAWARE COUNTY SANITARY ENGINEER for a tap permit to connect the single family residence to the sanitary sewer. Ownership of more than one (1) lot will not cause aggregation of the payments.

Said SUBDIVIDER is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this AGREEMENT; said SUBDIVIDER is to execute Bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$58,192.00**) which is acceptable to the COUNTY COMMISSIONERS to insure faithful performance of this AGREEMENT and the completion of all improvements in accordance with the Subdivision Regulations of Delaware County, Ohio. The SUBDIVIDER shall pay the entire cost and expense of said improvements.

The SUBDIVIDER shall indemnify and save harmless the County, Townships and/or Villages and all of their officials, employees and agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any action, or omissions of any contractor or sub-contractor or from any material, method or explosive used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date of the approval of said SUBDIVIDER by the COUNTY COMMISSIONERS, but extension of time may be granted if approved by the COUNTY COMMISSIONERS.

The SUBDIVIDER shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the COUNTY. The representative shall be replaced by the SUBDIVIDER, when in the opinion of the COUNTY, his performance is deemed inadequate.

The SUBDIVIDER further agrees that any violations of or noncompliance with any of the provisions and stipulations of this AGREEMENT shall constitute a breach of contract, and the COUNTY shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this Subdivision.

SANITARY SEWER CONSTRUCTION

It is further agreed that upon execution of this AGREEMENT, the SUBDIVIDER shall deposit, with the DELAWARE COUNTY SANITARY ENGINEER the sum of **\$6,692.08**, estimated to be necessary to pay the cost of plan review and inspection by the DELAWARE COUNTY SANITARY ENGINEER. The DELAWARE COUNTY SANITARY ENGINEER shall subtract from the above sum an amount equal to three and one-half percent (3½%) of the construction cost of the IMPROVEMENTS for plan review. The DELAWARE COUNTY SANITARY ENGINEER shall in his sole discretion inspect, as necessary, the IMPROVEMENTS being installed or constructed by the SUBDIVIDER and shall keep accurate records of the time spent by his employees and agents in such inspections for which the SANITARY ENGINEER shall be reimbursed from charges against said deposit. At such time as said fund has been depleted to a level of \$500.00 or less, as a result of charges against the same at the rate of:

INSPECTOR \$75.00 per hour
CAMERA TRUCK \$150.00 per hour

for time spent by said SANITARY ENGINEER or his staff, the SUBDIVIDER shall make an additional deposit of \$500.00 to said fund. On completion of all IMPROVEMENTS provided herein and acceptance of same by the COUNTY, any unused portions of the inspection fund shall be repaid to the SUBDIVIDER less an amount equal to \$0.75 per foot of sewer which will be deducted to cover re-inspection.

The SUBDIVIDER, for a period of five (5) years after acceptance of the IMPROVEMENTS by the COUNTY, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the IMPROVEMENTS shall be the same as new equipment warranties and shall be assigned to the COUNTY upon acceptance of the IMPROVEMENTS.

The SUBDIVIDER shall provide to the COUNTY all necessary easements or rights-of-way required to complete the IMPROVEMENTS, all of which shall be obtained at the expense of the SUBDIVIDER.

The COUNTY shall, upon certification in writing from the DELAWARE COUNTY SANITARY ENGINEER that all construction is complete according to the plans and specifications, by Resolution accept the IMPROVEMENTS described herein and accept and assume operations and maintenance of the same.

ALL CONSTRUCTION UNDER COUNTY JURISDICTION:

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to

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final acceptance, furnish to DELAWARE COUNTY as required:

- (1) "as built" drawings of the IMPROVEMENTS which plans shall become the property of the COUNTY and shall remain in the office of the DELAWARE COUNTY SANITARY ENGINEER and DELAWARE COUNTY ENGINEER. The drawings shall be on reproducible MYLAR (full size), two paper copies (one full size & one 11"x17"), and a Compact Diskette with the plans in DWG format & PDF format. An excel spreadsheet shall accompany the plan submittal showing the locations of the manholes in State Plan Coordinates (1988 datum).
- (2) an itemized statement showing the cost of IMPROVEMENTS
- (3) a waiver of lien from all Contractors associated with the project that all material and labor costs have been paid. The SUBDIVIDER shall indemnify and hold harmless the COUNTY from expenses or claims for labor or materials incident to said construction of the IMPROVEMENTS.
- (4) documentation showing the required sanitary sewer easements

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the DELAWARE COUNTY SANITARY ENGINEER a five (5) year maintenance Bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The SUBDIVIDER shall during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the COUNTY regarding submission of shop drawings, construction schedules, operation of facilities and other matters incident hereto.

The SUBDIVIDER shall obtain all other necessary utility services incident to the construction of said IMPROVEMENTS AND FOR THEIR CONTINUED OPERATION. The SUBDIVIDER shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the SUBDIVIDER and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the COUNTY.

Should the SUBDIVIDER become unable to carry out the provisions of this AGREEMENT, the SUBDIVIDER'S heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this AGREEMENT.

IN CONSIDERATION WHEREOF, the DELAWARE COUNTY BOARD OF COMMISSIONERS hereby grants the SUBDIVIDER or his agent the right and privilege to make the IMPROVEMENTS stipulated herein and as shown on the approved plans.

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

RESOLUTION NO. 09-1283

IN THE MATTER OF AMENDING RESOLUTION #09-1083, AUTHORIZING THE USE OF A PROCUREMENT CARD:

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

WHEREAS, pursuant to the Ohio Revised Code Section 301.29, the Board of Commissioners of Delaware County by Resolution No. 04-1193 dated September 30th, 2004, has adopted a policy for the use of County Procurement Cards. And;

WHEREAS, the appointing authority for the procurement card being the Board of Commissioners has adopted the procurement card policy for the use of the card to pay for specific classes of work related expenses, without submitting a monthly estimate of the expenses, pursuant to ORC 301.29 (F)(2).

WHEREAS, resolution #09-1083, authorized the usage of procurement cards by William Clevenger and Cathleen Rider with limits inconsistent with the control group numbers, and

NOW THEREFORE BE IT RESOLVED, that the board of Commissioners of Delaware County, State of Ohio, authorize the use of the following procurement cards to the amended limits indicated and for specific work related expenses designated in the Procurement Card Policy without submitting a monthly estimate of expenses:

Appointing Authority:	Board of Commissioners
Office/Department:	Environmental Services RSD – Sanitary Inspection Services
Daily spending per card:	\$1,000
Monthly spending per card:	\$1,000
Single transaction limit:	\$250
Daily number of transactions per card:	5
Monthly number of transactions per card:	50
Name on Card 1:	William Clevenger

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Appointing Authority: Board of Commissioners
Office/Department: Environmental Services
RSD – Division Secretary

Daily spending per card: \$2,500
Monthly spending per card: \$2,500
Single transaction limit: \$500
Daily number of transactions per card: 5
Monthly number of transactions per card: 50

Name on Card 1: Cathleen Rider

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

RESOLUTION NO. 09-1284

IN THE MATTER OF REVISING THE TIME AND DATE TO RECEIVE BIDS FOR DCRSD 09-03: REPAIR AND UPGRADE OF FLYGT AND ABS SUBMERSIBLE MIXERS FOR THE DELAWARE COUNTY REGIONAL SEWER DISTRICT:

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

Whereas the Board of County Commissioners had previously set the time and date to receive bids for DCRSD 09-03 on October 16th at 4:00 pm, and

Whereas the contract documents required prospective bidders to attend a mandatory pre-bid conference on September 30th, and

Whereas there were no attendees to the pre-bid meeting, and

Whereas the Sewer District has received requests from prospective bidders for the DCRSD 09-03 bid package since the time of the scheduled pre-bid conference, and

Whereas staff recommends to revise the time and date to receive bids for DCRSD 09-03, and

Whereas the Delaware County Regional Sewer District desires to receive bids for public bid **DCRSD 09-03: Repair and Upgrade of Flygt and ABS Submersible Mixers** on October 30, 2009, and

Therefore, be it resolved that the Board of County Commissioners will receive bids for **DCRSD 09-03: Repair and Upgrade of Flygt and ABS Submersible Mixers** biosolids on October 30, 2009 at 4:00 PM at 50 Channing Street, Delaware, Ohio.

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

RESOLUTION NO. 09-1285

IN THE MATTER OF SETTING THE TIME AND DATE TO RECEIVE DCRSD 09-04: SUPPLY OF VARIOUS CHEMICALS AND POLYMER SOLUTION BY THE DIVISION OF ENVIRONMENTAL SERVICES:

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

Whereas the Division of Environmental Services desires to purchase various chemicals and polymers to be used within the treatment facilities and collection system of the Delaware County Regional Sewer District, and

Whereas the Division of Environmental Services has estimated that greater than \$25,000 per year of the chemical will be required for use, and

Whereas the Division of Environmental Services is required by state law to bid for the purchase of the various chemicals and polymers, and

Whereas Sewer District staff has developed the contract documents and technical specifications for the needed repairs and upgrades, and

Whereas the contract documents have been reviewed by and meet the standards of the County Prosecutor's Office, and

Whereas the Delaware County Regional Sewer District desires to receive bids for public bid **DCRSD 09-04: Supply of Various Chemicals and Polymer Solution** on November 3, 2009, and

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Therefore, be it resolved that the Board of County Commissioners will receive bids for **DCRSD 09-04: Supply of Various Chemicals and Polymer Solution** on November 3, 2009 at 3:00 PM at 50 Channing Street, Delaware, Ohio.

Furthermore be it resolved that the Board of County Commissioners approve the contract documents and including the technical specifications as developed by County Sewer District staff for the purposes of the proposed public bid and improvements.

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

RESOLUTION NO. 09-1286

IN THE MATTER OF APPROVING SUBSTANTIAL COMPLETION FOR THE PERRY-TAGGART SANITARY SEWER IMPROVEMENTS PROJECT:

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

WHEREAS, the Board of County Commissioners have previously executed an Agreement with Trucco Construction Company (Contractor) to complete the improvements known as S04-1: Perry-Taggart Sanitary Sewer Improvements, and

WHEREAS, Section 11.7 of the Agreement permits the Contractor to request that the Engineer issue a Certificate of Substantial Completion when the Contractor considers the entire work ready for its intended use, and

WHEREAS, the contract documents require the Engineer to evaluate the request, and

WHEREAS, Trucco Construction has notified Sewer District staff in writing on September 21, 2009 that the work was substantially complete, and

WHEREAS, in accordance with the Contract Documents, Sewer District staff has evaluated the request, and

WHEREAS, upon inspection and evaluation, Sewer District staff developed a list of items that are in need of correction, and

Whereas these items need to be complete or corrected before final payment for the project is issued to Trucco Construction, and

WHEREAS based on the inspection of the work, Sewer District staff considers the work substantially complete, and

WHEREAS, County Staff recommends accepting the Certificate of Substantial Completion for the Perry-Taggart Sanitary Sewer Improvements, as detailed in Section 11.7 of the Agreement

THEREFORE be it resolved that the Board of County Commissioners accept a Certificate of Substantial Completion to Trucco Construction, Perry-Taggart Sanitary Sewer Improvements, Contract S04-1.

CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT Perry-Taggart Sanitary Sewer Improvements
DATE OF ISSUANCE October 12, 2009

OWNER Delaware County Board of County Commissioners
PROJECT NO. S04-1

CONTRACTOR Trucco Construction, Inc.

ENGINEER
Delaware County Sanitary Engineer.

This Certificate of Substantial Completion applies to all Work under the Contract Documents or to the following specified parts thereof.

To DELAWARE COUNTY BOARD OF COUNTY COMMISSIONERS
OWNER

And To
TRUCCO CONSTRUCTION
CONTRACTOR

The Work to which this Certificate applies has been inspected by authorized representatives of OWNER,

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CONTRACTOR and ENGINEER, and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on

October 12, 2009
DATE OF SUBSTANTIAL COMPLETION

A tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents. The items in the tentative list shall be completed or corrected by CONTRACTOR prior to final payment.

From the date of Substantial Completion the responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties and guarantees shall be as follows:

RESPONSIBILITIES

OWNER: Owner shall be responsible for the operation of the sewer.

CONTRACTOR: Shall continue to maintain insurance as required by the Contract Documents and as required by law. Shall be responsible for safety in all areas where Work remains until final completion and acceptance of the Work. Warranties and guarantees for the Work substantially complete shall commence from the date of Substantial Completion. The Contractor shall continue to be responsible any final corrective activities in the tentative list submitted.

The following documents are attached to and made a part of this Certificate:

1. Request for Certificate of Substantial Completion email from Trucco Construction Company dated September 22, 2009.
2. Cover letter listing the Tentative List of Items to Be Completed

This certificate does not constitute an acceptance of Work not in accordance with the Contract Documents nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract Documents.

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

RESOLUTION NO. 09-1287

IN THE MATTER OF ACCEPTING THE GRANT WITH THE OHIO ATTORNEY GENERAL FOR VOCA AND SVAA DOLLARS FOR 2010 FOR JUVENILE COURT:

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

Grant 21-035	
Grant 2010VAGENE035	\$32,273
Grant 2010SAGENE035	\$ 22,331
County Cash Match	\$10,758

This grant pays for 1.25 FTE for the Victim Assistance program. The cash match required is part of the 2010 budget request.

Grant 21-474	
2010VACHE474	\$20,089
2010VACHAE474	\$1,918
County Cash Match	\$ 6,696

This grant pays for .6FTE for the CASA program. The cash match required is part of the 2010 budget request.

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

RESOLUTION NO. 09-1288

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN DELAWARE COUNTY, OHIO, AND THE CITY OF DELAWARE, OHIO PROSECUTOR'S OFFICE:

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

Whereas, the County Administrator recommends approval of the contract with the City of Delaware, Ohio Prosecutor's Office;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approves the following contract with the City of Delaware, Ohio Prosecutor's Office;

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PROFESSIONAL SERVICES AGREEMENT

This agreement is made this 12th day of October 2009 by and between Delaware County, Ohio, hereinafter referred to as "County", and the City of Delaware, Ohio Prosecutor's Office hereinafter referred to as the "Prosecutor." County being willing to engage the Prosecutor and the Prosecutor being willing to be engaged by County on the terms, covenants and conditions hereinafter set forth; it is hereby agreed as follows:

1. NATURE OF EMPLOYMENT

County does hereby contract with and engage the Delaware, Ohio City Prosecutor's Office, the address of which is 70 N. Union Street, Delaware, Ohio 43015, to prosecute all cases coming before the Delaware Municipal Court, Criminal Division, arising out of alleged violations of the Criminal and Traffic Sections of the Ohio Revised Code which occur within the jurisdictional limits of County ; provided however that the Delaware City Prosecutor reserves the right to decline to represent County under this contract in any specific case filed in or coming before the Delaware Municipal Court, upon giving written notice to the County Sheriff at least seven days prior to a scheduled hearing in that specific case; and provided further that County reserves the right under this contract to obtain other representation before the Delaware Municipal Court by giving written notice to the Delaware City Prosecutor at least seven days before a scheduled hearing in a specific case, that County intends to retain other counsel in that specific case, and other counsel so entering appearance. Delaware City Prosecutor further agrees that he will consult with and advise the appropriate officials of County, when necessary, concerning the prosecution and enforcement of the Ohio Revised Code and perform such other duties as are customarily performed by one holding such position in other similar municipalities. However, nothing herein shall be construed to limit the reasonable prosecutorial discretion of the Delaware City Prosecutor.

2. TERM OF EMPLOYMENT

The term of this Agreement shall be for a period commencing on the January 1, 2009 and ending December 31, 2011 subject, however, to prior termination as hereinafter provided. Cases that are commenced or concluded between these dates are subject to this contract.

3. PAYMENT AND REIMBURSEMENT

County shall pay the Prosecutor and the Prosecutor shall agree to accept from County compensation at the rate of \$100.00 per contested case prosecuted. A "contested case" for this document is one in which the defendant enters a plea of "not guilty" or it's equivalent, and thus requires further procedures after arraignment. There will be no separate charge for prosecutions terminated at or before arraignment. Provided however, County agrees that it will reimburse the Prosecutor for any and all necessary expenses incurred on behalf of County including mileage at the rate established by the Internal Revenue Service, but excluding materials, paper and secretarial expenses which the Prosecutor agrees to pay from the stated compensation. The prosecutor shall bill County quarterly, for cases terminated during the preceding quarter, and compensation shall be paid within 30 days of billing.

4. TERMINATION OF AGREEMENT

Notwithstanding anything to the contrary contained in this Agreement, both parties are hereby given the option to terminate this Agreement upon written notice presented to the other party thirty (30) days prior to termination. No other requirements are necessary to terminate this Agreement.

5. APPLICABLE LAW

The parties hereto 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.

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

RESOLUTION NO. 09-1289

IN THE MATTER OF APPROVING TRANSFER OF FUNDS AND TRANSFER OF APPROPRIATIONS:

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

Transfer of Funds

10031303-5801	50111117-4601	
Sheriff Jail/Transfers	Bond Retirement/Interfund Revenue	\$ 500,498.13
10011102-5801	50111117-4601	
Commissioners General/Transfers	Bond Retirement/Interfund Revenue	\$ 1,272,159.38
10011110-5801	22511607-4601	
Human Services/Transfers	Children's Services/Interfund Revenue	\$ 525,040.00

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10011304-5801	50111117-4601	
911 Dispatching/Transfers	Bond Retirement/Interfund Revenue	\$ 1,304,396.88

Appropriation Transfer

FROM	TO	
22311611/5348	22311611/5801	
Workforce Investment Act/Client Sr	Workforce Investment Act/Transfers	\$ 58,161.72

Fund Transfers

From	To	
22311611-5801	22411603-4601	
Workforce Investment Act/Transfers	JFS Workforce/Interfund Revenue	\$ 219,182.97
22511607-5801	22411604-4601	
Children Services/Transfers	JFS Children Services/Interfund Revenue	\$ 357,246.65

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

**COMMISSIONERS' COMMITTEES REPORTS
(Refer To Cd Minutes For Entire Record)**

Commissioner Hanks
 -Email Heath Department –Swine Flu
 -Grant Writer Follow-up
 -Dodgers

Commissioner O'Brien
 -none

Commissioner Thompson
 -Board of Revision Meetings last week
 -National Anthem at OSU Football

RESOLUTION NO. 09-1290

9:30AM 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:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to open the Hearing at 9:30AM.

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

RESOLUTION NO. 09-1291

IN THE MATTER OF APPROVING, FOR A SPECIFIC OCCURRENCE, A SUSPENSION OF RULE 3-SPEAKER REGISTRATION; RULE 4-LIMITATIONS AND RULE 7-PUBLIC COMMENT PROCEDURE FROM THE RULES GOVERNING PUBLIC COMMENT BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to approve, for a specific occurrence, a suspension of Rule 3-Speaker Registration; Rule 4-Limitations; Rule 7-Public Comment Procedure from the Rules Governing Public Comment Before The Board Of County Commissioners Of Delaware County, Ohio

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

RESOLUTION NO. 09-1292

IN THE MATTER OF CONTINUING THE 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:

**COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 12, 2009**

It was moved by Mr. O'Brien, seconded by Mr. Hanks to continue the Hearing on Monday October 19, 2009 at 9:30AM.

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

RESOLUTION NO. 09-1293

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; FOR LAND ACQUISITION AND FOR PENDING OR IMMINENT LITIGATION:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to adjourn into Executive Session at 9:47AM.

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

RESOLUTION NO. 09-1294

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 11:30AM.

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

RECESS TILL 1:00PM FOR BUDGET HEARINGS

Treasurer Peterson

Facilities Department; Lands and Buildings

Juvenile/Probate Court

RECESS TILL 3:00PM FOR CONTINUATION OF BUDGET HEARINGS

Board of Developmental Disabilities

RESOLUTION NO. 09-1295

IN THE MATTER OF CONTINUING THE MEETING UNTIL 9:00AM ON TUESDAY OCTOBER 13, 2009:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to continue the meeting until Tuesday October 13, 2009 at 9:00AM.

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

9:00 AM - RECONVENED THE MEETING – 2010 BUDGET HEARING

Common Pleas Court Whitney

Clerk of Court

RECESS TILL 10:00AM FOR CONTINUATION OF BUDGET HEARINGS:

Auditor

EMA

RESOLUTION NO. 09-1296

IN THE MATTER OF RECESSING THE BUDGET HEARINGS UNTIL 1:00 PM ON OCTOBER 15, 2009:

It was moved by Mr. O'Brien, seconded by Mr. Hanks to recess Budget Hearings.

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

RESOLUTION NO. 09-1297

IN THE MATTER OF ADJOURNING THE OCTOBER 12, 2009, COMMISSIONER'S SESSION THAT WAS CONTINUED TO OCTOBER 13, 2009:

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

COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD OCTOBER 12, 2009

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

Todd Hanks

Ken O'Brien

Tommy Thompson

Letha George, Clerk to the Commissioners