

**COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JANUARY 11, 2010**

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 The Request Of A Zoning District Change Of A 0.495 Acre Portion Of A 5.01 Acre Tract, Owned By Green Earth Farms From The Current Farm Residence District (Fr-1) To The Planned Commercial And Office District (Pc) To Allow For The Display And Sales Of Manufactured Barns, Sheds And Gazebos At 8153 U.S. Highway 23 North (Marlboro Township) Delaware, Ohio 43015

RESOLUTION NO. 10-19

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JANUARY 7, 2010:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on January 7, 2010; 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. Hanks Aye Mr. O'Brien Aye

RESOLUTION NO. 10-20

IN THE MATTER OF RE-ORGANIZATION OF BOARD OF COMMISSIONERS – PRESIDENT:

It was moved by Mr. Hanks, seconded by Mr. Thompson to re-appoint Tommy Thompson as President of the Board of Commissioners for the year 2010.

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

RESOLUTION NO. 10-21

IN THE MATTER OF RE-ORGANIZATION OF BOARD OF COMMISSIONERS - VICE-PRESIDENT:

It was moved by Mr. Hanks, seconded by Mr. Thompson to appoint Ken O'Brien as Vice President of the Board of Commissioners for the year 2010.

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

PUBLIC COMMENT

(Refer To CD Minutes For Entire Record)

Dave Froehlick; Rabid Bat Bite Claim-ORC 955.42

RESOLUTION NO. 10-22

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Environmental Services Department is requesting that Josh Phillips, Kevin Brutchey, Cory Smith, Walt Thompson, Brian Rammelsberg attend an Advance Wastewater Treatment Course for 16 weeks starting January 21, 2010; at the cost of \$2,975.00 (Fund Number 66211903 and 66211904).

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

RESOLUTION NO. 10-23

IN THE MATTER OF A NEW LIQUOR LICENSE REQUEST FROM RJBTPB PIZZA INC. DBA

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GIAMMARCOS PIZZA AND PASTA AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

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

Whereas, the Ohio Division of Liquor Control has notified both the Delaware County Board of Commissioners and the Genoa Township Trustees that RJBTPB Pizza Inc. DBA Giammarcos Pizza and Pasta has requested new D1, D2 and D3 permits located at 6030 Chandler Court Genoa TWP Westerville, Ohio 43082, and

Whereas, the Genoa Township Trustees have stated they have no 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. O'Brien Aye Mr. Thompson Aye Mr. Hanks Aye

RESOLUTION NO. 10-24

IN THE MATTER OF A NEW LIQUOR LICENSE REQUEST FROM KROGER CO DBA KROGER N 570 AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

It was moved by Mr. Hanks, seconded by Mr. O'Brien 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 Kroger Co DBA Kroger N 570 has requested new C1 and C2 permits located at 3315 Royal Belfast BLVD Liberty Township Powell, Ohio 43065, and

Whereas, the Liberty Township Trustees have stated they have no 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. Hanks Aye Mr. O'Brien Aye

RESOLUTION NO. 10-25

SETTING DATE AND TIME FOR VIEWING AND PUBLIC HEARING FOR CONSIDERATION OF THE NUCKLES #20 WATERSHED DITCH MAINTENANCE PETITION (2010) FILED BY CHARLES AND BETTY SHEETS:

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

WHEREAS, on the 25th day of November, 2009, the Clerk of this Board gave notice to the Board of County Commissioners and the County Engineer of Delaware County, Ohio, on the filing with her of a petition signed by Charles and Betty Sheets, petitioners, to:

1. Place project on Ditch Maintenance Program.
2. Propose improvement commencing in Delaware County, Oxford Township within The Nuckles #20 Watershed commencing at Shoemaker Road on property owned by Charles H. and Betty J. Sheets for approximately 1000 feet to the Horseshoe Run Ditch.
3. The old tile has been removed and an open ditch has been made with the technical assistance of Delaware Soil and Water.

WHEREAS, the proper bond has been filed with the clerk, approved, conditioned for the payment of costs of notices, plus any other incidental expenses, except the cost incurred by the Engineer in making his preliminary reports, if the prayer of this petition is not granted, or if the petition is for any cause dismissed, unless the Board decides to pay the Engineer's cost from the bond in accordance with Section 6131.09 of the Revised Code;

THEREFORE, BE IT RESOLVED, BY THE Board of County Commissioners, that **Monday the 22nd day of**

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February, 2010, at 1:30PM at the upper terminus of the improvement, be and the same is hereby fixed as the time and place for the view thereon, and

BE IT FURTHER RESOLVED, That **Monday the 5th day of April, 2010, at 7:30 PM** at the Office of the Board of County Commissioners, 101 North Sandusky Street Delaware, Ohio be and the same is hereby fixed as the time and place for the first hearing on the petition, and

BE IT FURTHER RESOLVED, that notice of said view and hearing be given, as required by law.

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

DO TO THE TIME; RESOLUTION NO. 10-26 ADDRESSED AFTER 9:30AM ZONING HEARING

RESOLUTION NO. 10-27

IN THE MATTER OF SUBMITTING CERTIFICATION OF TOTAL ROAD MILEAGE IN DELAWARE COUNTY WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR CALENDAR YEAR 2009:

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

Whereas, the County Engineer recommends approval of the following Certification Of Total Road Mileage In Delaware County With The Ohio Department Of Transportation For Calendar Year 2009;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the following:

Certification Of Total Road Mileage In Delaware County With The Ohio Department Of Transportation For Calendar Year 2009

As certified by the Board of County Commissioners and reported by the Director of Transportation, in accordance with the provisions specified in the Ohio Revised Code, Section 4501.04 (Distribution of Revenue), the total length of county maintained public roads in Delaware County was **331.350** miles as of December 31, 2008.

Based upon submitted documentation, the Board hereby certifies a total of **333.991** county roadway miles for calendar year 2009 (effective December 31, 2009).

(Documentation available in the Commissioners' Office until no longer of administrative value.)

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

RESOLUTION NO. 10-28

9:30AM PUBLIC HEARING FOR THE REQUEST OF A ZONING DISTRICT CHANGE OF A 0.495 ACRE PORTION OF A 5.01 ACRE TRACT, OWNED BY GREEN EARTH FARMS FROM THE CURRENT FARM RESIDENCE DISTRICT (FR-1) TO THE PLANNED COMMERCIAL AND OFFICE DISTRICT (PC) TO ALLOW FOR THE DISPLAY AND SALES OF MANUFACTURED BARNS, SHEDS AND GAZEBOS AT 8153 U.S. HIGHWAY 23 NORTH (MARLBORO TOWNSHIP) DELAWARE, OHIO 43015:

It was moved by Mr. Hanks, seconded by Mr. Thompson to open the hearing at 9:31AM.

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

RESOLUTION NO. 10-29

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. Hanks, seconded by Mr. O'Brien 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. 10-30

IN THE MATTER OF CLOSING THE PUBLIC HEARING FOR THE REQUEST OF A ZONING DISTRICT CHANGE OF A 0.495 ACRE PORTION OF A 5.01 ACRE TRACT, OWNED BY GREEN EARTH FARMS

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FROM THE CURRENT FARM RESIDENCE DISTRICT (FR-1) TO THE PLANNED COMMERCIAL AND OFFICE DISTRICT (PC) TO ALLOW FOR THE DISPLAY AND SALES OF MANUFACTURED BARNs, SHEDS AND GAZEBOS AT 8153 U.S. HIGHWAY 23 NORTH (MARLBORO TOWNSHIP) DELAWARE, OHIO 43015:

It was moved by Mr. Hanks, seconded by Mr. O'Brien to close the hearing at 9:39AM.

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

RESOLUTION NO. 10-31

IN THE MATTER OF GRANTING APPROVAL OF A ZONING DISTRICT CHANGE OF A 0.495 ACRE PORTION OF A 5.01 ACRE TRACT, OWNED BY GREEN EARTH FARMS FROM THE CURRENT FARM RESIDENCE DISTRICT (FR-1) TO THE PLANNED COMMERCIAL AND OFFICE DISTRICT (PC) TO ALLOW FOR THE DISPLAY AND SALES OF MANUFACTURED BARNs, SHED AND GAZEBOS AT 8153 U.S. HIGHWAY 23 NORTH (MARLBORO TOWNSHIP) DELAWARE, OHIO 43015:

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

WHEREAS, the advertised hearing in this matter was held on Monday January 11, 2010, at 9:30AM, and

WHEREAS, all parties were given an opportunity to express their views thereto, and

WHEREAS, the appropriate review, comment and recommendation by the Delaware County Regional Planning Commission was for conditional approval, and

WHEREAS, the conditions of the Delaware County Regional Planning Commission approval have been addressed by the applicant and found acceptable by the Delaware County Rural Zoning Commission, and

WHEREAS, the Delaware County Rural Zoning Commission has recommended approval of said zoning district change, and

WHEREAS, the following is a list of the exhibits for the zoning district file (available for review in the Delaware County Commissioners' Office until no longer of administrative value)

- A___ Notification Letter Of Zoning Amendment
- B___ Procedure for a County Zoning District Change
- C___ Application
- D___ Development Plan
 - D.1___Development text format (w/supporting information)
 - D.2___Survey of property
 - D.3___Legal description of property
 - D.4___Aerial photograph(s)
 - D.5___Survey of proposed district change area
 - D.6___Description of proposed district change area
 - D.7___Planned Commercial & Office District development standards
 - D.8___Product description(s)/photograph(s)
- E___ Legal/Public Notice(s)
 - E.1___Notice to surrounding property owners
 - E.2___Published legal notices
- F___ Zoning District Map
- G___ Delaware County Regional Planning Commission Staff Recommendation and Meeting Minutes
- H___ Rural Zoning Commission Meeting Agenda(s)
- I___ Rural Zoning Commission Attendance Sheet(s)
- J___ Rural Zoning Commission Meeting Exhibits(s)
- K___ Rural Zoning Commission Meeting Minutes
- L___ Draft Resolution

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- _M__ Delaware County Board of Commissioners Meeting Agenda-setting date
- _N__ Delaware County Board of Commissioners Meeting Minutes-setting date
- _O__ Delaware County Board of Commissioners Resolution-setting date
- _P__ Delaware County Board of Commissioners Published legal notice
- _Q__ Delaware County Board of Commissioners Notice to applicant
- _R__ Delaware County Board of Commissioners Notice to township
- _S__ Certified Mail Receipt For Delaware County Board of Commissioners Notice to applicant
- _T__ Certified Mail Receipt For Delaware County Board of Commissioners Notice to township

EXHIBITS TO BE ADDED TO FILE FOLLOWING HEARING DECISION BY DELAWARE COUNTY BOARD OF COMMISSIONERS:

- _U__ Delaware County Board of Commissioners Meeting Agenda(s)-hearing
- _V__ Delaware County Board of Commissioners Attendance Sheet(s)
- _W__ Delaware County Board of Commissioners Resolution
- _X__ Delaware County Board of Commissioners Meeting Minutes-hearing

NOW THEREFORE BE IT RESOLVED, by the Board of County Commissioners, Delaware County, State of Ohio, that the 0.495 acre portion of the 5.01 acre tract, also known as 8153 US Highway 23 North or Parcel No. 61920001059001, and more particularly described by a survey and description dated November 19, 2009, be approved for a zoning district change from the current Farm Residence District (FR-1) to Planned Commercial and Office District (PC) to allow for the display and sales of manufactured barns, sheds and gazebos.

The Clerk shall send certified copies of this action to the Delaware County Regional Planning Commission and Delaware County Code Compliance with a request to change the official maps to reflect this action. This action effective the earliest date allowable by law.

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

RESOLUTION NO. 10-26

**IN THE MATTER OF THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO
RESOLVING THAT THE LOCATION OF THE PENN NATIONAL CASINO IN THE VICINITY OF POLARIS
FASHION PLACE SHOULD BE REMOVED FROM THE LIST OF ALTERNATE SITES BEING
CONSIDERED:**

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

WHEREAS, The Board of Commissioners of Delaware County has become aware that the City of Columbus has proposed unspecified sites near Polaris Fashion Place in Delaware County within the City limits as alternative sites for the Penn National Casino,

And WHEREAS, it has been reported that recent national studies indicate that by the fifth year of operation of a casino of the magnitude of the Penn National Casino, car thefts, aggravated assaults, and robberies increase in the nearby vicinity by 78% ,100% and 136% respectively,

And WHEREAS, the population of Delaware County in the vicinity of Polaris Fashion Place consisting of Liberty, Orange, and Genoa Townships as well as the portion of the City of Westerville in Delaware County constitutes a family oriented community of over 53,000 people that would be impacted by this projected increase in crime,

And WHEREAS, these townships , the City of Westerville, and Delaware County do not have sufficient resources available to address this projected increase in crime,

And WHEREAS, an amendment to the constitution of the State of Ohio is required to change the location of the Penn National Casino from its current location in the City of Columbus Arena District,

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And WHEREAS, no discussions have been held with any political jurisdiction within Delaware County regarding the vicinity of Polaris Fashion Place as an alternative site for the Penn National Casino,

THEREFORE, the Board of County Commissioners of Delaware County Ohio does hereby resolve that the location of the Penn National Casino in the vicinity of Polaris Fashion Place should be removed from the list of alternate sites being considered.

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

RESOLUTION NO. 10-32

IN THE MATTER OF APPROVING AGREEMENT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND DOUBLE Z CONSTRUCTION FOR THE SOUTH OLD 3C HIGHWAY OVER HOOVER RESERVOIR PROJECT:

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

DEL-CR-35.02

**South Old 3C Highway over Hoover Reservoir (PID 86459)
Funded by the 2009 ARRA Bid Opening of December 15, 2009**

Whereas, as the result of the above referenced bid opening, The Engineer recommends that a bid award be made to Double Z Construction Company of Columbus, the low bidder for the project. A copy of the bid tabulation is available for your information. Also available are two copies of the Contract with Double Z for your approval. The Engineer have received all required documentation (Certification/Affidavit in Compliance with ORC Section 3517.13, Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization Form) for the approval of this contract.

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the following Agreement Between The Delaware County Commissioners and Double Z Construction for The South Old 3C Highway over Hoover Reservoir Project.

CONTRACT

THIS AGREEMENT is made this 11TH day of January, 2010 by and between Double Z Construction Co., hereinafter called the "Contractor" and the Delaware County Commissioners, hereinafter called the "Owner".

Double Z Construction Co.
2550 Harrison Road
Columbus, Ohio 43204

The Contractor and the Owner for the considerations stated herein mutually agree as follows:

ARTICLE 1. Statement of Work

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services, and perform and complete all work required for the construction of the improvements embraced in the project named "DEL-CR24-5.02, South Old 3-C Highway over Hoover Reservoir", and required supplemental work for the project all in strict accordance with the Contract Documents.

ARTICLE 2. The Contract Price

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed **Six Hundred Fifty Nine Thousand Seven Hundred Fifty Three Dollars and no cents (\$659,753.00)**, subject to additions and deductions as provided in the Contract Documents.

ARTICLE 3. Contract

The executed Contract Documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation to Bid
- d. Instructions to Bidders
- e. Signed copy of bid
- f. Work Specifications (including all plans, drawings, etc.)
- g. Specifications – General Provisions

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- h. Federal and State Requirements
- i. This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern except as otherwise specifically stated.

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

RESOLUTION NO. 10-33

IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES CONTRACT AGREEMENT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND CH2M HILL, INC FOR THE PRELIMINARY ENGINEERING FOR THE HARRIOTT ROAD IMPROVEMENTS PROJECT:

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

Whereas, the County Engineer recommends approval of the following professional services contract agreement between The Delaware County Commissioners And CH2M Hill, Inc for the preliminary engineering for The Harriott Road Improvements Project;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the following professional services contract agreement between The Delaware County Commissioners and CH2M Hill, Inc for The Preliminary Engineering For The Harriott Road Improvements Project.

PROFESSIONAL SERVICES CONTRACT

**DEL-CR131 HARRIOTT ROAD IMPROVEMENTS
PRELIMINARY ENGINEERING – PART 1**

Section 1 – Parties to the Agreement

Agreement made and entered into this 11TH day of January, 2010 by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and the firm of CH2M Hill, Inc., being a wholly owned subsidiary of CH2M Hill Companies, Ltd. (“Consultant”).

Section 2 – Contract Administrator

The Delaware County Board of Commissioners hereby designates the Delaware County Engineer as Administrator and agent of the Board for Work performed in accordance with this Agreement. The Administrator shall have general supervision of the Work and authority to order commencement or suspension of Work.

Section 3 – Scope of Services (Work)

Consultant agrees to furnish, unto the County, professional engineering services for the project known as DEL-CR131 Harriott Road Improvements (Preliminary Engineering – Part 1) including those services listed in the Scope of Services agreed upon by the County and Consultant and the Price Proposal for Minor PDP Steps 1-3 (last revision date November 27, 2009), by this reference hereby made part of this Agreement. Consultant further agrees to perform the Work promptly and in a skillfully competent manner under the direction of the Administrator and in accordance with generally accepted professional engineering standards.

Section 4 – Compensation

Compensation for Work performed under this Agreement shall be based on the cost plus net fee not to exceed One Hundred Fifty Four Thousand Nine Hundred Seventy Eight Dollars (\$154,978) and additional “If Authorized” tasks identified in said Price Proposal not to exceed Three Thousand Seven Hundred Fifteen Dollars (\$3,715) in accordance with allowable costs and fees listed in the Consultant’s aforementioned Price Proposal. Compensation for those tasks listed in the Price Proposal shall constitute full payment for all labor, equipment and materials required to complete those tasks.

Section 5 – Payment

Compensation shall be paid based no more than once monthly and shall be based on the Consultant’s cost to date plus net fee earned in accordance with the Consultant’s Price Proposal, determined by the Consultant and approved by the Administrator. Invoices shall be submitted to the Administrator by the Consultant on company letterhead clearly listing the word “Invoice” with a sequential invoice number provided. Consultant shall not commence any “If Authorized” task until written authorization for such work is provided by the County. The County may request additional documentation to substantiate said invoices and the Consultant shall promptly submit documentation as needed to substantiate said invoices. Invoices are due and payable within 30 days of receipt.

Section 6 – Completion of Work, Delays and Extensions

All Work associated with this Agreement shall be completed by the Consultant no later than September 15, 2010. In the event that unforeseen and unavoidable delays prevent the timely completion of the Work provided under

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this Agreement, the Consultant may make a written request for time extension, and the Administrator may grant such an extension provided that all other terms of the Agreement are adhered to.

Section 7 – Insurance

- 7.1 **General Liability Coverage:** Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.2 **Automobile Liability Coverage:** Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.3 **Workers' Compensation Coverage:** Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.4 **Professional Liability Insurance:** Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.
- 7.5 **Additional Insureds:** The County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 7.1 and 7.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 7.6 **Proof of Insurance:** Prior to the commencement of any work under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Consultant will replace certificates for any insurance expiring prior to completion of work under this Agreement.

Section 8 – Indemnification

The Consultant shall indemnify and hold free and harmless the County and its employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Consultant, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

Section 9 – Suspension or Termination of Agreement

The County may suspend or terminate this Agreement at any time for the convenience of the County, at which time the County shall provide written notice to the Consultant ordering termination of Work. The Consultant shall immediately suspend or terminate Work, as ordered by the County. In the case of Termination, the Consultant shall submit a final invoice within sixty (60) days of receiving Notice of Termination for Work completed up to the date of termination. The County is not liable for payment for work performed after the date of termination.

Section 10 – Change in Scope of Work

In the event that significant changes to the Scope of Services as defined in Section 3 are required during performance of the Work, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall be approved by both parties.

Section 11 – Ownership of Engineering Documents

Upon completion or termination of the Agreement, the Consultant shall provide copies, if requested, to the County of all documents or electronic files produced under this Agreement. The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed surveys, calculations, reports, schematics, drawings and any other tangible written or electronic work produced in accordance with the Agreement. This section does not require unauthorized duplication of copyrighted materials.

Section 12 – Change of Key Consultant Staff

The Consultant shall immediately notify the County, in writing, of any change to key Consultant staff or subconsultants assigned to the Work as contemplated at the time of executing this Agreement.

Section 13 – Miscellaneous Terms & Conditions

- 13.1 **Prohibited Interests:** Consultant agrees that no agent, officer, or employee of the County during his/her tenure or for one year there after shall have any interest, direct or indirect, in this Agreement or the proceeds

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thereof. Consultant further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.

- 13.2 Entire Agreement: This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Consultant, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.
- 13.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 13.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.
- 13.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 13.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 13.7 Findings for Recovery: Consultant certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.
- 13.8 Homeland Security: Consultant 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, Consultant agrees to make such certification by completing the declaration of material assistance/nonassistance described in R.C. § 2909.33(A) and understands that this Agreement is contingent upon full completion of such certificate and "No" being the response to all questions in the Declaration portion of the certificate. Such certification is attached to this Agreement and by this reference made a part of this Agreement.
- 13.9 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

Consultant further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

Consultant certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.

Consultant certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.

- 13.10 Campaign Finance – Compliance with R.C. 3517.13: Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled

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“Certification/Affidavit in Compliance With O.R.C. Section 3517.13.” **Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract.** Such certification is attached to this Contract and by this reference made a part thereof.

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

RESOLUTION NO. 10-34

IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES CONTRACT AGREEMENT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND KORDA/NEMETH ENGINEERING, INC., FOR THE CHESHIRE ROAD & 3B'S & K ROAD INTERSECTIONS IMPROVEMENT PROJECT:

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

Whereas, the County Engineer recommends approval of the following professional services contract agreement between The Delaware County Commissioners and Korda/Nemeth Engineering, Inc., for The Cheshire Road & 3B's & K Road Intersections Improvement Project;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the following professional services contract agreement between The Delaware County Commissioners and Korda/Nemeth Engineering, Inc., for The Cheshire Road & 3B's & K Road Intersections Improvement Project.

PROFESSIONAL SERVICES CONTRACT

Cheshire Road & 3B's & K Road Intersections Improvement

Section 1 – Parties to the Agreement

Agreement made and entered into this 11th day of January, 2010 by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and the firm of Korda/Nemeth Engineering, Inc., being a wholly owned subsidiary of Korda/Nemeth Engineering, Inc. (“Consultant”).

Section 2 – Contract Administrator

The Delaware County Board of Commissioners hereby designates the Delaware County Engineer as Administrator and agent of the Board for Work performed in accordance with this Agreement. The Administrator shall have general supervision of the Work and authority to order commencement or suspension of Work.

Section 3 – Scope of Services (Work)

Consultant agrees to furnish, unto the County, professional engineering services for the project known as Cheshire Road & 3B's & K Road Intersections Improvement, including those services listed in the Scope of Services agreed upon by the County and Consultant and the Price Proposal for Minor PDP Steps 1-8, by this reference hereby made part of this Agreement. Consultant further agrees to perform the Work promptly and in a skillfully competent manner under the direction of the Administrator and in accordance with generally accepted professional engineering standards.

Section 4 – Compensation

Compensation for Work performed under this Agreement shall not exceed One Hundred Forty Seven Thousand Four Hundred Ninety Three Dollars and Zero cents (\$147,493.00). Compensation for those tasks listed in the Price Proposal shall constitute full payment for all labor, equipment and materials required to complete those tasks.

Section 5 – Payment

Compensation shall be paid based no more than once monthly and shall be based on the Consultant's fee earned in accordance with the Consultant's Price Proposal, determined by the Consultant and approved by the Administrator. Invoices shall be submitted to the Administrator by the Consultant on company letterhead clearly listing the word “Invoice” with a sequential invoice number provided. Consultant shall not commence any “If Authorized” task until written authorization for such work is provided by the County. The County may request additional documentation to substantiate said invoices and the Consultant shall promptly submit documentation as needed to substantiate said invoices. Invoices are due and payable within 30 days of receipt.

Section 6 – Completion of Work, Delays and Extensions

All Work associated with this Agreement shall be completed by the Consultant no later than May 15, 2011. In the event that unforeseen and unavoidable delays prevent the timely completion of the Work provided under this Agreement, the Consultant may make a written request for time extension, and the Administrator may grant such an extension provided that all other terms of the Agreement are adhered to.

Section 7 – Insurance

7.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided

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by all subcontractors, if any.

- 7.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.
- 7.5 Additional Insureds: The County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 7.1 and 7.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 7.6 Proof of Insurance: Prior to the commencement of any work under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Consultant will replace certificates for any insurance expiring prior to completion of work under this Agreement.

Section 8 – Indemnification

The Consultant shall indemnify and hold free and harmless the County and its employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Consultant, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

Section 9 – Suspension or Termination of Agreement

The County may suspend or terminate this Agreement at any time for the convenience of the County, at which time the County shall provide written notice to the Consultant ordering termination of Work. The Consultant shall immediately suspend or terminate Work, as ordered by the County. In the case of Termination, the Consultant shall submit a final invoice within sixty (60) days of receiving Notice of Termination for Work completed up to the date of termination. The County is not liable for payment for work performed after the date of termination.

Section 10 – Change in Scope of Work

In the event that significant changes to the Scope of Services as defined in Section 3 are required during performance of the Work, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall be approved by both parties.

Section 11 – Ownership of Engineering Documents

Upon completion or termination of the Agreement, the Consultant shall provide copies, if requested, to the County of all documents or electronic files produced under this Agreement. The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed surveys, calculations, reports, schematics, drawings and any other tangible written or electronic work produced in accordance with the Agreement. This section does not require unauthorized duplication of copyrighted materials.

Section 12 – Change of Key Consultant Staff

The Consultant shall immediately notify the County, in writing, of any change to key Consultant staff or subconsultants assigned to the Work as contemplated at the time of executing this Agreement.

Section 13 – Miscellaneous Terms & Conditions

- 13.1 Prohibited Interests: Consultant agrees that no agent, officer, or employee of the County during his/her tenure or for one year there after shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Consultant further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 13.2 Entire Agreement: This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Consultant, shall supersede

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all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.

- 13.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 13.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.
- 13.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 13.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 13.7 Findings for Recovery: Consultant certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.
- 13.8 Homeland Security: Consultant 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, Consultant agrees to make such certification by completing the declaration of material assistance/nonassistance described in R.C. § 2909.33(A) and understands that this Agreement is contingent upon full completion of such certificate and "No" being the response to all questions in the Declaration portion of the certificate. Such certification is attached to this Agreement and by this reference made a part of this Agreement.
- 13.9 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

Consultant further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

Consultant certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.

Consultant certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.

- 13.10 Campaign Finance – Compliance with R.C. 3517.13: Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13." **Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract.** Such certification is attached to this Contract and by this reference made a part thereof.

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RESOLUTION NO. 10-35

**IN THE MATTER OF APPROVING AGREEMENT BETWEEN THE DELAWARE COUNTY
COMMISSIONERS AND THE MID-OHIO REGIONAL PLANNING COMMISSION FOR THE EXTENDING
OF GEMINI PARKWAY TO THE EAST STUDY:**

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

Whereas, the County Engineer recommends approval of the following agreement between The Delaware County Commissioners And The Mid-Ohio Regional Planning Commission For The Extending Of Gemini Parkway To The East Study;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the following Agreement Between The Delaware County Commissioners And The Mid-Ohio Regional Planning Commission For The Extending Of Gemini Parkway To The East Study.

**AGREEMENT BETWEEN DELAWARE COUNTY (OHIO) AND THE MID-OHIO REGIONAL PLANNING
COMMISSION FOR THE GEMINI PARKWAY EXTENSION STUDY**

This Agreement No. ONE entered into at Columbus, Ohio, this 11th day of January, 2010, by and between Delaware County, Ohio, hereinafter referred to as the COUNTY, and the Mid-Ohio Regional Planning Commission (MORPC), hereinafter referred to as the CONSULTANT, located at 111 Liberty Street, Columbus, Ohio 43215.

The Delaware County Board of Commissioners hereby designates the Delaware County Engineer as Administrator and agent of the Board in performance of work performed in accordance with this Agreement. The Administrator shall have general supervision of the work for the Gemini Parkway Extension Study and authority to order commencement or suspension of the work.

WITNESSETH, that the CONSULTANT, for consideration hereafter named agrees to do, perform and carry out in a manner satisfactory to the COUNTY, city of Columbus (Columbus) and the city of Westerville (Westerville) the following work for the Gemini Parkway Extension Study:

CLAUSE I - WORK DESCRIPTION

The COUNTY, Columbus and Westerville have identified the need for a study of the extension of Gemini Parkway to connect with Polaris Parkway or Worthington Road as part of the redevelopment of the old amphitheater site and have agreed to a study scope, costs, and funding shares for the study, to participate in the conduct of the study, and to provide funding to MORPC to do the study.

Working with the COUNTY, Columbus and Westerville, the CONSULTANT will update the travel demand model land use for the area and prepare a base 2030 network. Future traffic assignments will be performed for the base conditions and for 4 to 6 additional networks, as agreed to by the COUNTY, Columbus and Westerville. The CONSULTANT will provide a planning-level assessment of the base and alternative networks. For networks that need more detailed analysis, the CONSULTANT will develop am. and p.m. peak hour volumes and use Synchro to perform the analysis. A final report documenting CONSULTANT work and the results of the study will be prepared. CONSULTANT will attend working group meetings, as needed.

The detailed Scope of Work, which governs the work product, is included in Appendix A, and hereby incorporated into and made a part of this Agreement as though expressly rewritten herein.

CLAUSE II - TIME OF PERFORMANCE

All work for the Gemini Parkway Extension Study will be completed by February 26, 2010. This Agreement may be extended by mutual consent of the CONSULTANT, COUNTY, Columbus and Westerville.

CLAUSE III - PRIME COMPENSATION

The COUNTY (and Columbus and Westerville in separate agreements with CONSULTANT), individually agree to share equally in the study costs and to pay the CONSULTANT up to \$33,000.00 for the Scope of Work, as detailed in Appendix A (\$11,000.00 each, by the COUNTY, Columbus and Westerville) for the performance of the work specified in this Agreement, including the costs for wages, fringe benefits, indirect and other direct expenses.

Payment to the CONSULTANT shall be issued by the COUNTY in one upfront, lump sum payment in return for the product to be delivered in Part 6 of Appendix A: Scope of Work. The CONSULTANT will not be obligated to provide work not contained in Appendix A: Scope of Work, thereby incurring costs in excess of the Agreement amount, unless and until the CONSULTANT and the COUNTY agree to modify total compensation by written amendment to this Agreement.

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CLAUSE IV - ADDITIONAL COMPENSATION

Additional compensation shall only be as agreed to by proper written modification of this Agreement, if authorized by letter of authorization from the COUNTY.

CLAUSE V - TERMINATION

This Agreement may be terminated by any party hereto upon thirty (30) days' written notice, for the convenience of any party or should the other party fail substantially to perform in accordance with the terms hereof. In the event of such termination or the abandonment of the Project by the COUNTY, Columbus, and/or Westerville, remaining parties may continue the project by written amendment to this Agreement. The CONSULTANT shall be paid its compensation for services performed to the date of termination or abandonment including reimbursable expenses then due, less any amount retained by the COUNTY to defer additional cost the COUNTY may sustain in connection with unsatisfactory performance by the CONSULTANT.

CLAUSE VI - NON-DISCRIMINATION

During the performance of the Agreement, MORPC for itself, its assignees, and successors in interest, agrees as follows:

A. Compliance with regulations. MORPC will follow regulations of the U.S. Department of Transportation relative to nondiscrimination in federally assisted programs of the U.S. Department of Transportation (Title 49 Code of Federal Regulation, Part 21, hereinafter referred to as the regulations), which are herein incorporated by references and made a part of the Agreement.

B. Non-discrimination. MORPC, with regard to the work performed by it after award and prior to completion of the agreement work, will not discriminate on the ground of race, color, age, religion, handicap or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. MORPC will not participate either directly or indirectly in the discrimination prohibited by Title 49, Parts 21 or 27 of the Regulations, including employment practices.

CLAUSE VII INTEREST OF PUBLIC OFFICIALS

No member, officer, or employee of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

CLAUSE VIII - LAWS OF OHIO

The rights and duties of the parties hereto shall be determined by the laws of the State of Ohio, and to that end this Agreement shall be considered as a Agreement made and to be performed and enforced in the State of Ohio.

APPENDIX A SCOPE OF WORK

(1) Development of Land Use Inventories and Projections

For the purposes of forecasting land use on a regional level, MORPC's planning area is divided into a set of small geographic divisions called Traffic Analysis Zones (TAZs). MORPC has developed a regional inventory of land use for the year 2005 with several socioeconomic variables. It is the most current inventory available for the entire region although MORPC is beginning the process to update the inventory for 2010. This comprehensive inventory serves as a basic input to the travel demand model.

MORPC's basic model includes several TAZs in the Polaris area. The zone structure will be reviewed by MORPC and, if necessary, TAZs will be split to provide better traffic volume forecasts. For the purposes of this Scope of Services, the Land Use Review Area (LURA) will be, at a minimum, bounded on the north by Lewis Center Road/Big Walnut Road, on the east by SR 3, on the south by Main Street/Park Road, and on the west by the railroad.

MORPC has prepared year-2030 land use projections for the entire region and made them available to the local communities for their review and approval. Also, MORPC has been preparing traffic projections for the 1-71/Big Walnut interchange study that the county is undertaking. This has included additional review of the existing land use inventory and the 2030 forecasts. The land use projections for the Big Walnut interchange work will serve as the starting point for this study.

Based on discussions with the cities of Westerville and Columbus, and Delaware County, the land use information within the LURA will be updated, especially with regard to a redeveloped amphitheater area. MORPC will update the existing inventory in the LURA to the year-2009 and provide the projected 2030 land use for the LURA to Columbus, Westerville, and the Delaware County Engineer's Office for confirmation, prior to developing the traffic projections.

(2) Travel Demand Model Validation for the Polaris Area

MORPC will use the 2009 land use inventory to develop 2009 traffic volumes with the regional travel demand model. The year-2005 traffic volumes resulting from the model have been validated at the regional level.

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However, MORPC will review the accuracy of the model with the refined TAZ structure and also utilize the 2009 traffic volume estimates for the modeling area (Delaware/Franklin county line on the south, South Old State Road on the west, Powell Road on the north and Africa Road on the east) based on traffic counts and other sources. If necessary, calibrations will be made to replicate the traffic counts in the modeling area.

It may be necessary to collect additional counts in the area. If needed, MORPC would request the County and/or cities to provide counts at these locations.

(3) Transportation Network Alternatives

Working with the County, Columbus and Westerville, MORPC will prepare a base 2030 network. The base network would include all projects on the MORPC FY 2008-2011 Transportation Improvement project (TIP) and other projects in the area as identified by Columbus, Westerville, and the Delaware County Engineer's Office. In addition, four to six additional networks identified by the County, Columbus and Westerville would be developed to represent the different possibilities for extending Gemini Parkway eastward. This will also include network configurations that include the extension of Lyra Drive and possibly Cleveland Avenue.

(4) Future Traffic Volume Projections and Analysis

Based on the 2030 land use and future networks, future year traffic assignments will be performed. MORPC will first provide a planning-level assessment of the base and alternative networks based on the forecasted average daily traffic (ADT). For the network alternatives that need more detailed analysis, MORPC will develop a.m. and p.m. peak hour volumes for the critical intersections and use Synchro to perform detailed level of service analysis.

(5) Meetings and Presentations

MORPC staff will be available for the working group meetings to discuss land use and transportation modeling activities.

(6) Product Delivery

It is expected that confirmation of the land use projections and review of the existing (2009) model results would require six weeks to complete, assuming any requested traffic count information is provided within four weeks from the start of the project. The future year traffic forecast and analysis for the base and alternative networks would require approximately six additional weeks.

A final report documenting all land use, traffic forecasting and analysis information would be prepared.

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

RESOLUTION NO. 10-36

IN THE MATTER OF AUTHORIZING THE SUBMITTING OF AN APPLICATION FOR A 2010-2011 RECOVERY ACT EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT REENTRY GRANT:

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

Grant	
Source:	State funds (administered by the Ohio Office of Criminal Justice Services)
Grant Period	3-1-10 thru 10-3-11
Grant Amount	\$240,000.00
Local Match	0.00
Grant Amount	\$240,000.00
<u>Local Match</u>	<u>0.00</u>
Total	\$240,000.00

The Delaware County Reentry Task Force will hire a needs assessment coordinator to evaluate the needs of offenders reentering the community. Based on the needs assessment, the Task Force will produce a five-year strategic plan with a goal of reducing recidivism by 50%.

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

RESOLUTION NO. 10-37

IN THE MATTER OF SELLING PERSONAL PROPERTY, WHICH IS NOT NEEDED FOR PUBLIC USE, OR IS OBSOLETE OR UNFIT FOR THE USE FOR WHICH IT WAS ACQUIRED BY INTERNET AUCTION:

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

WHEREAS, Delaware County Board of Commissioners has determined that each year the county has surplus property, including motor vehicles acquired for the use of county officers and departments, and road machinery, equipment, tools, or supplies, which is not needed for public use, or is obsolete or unfit for the use for which it was acquired; and

WHEREAS, Ohio Revised Code Section 307.12 (E) allows by resolution adopted each calendar year the sale of such property by internet auction;

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners of Delaware County, State of Ohio, declares its intent to sell such property by internet auction and adopt the following;

**Delaware County
Online Surplus Property Disposition
General Guidelines**

Delaware County hereby creates the following rules pursuant to Ohio Revised Code 307.12 (E):

1. The Delaware County Board of Commissioners has determined that surplus personal property including motor vehicles acquired for the use of County Officers and departments, and road machinery, equipment, tools, or supplies, which is not needed for the public use, or is obsolete or unfit for the use it was acquired is appropriate to be sold by Internet auction.
2. The auctions shall be conducted on a continuous basis through accessing the Delaware County surplus property through the Delaware County website located at www.co.delaware.oh.us.
3. The surplus property will be posted for a period of no less than 10 days, including Saturdays, Sundays, and legal holidays, but such time may be extended at the discretion of the Board or its representative in order to maximize the financial return to the County.
4. The Board or its representative on an item-by-item basis may determine minimum price or reserve price and the terms or conditions of sale, including but not limited to requirements for pickup and/or delivery, method of payment, and payment of sales tax in accordance with applicable laws for that item. Such information shall be available on the website.
5. The highest bid for the surplus property will prevail. However Delaware County reserves the right for its representative to withdraw the offer or cancel bids in an auction if one or more of the following circumstances apply:
 - a. It is determined that an auction shall be canceled or terminated early,
 - b. A bidder requests permission to back out of a bid,
 - c. The identity of the bidder cannot be verified, or
 - d. It is determined that a bidder is purchasing the surplus for a use contrary to the health and welfare of Delaware County or its citizens.
6. The Board of Commissioners has contracted with GovDeals, Inc. to provide the software necessary for completing the Internet auction.

Online Sales – Terms and Conditions

All bidders and other participants of this auction agree that they have read and fully understand these terms and agree to be bound thereby.

Guaranty Waiver. All property is offered for sale “AS IS, WHERE IS.” **Board of County Commissioners of Delaware County, Ohio (Seller)** makes no warranty, guaranty or representation of any kind, expressed or implied, as to the merchantability or fitness for any purpose of the property offered for sale. The Buyer is not entitled to any payment for loss of profit or any other money damages – special, direct, indirect, or consequential.

Description Warranty. Seller warrants to the Buyer that the property offered for sale will conform to its description. Any claim for misdescription must be made prior to removal of the property. If **Seller** confirms that the property does not conform to the description, **Seller** will keep the property and refund any money paid. The liability of **Board of County Commissioners of Delaware County, Ohio** shall not exceed the actual purchase price of the property. Please note that upon removal of the property, **all sales are final.**

Personal and property risk. Persons attending during exhibition, sale or removal of goods assume all risks of damage of or loss to person and property and specifically release the seller and **GovDeals** from liability therefore.

Inspection. Most items offered for sale are used and may contain defects not immediately detectable. Bidders may inspect the property prior to bidding. Bidders must adhere to the inspection dates and times indicated in the item description. Please contact the individual listed on the item description (special instructions) to schedule an inspection.

Consideration of Bid. **The Board of County Commissioners of Delaware County, Ohio** reserves the right to reject any and all bids and to withdraw from sale any of the items listed.

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Buyer's Certificate. Successful bidders will receive a Buyer's Certificate by email from **GovDeals**.

Payment. Payment in full is due not later than **5 business days** from the time and date of the Buyer's Certificate. Acceptable forms of payment are:

- ? U. S. Currency in the exact amount of the total purchase(s) (County offices cannot provide change)
- ? Certified Check
- ? Cashiers Check
- ? Money Order
- ? Company Check (with Bank Letter guaranteeing funds – **mandatory**)

Checks shall be made payable to: **Delaware County**. Payments shall be made at the location listed in the Buyer's Certificate.

Escrow Payment. When the purchase price (of a single item or the aggregate purchase price of multiple items) totals \$5,000 or greater, the Seller may require a down payment from the winning Buyer. This non-refundable fee will be 20% of the total purchase price. When the Seller exercises this option, the Buyer will have 48-hours from the time of issuance of the Buyers Certificate, to comply with this requirement. If Buyer fails to comply with this requirement within the stated time frame, the Seller can declare Buyer in default, bar them from further bidding and have them removed from the GovDeals system. If Buyer is in default, Seller may negotiate with next closest bidder, re-list at another auction and/or pursue all legal proceedings. All monies collected in escrow, will be deducted from total monies due at time of final payment.

Removal. All items must be removed within **10 business days** from the time and date of issuance of the Buyer's Certificate. Purchases will be released only upon receipt of payment as specified. Successful bidders are responsible for loading and removal and any and all property awarded to them from the place where the property is located as indicated on the website and in the Buyer's Certificate. The Buyer will make all arrangements and perform all work necessary, including packing, loading and transportation of the property. Under no circumstances will **Board of County Commissioners of Delaware County, Ohio** assume responsibility for packing, loading or shipping. Property may be removed between the hours of **9:00a.m. and 3:00p.m. , Monday through Friday**, excluding legal holidays. For additional information, please contact the individual listed on the item description (special instructions). A daily storage fee of \$10.00 may be charged for any item not removed within the 10 business days allowed and stated on the Buyer's Certificate.

Vehicle Titles. Seller will issue a title or certificate upon receipt of payment. Titles may be subject to any restrictions as indicated in the item description on the website. Open titles cannot be issued. **Board of County Commissioners of Delaware County, Ohio** will not issue replacement titles.

Default. Default shall include (1) failure to observe these terms and conditions; (2) failure to make good and timely payment; or (3) failure to remove all items within the specified time. Default may result in termination of the contract and suspension from participation in all future sales until the default has been cured. If the Buyer fails in the performance of their obligations, **Seller** may exercise such rights and may pursue such remedies as are provided by law. Seller reserves the right to reclaim and resell all items not removed by Buyer thirty (30) days from the expiration of specified removal date.

Acceptance of Terms and Conditions. By submitting a bid, the bidder agrees that they have read, fully understand and accept these Terms and Conditions of Online Sales, and agree to pay for and remove the property, if the bid is accepted, by the dates and times specified. These Terms and Conditions are displayed at the top of each page of each item listed on GovDeals.

State/Local Sales and/or Use Tax. Buyers may be subject to payment of State and/or local sales and/or use tax. The **Board of County Commissioners of Delaware County, Ohio** is **not** responsible for collection of taxes. Buyers are responsible for contacting the appropriate tax office, completing any forms, and paying any taxes that may be imposed.

Sales to Employees. Employees of the Board of County Commissioners of Delaware County, Ohio may bid on the property listed for auction, so long as they do NOT bid while on duty. Any officer or employee participating in the determination of certain property as surplus shall not submit a bid for its purchase.

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

RESOLUTION NO. 10-38

IN THE MATTER OF DECLARING PERSONAL PROPERTY OBSOLETE, UNFIT, OR NOT NEEDED FOR PUBLIC USE AND AUTHORIZING THE PUBLIC AUCTION, PRIVATE SALE, INTERNET AUCTION, OR DISPOSAL OF CERTAIN PERSONAL PROPERTY:

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

**COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JANUARY 11, 2010**

WHEREAS, Delaware County throughout the year will have miscellaneous minor office furniture, chairs, filing cabinets, shelving, miscellaneous minor office equipment, computers, monitors, printers, fax machines, copiers, typewriters, miscellaneous building hardware and materials, and minor tools and equipment which are not needed for public use, or are obsolete or unfit for the use for which they were acquired.

NOW THEREFORE BE IT RESOLVED, that the board of Commissioners of Delaware County, State of Ohio, declare that when the above type of personal property becomes obsolete, unfit, or not needed for public use and when the estimated fair market value of each item is less than \$50.00, authorize the public auction, private sale, internet auction, or the disposal or salvage of property that has no value, as set by the Ohio Revised Code Section 307.12.

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

RESOLUTION NO. 10-39

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE BOARD OF DELAWARE COUNTY COMMISSIONERS AND ELFORD, INC. FOR BID PACKAGE 1-GENERAL TRADES FOR THE HAYES BUILDING SUITE IMPROVEMENTS:

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

Whereas, the Facilities Supervisor recommends approval of the following contract with Elford, Inc. for Bid Package 1-General Trades For The Hayes Building Suite Improvements;

Now Therefore Be It Resolved, that the Delaware County Commissioners approve the following contract with Elford, Inc. for Bid Package 1-General Trades For The Hayes Building Suite Improvements.

**DELAWARE COUNTY BOARD OF COMMISSIONERS
CONTRACT**

This Contract made by and between:

Elford, Inc.
1220 Dublin Road
Columbus, OH 43215

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

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

ARTICLE 1

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

Suite Improvements:
Rutherford B. Hayes Building
Delaware, Ohio 43015
Bid Package 1 – General Trades

ARTICLE 2

2.1 The Delaware County Board of Commissioners shall pay the Contractor for the performance of this Contract, subject to additions and deletions as provided in the Contract Documents, the amount of \$723,032.00 (the "Contract Price"), based upon the Bid Form, dated October 15, 2009, submitted by the Contractor.

Base Bid - \$657,600.00
Alternate 1 - \$60,650.00
Alternate 2 - \$2,580.00
Alternate 3 - \$2,202.00

Total Contract Amount = \$723,032.00

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

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Documents.

ARTICLE 3

3.1 The Contractor shall diligently prosecute the Work and shall effect Contract Completion on or before 223 consecutive working days, following the date set forth in the Notice to Proceed, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

3.2 It is understood and agreed that all Work to be performed under the Contract shall be completed within the established Contract Completion time and that each applicable portion of the Work shall be completed upon the respective Milestone Completion Dates, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

3.3 Upon failure to have all Work completed within the specified period of time, or to have the applicable portion of the Work completed upon the date of any Milestone Completion Date, the Delaware County Board of Commissioners shall be entitled to retain or recover from the Contractor, as liquidated damages, and not as a penalty, the applicable amount as set forth in the following table for each and every calendar day thereafter until Contract Completion, unless an extension of time is granted in accordance with the Contract Documents.

3.4 The amount of Liquidated Damages is agreed upon by and between the Contractor and the Delaware County Board of Commissioners because of the impracticality and extreme difficulty of ascertaining the actual amount of damage the Delaware County Board of Commissioners would sustain.

3.5 LIQUIDATED DAMAGES

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

ARTICLE 4

4.1 Entire Agreement: The Bid Documents shall embody the entire understanding of the parties and form the basis of the Contract between the Delaware County Board of Commissioners and the Contractor. The Bid Documents shall be considered to be incorporated by reference into this Contract as if fully rewritten herein.

4.2 Governing Law: The Contract and any modification, amendments or alterations thereto shall be governed, construed and enforced by and under the laws of the State of Ohio. Any legal action arising pursuant to this Contract shall be brought in the courts of Delaware County, Ohio.

4.3 Severability: If any term or provision of the Contract, or the application thereof to any person or circumstance, is finally determined, to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Contract or the application of such term or provision to other persons or circumstances, shall not be affected thereby, and each term and provision of the Contract shall be valid and enforced to the fullest extent permitted by law.

4.4 Indemnification: To the fullest extent permitted by law, the Contractor shall indemnify, save and hold the Delaware County Board of Commissioners, its officers, agents, servants, and employees free and harmless of all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the Contractor's performance of this Contract. The Contractor shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the Delaware County Board of Commissioners by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees. No employee of the Contractor shall at any time be considered an agent or employee of the Delaware County Board of Commissioners.

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

4.6 Assignability: The Contract shall be binding on the Contractor and the Delaware County Board of

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Commissioners, their successors and assigns, in respect to all covenants and obligations contained in the Contract Documents, but the Contract may not be assigned by the Contractor without the prior written consent of the Delaware County Board of Commissioners.

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

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

4.9 Campaign Contributions Compliance with ORC § 3517.13: Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13." Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract. Such certification is attached to this Contract and by this reference made a part thereof.

ARTICLE 5

5.1 It is expressly understood by the Contractor that none of the rights, duties and obligations described in the Contract Documents shall be valid and enforceable unless the Delaware County Board of Commissioners first certifies funds are available.

5.2 The Contract shall become binding and effective upon the completion of 5.1 and execution by the Delaware County Board of Commissioners.

ARTICLE 6

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

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

RESOLUTION NO. 10-40

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE BOARD OF DELAWARE COUNTY COMMISSIONERS AND H & A MECHANICAL, INC. FOR BID PACKAGE-2 HVAC FOR THE HAYES BUILDING SUITE IMPROVEMENTS:

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

Whereas, the Facilities Supervisor recommends approval of the following contract with H & A Mechanical, Inc. for Bid Package-2 HVAC For The Hayes Building Suite Improvements;

Now Therefore Be It Resolved, that the Delaware County Commissioners approve the following contract with H & A Mechanical, Inc. for Bid Package-2 HVAC For The Hayes Building Suite Improvements.

**DELAWARE COUNTY BOARD OF COMMISSIONERS
CONTRACT**

This Contract made by and between:

**H & A Mechanical, Inc.
P.O. Box 255
Baltimore, OH 43105-0255**

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

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

ARTICLE 1

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

Suite Improvements:
 Rutherford B. Hayes Building
 Delaware, Ohio 43015
 Bid Package 2 – HVAC

ARTICLE 2

2.1 The Delaware County Board of Commissioners shall pay the Contractor for the performance of this Contract, subject to additions and deletions as provided in the Contract Documents, the amount of \$114,650.00 (the "Contract Price"), based upon the Bid Form, dated October 15, 2009, submitted by the Contractor.

Base Bid - \$107,750.00
 Alternate 1 - \$6,900.00

Total Contract Amount = \$114,650.00

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

ARTICLE 3

3.1 The Contractor shall diligently prosecute the Work and shall effect Contract Completion on or before 223 consecutive working days, following the date set forth in the Notice to Proceed, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

3.2 It is understood and agreed that all Work to be performed under the Contract shall be completed within the established Contract Completion time and that each applicable portion of the Work shall be completed upon the respective Milestone Completion Dates, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

3.3 Upon failure to have all Work completed within the specified period of time, or to have the applicable portion of the Work completed upon the date of any Milestone Completion Date, the Delaware County Board of Commissioners shall be entitled to retain or recover from the Contractor, as liquidated damages, and not as a penalty, the applicable amount as set forth in the following table for each and every calendar day thereafter until Contract Completion, unless an extension of time is granted in accordance with the Contract Documents.

3.4 The amount of Liquidated Damages is agreed upon by and between the Contractor and the Delaware County Board of Commissioners because of the impracticality and extreme difficulty of ascertaining the actual amount of damage the Delaware County Board of Commissioners would sustain.

3.5 LIQUIDATED DAMAGES

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

ARTICLE 4

4.1 Entire Agreement: The Bid Documents shall embody the entire understanding of the parties and form the basis of the Contract between the Delaware County Board of Commissioners and the Contractor. The Bid Documents shall be considered to be incorporated by reference into this Contract as if fully rewritten herein.

4.2 Governing Law: The Contract and any modification, amendments or alterations thereto shall be

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governed, construed and enforced by and under the laws of the State of Ohio. Any legal action arising pursuant to this Contract shall be brought in the courts of Delaware County, Ohio.

4.3 Severability: If any term or provision of the Contract, or the application thereof to any person or circumstance, is finally determined, to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Contract or the application of such term or provision to other persons or circumstances, shall not be affected thereby, and each term and provision of the Contract shall be valid and enforced to the fullest extent permitted by law.

4.4 Indemnification: To the fullest extent permitted by law, the Contractor shall indemnify, save and hold the Delaware County Board of Commissioners, its officers, agents, servants, and employees free and harmless of all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the Contractor's performance of this Contract. The Contractor shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the Delaware County Board of Commissioners by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees. No employee of the Contractor shall at any time be considered an agent or employee of the Delaware County Board of Commissioners.

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

4.6 Assignability: The Contract shall be binding on the Contractor and the Delaware County Board of Commissioners, their successors and assigns, in respect to all covenants and obligations contained in the Contract Documents, but the Contract may not be assigned by the Contractor without the prior written consent of the Delaware County Board of Commissioners.

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

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

4.9 Campaign Contributions Compliance with ORC § 3517.13: Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13." Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract. Such certification is attached to this Contract and by this reference made a part thereof.

ARTICLE 5

5.1 It is expressly understood by the Contractor that none of the rights, duties and obligations described in the Contract Documents shall be valid and enforceable unless the Delaware County Board of Commissioners first certifies funds are available.

5.2 The Contract shall become binding and effective upon the completion of 5.1 and execution by the Delaware County Board of Commissioners.

ARTICLE 6

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

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

RESOLUTION NO. 10-41

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE BOARD OF DELAWARE COUNTY COMMISSIONERS AND RADICO, INC. FOR BID PACKAGE 3-PLUMBING FOR THE HAYES BUILDING SUITE IMPROVEMENTS:

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

Whereas, the Facilities Supervisor recommends approval of the following contract with Radico, Inc. for Bid Package 3-Plumbing; For The Hayes Building Suite Improvements;

Now Therefore Be It Resolved, that the Delaware County Commissioners approve the following contract with Radico, Inc. for Bid Package 3-Plumbing For The Hayes Building Suite Improvements.

**DELAWARE COUNTY BOARD OF COMMISSIONERS
CONTRACT**

This Contract made by and between:

Radico, Inc.
1501 Clara Ave.
Columbus, OH 432

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

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

ARTICLE 1

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

Suite Improvements:
Rutherford B. Hayes Building
Delaware, Ohio 43015
Bid Package 3 - Plumbing

ARTICLE 2

2.1 The Delaware County Board of Commissioners shall pay the Contractor for the performance of this Contract, subject to additions and deletions as provided in the Contract Documents, the amount of \$55,800.00 (the "Contract Price"), based upon the Bid Form, dated October 15, 2009, submitted by the Contractor.

Base Bid - \$55,800.00
Alternate – N/A

Total Contract Amount = \$55,800.00

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

ARTICLE 3

3.1 The Contractor shall diligently prosecute the Work and shall effect Contract Completion on or before 223 consecutive working days, following the date set forth in the Notice to Proceed, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

3.2 It is understood and agreed that all Work to be performed under the Contract shall be completed within the established Contract Completion time and that each applicable portion of the Work shall be completed upon the respective Milestone Completion Dates, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

3.3 Upon failure to have all Work completed within the specified period of time, or to have the applicable

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portion of the Work completed upon the date of any Milestone Completion Date, the Delaware County Board of Commissioners shall be entitled to retain or recover from the Contractor, as liquidated damages, and not as a penalty, the applicable amount as set forth in the following table for each and every calendar day thereafter until Contract Completion, unless an extension of time is granted in accordance with the Contract Documents.

3.4 The amount of Liquidated Damages is agreed upon by and between the Contractor and the Delaware County Board of Commissioners because of the impracticality and extreme difficulty of ascertaining the actual amount of damage the Delaware County Board of Commissioners would sustain.

3.5 LIQUIDATED DAMAGES

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

ARTICLE 4

4.1 **Entire Agreement:** The Bid Documents shall embody the entire understanding of the parties and form the basis of the Contract between the Delaware County Board of Commissioners and the Contractor. The Bid Documents shall be considered to be incorporated by reference into this Contract as if fully rewritten herein.

4.2 **Governing Law:** The Contract and any modification, amendments or alterations thereto shall be governed, construed and enforced by and under the laws of the State of Ohio. Any legal action arising pursuant to this Contract shall be brought in the courts of Delaware County, Ohio.

4.3 **Severability:** If any term or provision of the Contract, or the application thereof to any person or circumstance, is finally determined, to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Contract or the application of such term or provision to other persons or circumstances, shall not be affected thereby, and each term and provision of the Contract shall be valid and enforced to the fullest extent permitted by law.

4.4 **Indemnification:** To the fullest extent permitted by law, the Contractor shall indemnify, save and hold the Delaware County Board of Commissioners, its officers, agents, servants, and employees free and harmless of all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the Contractor's performance of this Contract. The Contractor shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the Delaware County Board of Commissioners by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees. No employee of the Contractor shall at any time be considered an agent or employee of the Delaware County Board of Commissioners.

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

4.6 **Assignability:** The Contract shall be binding on the Contractor and the Delaware County Board of Commissioners, their successors and assigns, in respect to all covenants and obligations contained in the Contract Documents, but the Contract may not be assigned by the Contractor without the prior written consent of the Delaware County Board of Commissioners.

4.7 **Findings for Recovery:** The Contractor certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

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

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4.9 Campaign Contributions Compliance with ORC § 3517.13: Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13." Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract. Such certification is attached to this Contract and by this reference made a part thereof.

ARTICLE 5

5.1 It is expressly understood by the Contractor that none of the rights, duties and obligations described in the Contract Documents shall be valid and enforceable unless the Delaware County Board of Commissioners first certifies funds are available.

5.2 The Contract shall become binding and effective upon the completion of 5.1 and execution by the Delaware County Board of Commissioners.

ARTICLE 6

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

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

RESOLUTION NO. 10-42

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE BOARD OF DELAWARE COUNTY COMMISSIONERS AND SIMCO ELECTRIC, INC. FOR BID PACKAGE 4-ELECTRICAL FOR THE HAYES BUILDING SUITE IMPROVEMENTS:

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

Whereas, the Facilities Supervisor recommends approval of the following contract with Simco Electric, Inc. for Bid Package 4-Electrical For The Hayes Building Suite Improvements;

Now Therefore Be It Resolved, that the Delaware County Commissioners approve the following contract with Simco Electric, Inc. for Bid Package 4-Electrical For The Hayes Building Suite Improvements.

**DELAWARE COUNTY BOARD OF COMMISSIONERS
CONTRACT**

This Contract made by and between:

**Simco Electric, Inc.
3048 Marysville Rd.
Delaware, OH 4301**

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

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

ARTICLE 1

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

Suite Improvements:
Rutherford B. Hayes Building
Delaware, Ohio 43015
Bid Package 4 - Electrical

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ARTICLE 2

2.1 The Delaware County Board of Commissioners shall pay the Contractor for the performance of this Contract, subject to additions and deletions as provided in the Contract Documents, the amount of \$221,750.00 (the "Contract Price"), based upon the Bid Form, dated October 15, 2009, submitted by the Contractor.

Base Bid - \$198,650.00
Alternate 1 - \$22,850.00
Alternate 2 - \$250.00

Total Contract Amount = \$221,750.00

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

ARTICLE 3

3.1 The Contractor shall diligently prosecute the Work and shall effect Contract Completion on or before 223 consecutive working days, following the date set forth in the Notice to Proceed, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

3.2 It is understood and agreed that all Work to be performed under the Contract shall be completed within the established Contract Completion time and that each applicable portion of the Work shall be completed upon the respective Milestone Completion Dates, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

3.3 Upon failure to have all Work completed within the specified period of time, or to have the applicable portion of the Work completed upon the date of any Milestone Completion Date, the Delaware County Board of Commissioners shall be entitled to retain or recover from the Contractor, as liquidated damages, and not as a penalty, the applicable amount as set forth in the following table for each and every calendar day thereafter until Contract Completion, unless an extension of time is granted in accordance with the Contract Documents.

3.4 The amount of Liquidated Damages is agreed upon by and between the Contractor and the Delaware County Board of Commissioners because of the impracticality and extreme difficulty of ascertaining the actual amount of damage the Delaware County Board of Commissioners would sustain.

3.5 LIQUIDATED DAMAGES

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

ARTICLE 4

4.1 Entire Agreement: The Bid Documents shall embody the entire understanding of the parties and form the basis of the Contract between the Delaware County Board of Commissioners and the Contractor. The Bid Documents shall be considered to be incorporated by reference into this Contract as if fully rewritten herein.

4.2 Governing Law: The Contract and any modification, amendments or alterations thereto shall be governed, construed and enforced by and under the laws of the State of Ohio. Any legal action arising pursuant to this Contract shall be brought in the courts of Delaware County, Ohio.

4.3 Severability: If any term or provision of the Contract, or the application thereof to any person or circumstance, is finally determined, to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Contract or the application of such term or provision to other persons or circumstances, shall not be affected thereby, and each term and provision of the Contract shall be valid and enforced to the fullest extent permitted by law.

4.4 Indemnification: To the fullest extent permitted by law, the Contractor shall indemnify, save and hold the Delaware County Board of Commissioners, its officers, agents, servants, and employees free and harmless of all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the Contractor's performance of this Contract. The Contractor shall undertake to defend, at its own expense, any and all actions, claims, or

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demands brought against the Delaware County Board of Commissioners by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees. No employee of the Contractor shall at any time be considered an agent or employee of the Delaware County Board of Commissioners.

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

4.6 Assignability: The Contract shall be binding on the Contractor and the Delaware County Board of Commissioners, their successors and assigns, in respect to all covenants and obligations contained in the Contract Documents, but the Contract may not be assigned by the Contractor without the prior written consent of the Delaware County Board of Commissioners.

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

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

4.9 Campaign Contributions Compliance with ORC § 3517.13: Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13." Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract. Such certification is attached to this Contract and by this reference made a part thereof.

ARTICLE 5

5.1 It is expressly understood by the Contractor that none of the rights, duties and obligations described in the Contract Documents shall be valid and enforceable unless the Delaware County Board of Commissioners first certifies funds are available.

5.2 The Contract shall become binding and effective upon the completion of 5.1 and execution by the Delaware County Board of Commissioners.

ARTICLE 6

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

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

RESOLUTION NO. 10-43

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE BOARD OF DELAWARE COUNTY COMMISSIONERS AND S. A. COMUNALE CO., INC. FOR BID PACKAGE 5-FIRE PROTECTION FOR THE HAYES BUILDING SUITE IMPROVEMENTS:

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

Whereas, the Facilities Supervisor recommends approval of the following contract with S. A. Comunale Co., Inc. for Bid Package 5-Fire Protection For The Hayes Building Suite Improvements;

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Now Therefore Be It Resolved, that the Delaware County Commissioners approve the following contract with S. A. Comunale Co., Inc. for Bid Package 5-Fire Protection For The Hayes Building Suite Improvements.

**DELAWARE COUNTY BOARD OF COMMISSIONERS
CONTRACT**

This Contract made by and between:

S. A. Comunale Co., Inc.
1399 Ohlen Ave.
Columbus, OH 43211

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

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

ARTICLE 1

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

Suite Improvements:
Rutherford B. Hayes Building
Delaware, Ohio 43015
Bid Package 5 – Fire Protection

ARTICLE 2

2.1 The Delaware County Board of Commissioners shall pay the Contractor for the performance of this Contract, subject to additions and deletions as provided in the Contract Documents, the amount of \$43,825.00 (the "Contract Price"), based upon the Bid Form, dated October 15, 2009, submitted by the Contractor.

Base Bid - \$37,950.00
Alternate 1 - \$5,875.00

Total Contract Amount = \$43,825.00

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

ARTICLE 3

3.1 The Contractor shall diligently prosecute the Work and shall effect Contract Completion on or before 223 consecutive working days, following the date set forth in the Notice to Proceed, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

3.2 It is understood and agreed that all Work to be performed under the Contract shall be completed within the established Contract Completion time and that each applicable portion of the Work shall be completed upon the respective Milestone Completion Dates, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

3.3 Upon failure to have all Work completed within the specified period of time, or to have the applicable portion of the Work completed upon the date of any Milestone Completion Date, the Delaware County Board of Commissioners shall be entitled to retain or recover from the Contractor, as liquidated damages, and not as a penalty, the applicable amount as set forth in the following table for each and every calendar day thereafter until Contract Completion, unless an extension of time is granted in accordance with the Contract Documents.

3.4 The amount of Liquidated Damages is agreed upon by and between the Contractor and the Delaware County Board of Commissioners because of the impracticality and extreme difficulty of ascertaining the actual amount of damage the Delaware County Board of Commissioners would sustain.

3.5 LIQUIDATED DAMAGES

Contract Amount	Dollars Per Day
\$1. To \$50,000	\$ 150.

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More than \$50,000 to \$150,000	\$ 250.
More than \$150,000 to \$500,000	\$ 500.
More than \$500,000 to \$2,000,000	\$1,000
More than \$2,000,000 to \$5,000,000	\$2,000
More than \$5,000,000 to \$10,000,000	\$2,500
More than \$10,000,000	\$3,000

ARTICLE 4

4.1 Entire Agreement: The Bid Documents shall embody the entire understanding of the parties and form the basis of the Contract between the Delaware County Board of Commissioners and the Contractor. The Bid Documents shall be considered to be incorporated by reference into this Contract as if fully rewritten herein.

4.2 Governing Law: The Contract and any modification, amendments or alterations thereto shall be governed, construed and enforced by and under the laws of the State of Ohio. Any legal action arising pursuant to this Contract shall be brought in the courts of Delaware County, Ohio.

4.3 Severability: If any term or provision of the Contract, or the application thereof to any person or circumstance, is finally determined, to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Contract or the application of such term or provision to other persons or circumstances, shall not be affected thereby, and each term and provision of the Contract shall be valid and enforced to the fullest extent permitted by law.

4.4 Indemnification: To the fullest extent permitted by law, the Contractor shall indemnify, save and hold the Delaware County Board of Commissioners, its officers, agents, servants, and employees free and harmless of all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the Contractor's performance of this Contract. The Contractor shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the Delaware County Board of Commissioners by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees. No employee of the Contractor shall at any time be considered an agent or employee of the Delaware County Board of Commissioners.

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

4.6 Assignability: The Contract shall be binding on the Contractor and the Delaware County Board of Commissioners, their successors and assigns, in respect to all covenants and obligations contained in the Contract Documents, but the Contract may not be assigned by the Contractor without the prior written consent of the Delaware County Board of Commissioners.

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

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

4.9 Campaign Contributions Compliance with ORC § 3517.13: Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13." Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract. Such certification is attached to this Contract and by this reference made a part thereof.

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ARTICLE 5

5.1 It is expressly understood by the Contractor that none of the rights, duties and obligations described in the Contract Documents shall be valid and enforceable unless the Delaware County Board of Commissioners first certifies funds are available.

5.2 The Contract shall become binding and effective upon the completion of 5.1 and execution by the Delaware County Board of Commissioners.

ARTICLE 6

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

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

RESOLUTION NO. 10-44

IN THE MATTER OF APPROVING THE SANITARY SEWER IMPROVEMENT PLAN FOR CHESHIRE ELEMENTARY SCHOOL SANITARY SEWER IMPROVEMENTS 2010:

It was moved by Mr. Hanks, seconded by Mr. O'Brien to approve the following sanitary sewer construction plans for Cheshire Elementary School Sanitary Sewer Improvements 2010 for submittal to the Ohio EPA for their approval.

Whereas, the Environmental Services Staff recommends sanitary sewer plans for Cheshire Elementary School Sanitary Sewer Improvements 2010 for submittal to the Ohio EPA for their approval.

Therefore be it resolved, that the Board of Commissioners approves sanitary sewer plans for Cheshire Elementary School Sanitary Sewer Improvements 2010 for submittal to the Ohio EPA for their approval.

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

RESOLUTION NO. 10-45

IN THE MATTER OF APPROVING PERSONNEL ACTIONS:

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

The Lead II Sanitary Engineer recommends approval of the Wastewater Lab Analyst I Exam pay raise for Josh Phillips; effective November 28, 2009.

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

RESOLUTION NO. 10-46

IN THE MATTER OF AMENDING THE CHILD CARE PROVIDER CONTRACT 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. O'Brien 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 amendment;

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

Lillypad DBA The Goddard School

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

This amendment, effective January 1, 2009, is to amend the Purchase of Child Care Services Contract between the Delaware County Department of Job and Family Services and Lillypad dba The Goddard School entered into on the 1st day of January 2009.

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Article 4. Cost and Delivery of Purchased Services:

Payment Rates:

Changes amount reimbursable from \$72,000 to \$90,000

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

RESOLUTION NO. 10-47

IN THE MATTER OF APPROVING THE JOB AND FAMILY SERVICES 2010 REQUIRED TRAVEL TRAINING REQUESTS:

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

TO: The Board of County Commissioners
Delaware County, Ohio

Required Training/Meetings

Cost of training to be paid from local/state/federal appropriated funds
Following are itemized the anticipated expenses necessary to be incurred during such period.
NOTE: The total will be the maximum that would be reimbursed. Staff will use a county vehicle if available, reasonable and efficient.

1.

I hereby request authorization for:
Positions classified as Social Services Worker 3, Social Services Supervisor, and Children Services Administrator

to attend, at the expense of Delaware County, required child welfare training at various locations, primarily 855 W. Mound Street, Columbus for the period of 01/01/10 through 12/31/10.

(6 trainings x 18 staff x 80 miles x \$0.40)		
Mileage for personal automobile <u>actual</u> miles at \$0.40		\$3,456
Parking for <u>actual</u> cost		\$ 200
Registration for <u>actual</u> cost (specialized training x 9 staff x \$150.00)		<u>\$1,350</u>
Approximate of total request		\$5,006

2.

I hereby request authorization for:
Positions classified as Fiscal Supervisor, Office Manager, Fiscal Specialist, Account Clerk 2, Clerical Specialist, Social Services Worker 3, Social Supervisor, and Children Services Administrator

to attend, at the expense of Delaware County, quarterly SIS/SACWIS meetings at various locations for the period of 01/01/10 through 12/31/10.

(4 meetings x 100 miles x \$0.40)		
Mileage for personal automobile <u>actual</u> miles at \$0.40		\$160
Parking for <u>actual</u> cost (4 meetings x \$10.00)	\$ 40	
Registration for <u>actual</u> cost		<u>-0-</u>
Approximate of total request		\$200

3.

I hereby request authorization for:
Positions classified as Children Services Administrator, Social Services Supervisor, Social Services Worker 3, Quality Assurance Worker

to attend, at the expense of Delaware County, quarterly foster/adoption coordinator meetings, regional adoption meetings, liaison meetings at Columbus, OH for the period of 01/01/10 through 12/31/2010.

(10 meetings x 60 miles x \$0.40)		
Mileage for personal automobile <u>actual</u> miles at \$0.40		\$240
Parking for <u>actual</u> cost (10 meetings x \$10.00)	\$100	
Registration for <u>actual</u> cost		<u>-0-</u>
Approximate of total request		\$340

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4.

I hereby request authorization for:

Positions classified as Director, Children Services Administrator, Social Services Supervisor, Quality Assurance Worker

to attend, at the expense of Delaware County, quarterly Regional Social Services Supervisor/Administrator meetings at 899 E. Broad Street, Columbus, OH for the period of 01/01/10 through 12/31/10.

(4 meetings x 60 miles x \$0.40)		
Mileage for personal automobile <u>actual</u> miles at \$0.40		\$96
Parking for <u>actual</u> cost (11 meetings x \$10.00)	\$-0-	
Registration for <u>actual</u> cost		<u>\$-0-</u>
Approximate of total request		\$96

5.

I hereby request authorization for:

Positions classified as Office Manager, Clerical Specialist, Employment Services Worker, Employment Services Supervisor, Income Maintenance Worker 3, Income Maintenance Supervisor, Fraud Investigator, Income Maintenance Worker 2/ Screener, Social Services Worker 1.

to attend, at the expense of Delaware County, CRISE and Policy training at Columbus and various locations in Ohio for the period of 01/01/10 through 12/31/10.

(4 staff x 18 days x 60 miles x \$0.40)		
Mileage for personal automobile <u>actual</u> miles at \$0.40		\$1,728
Parking for <u>actual</u> cost		\$120
Registration for <u>actual</u> cost		<u>-0-</u>
Approximate of total request		\$1,848

6.

I hereby request authorization for:

Positions classified as Director, Assistant Director, Fiscal Supervisor, Income Maintenance Supervisor, Employment Services Supervisor, Employment Services Worker, Employment Services Representative, Contract Evaluator, Clerical Specialist.

to attend, at the expense of Delaware County, WIA, TANF, or One Stop Technical Assistance meetings, Monthly Workforce Development meetings, One Stop Consortium and RAC meetings, Workforce Development Systems Operations meetings, Area 7 Board Meetings, IM Supervisor meetings, Medicaid Meetings, Quarterly Family Stability Regional meetings, Delaware-Knox-Marion-Morrow Board meetings, at various locations for the period of 01/01/10 through 12/31/10.

(100 miles x 12 x \$0.40) + (60 miles x 6 x \$0.40)		
Mileage for personal automobile <u>actual</u> miles at \$0.40		\$624
Parking for <u>actual</u> cost(12 meetings x \$10.00)	\$120	
Registration for <u>actual</u> cost		<u>\$320</u>
Approximate of total request		\$1,064

7.

I hereby request authorization for:

Positions classified as Employment Services Supervisor, Social Services Worker 1

to attend, at the expense of Delaware County, Monthly Child Care meetings, at various locations for the period of 01/01/10 through 12/31/10.

(12 meetings x 60 miles x \$0.40)		
Mileage for personal automobile <u>actual</u> miles at <u>\$0.40</u>		\$288
Parking for <u>actual</u> cost (12 meetings x \$10)		<u>\$120</u>
Approximate of total request		\$408

8.

I hereby request authorization for:

Positions classified as Employment Services Supervisor, Social Services Worker 1

to attend, at the expense of Delaware County, Quarterly Child Care meetings at various locations in Ohio for the period of 01/01/10 through 12/31/10.

(4 meetings x 100 miles x \$0.40)		
Mileage for personal automobile <u>actual</u> miles at \$0.40		\$160

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Parking for <u>actual</u> cost	\$ 40
Registration	\$ <u>80</u>
Approximate of total request	\$280

9.

I hereby request authorization for:

Income Maintenance Supervisor, Fraud Investigator

to attend, at the expense of Delaware County, Quarterly Fraud/Overpayment meetings at various locations for the period of 01/01/10 through 12/31/10.

(100 miles x 4 meetings x \$0.40)	
Mileage for personal automobile <u>actual</u> miles at \$0.40	\$160
Parking for <u>actual</u> cost	
Registration for <u>actual</u> cost	<u>40</u>
Approximate of total request	\$200

10.

I hereby request authorization for:

Positions classified as Director, Assistant Director, Fiscal Supervisor, Employment Services Supervisor, Employment Services Counselor, Employment Services Representative, Contract Evaluator.

to attend, at the expense of Delaware County, Chamber of Commerce Functions, One Stop or WIA Trainings and Workshops at various locations for the period of 01/01/10 through 12/31/10.

(1 car x 60 miles x 9 x \$0.40)	
Mileage for personal automobile <u>actual</u> miles at \$0.40	\$216
Parking for <u>actual</u> cost	\$150
Registration for <u>actual</u> cost (\$20 x 3 staff x 9 functions)	<u>\$540</u>
Approximate of total request	\$906

11.

I hereby request authorization for:

Positions classified as Director, Assistant Director, Income Maintenance Supervisor, Employment Services Supervisor, Office Manager, Children Services Administrator, Social Services Supervisor, Fiscal Supervisor, Quality Assurance Worker

to attend, at the expense of Delaware County, Quarterly PCSAO (Public Children Services Assoc. of Ohio), ODJFS (Ohio Job and Family Services Directors Assoc.), ODJFS Children Services Directors, NW District Directors meetings, OJFSDA Committee Meetings, WIA Administrator Meetings/Trainings at various locations for the period of 01/01/10 through 12/31/10.

(44 meetings x 75 miles x \$0.40)	
Mileage for personal automobile <u>actual</u> miles at \$0.40	\$1,320
Parking for <u>actual</u> cost (24 meetings x \$10)	\$ 240
Registration for <u>actual</u> cost	<u>\$1,000</u>
Approximate of total request	\$2,560

12.

I hereby request authorization for:

Positions classified as Director, Assistant Director, Fiscal Supervisor, Fiscal Technician, Employment Services Supervisor, Contract Evaluator

to attend, at the expense of Delaware County, Quarterly Fiscal/WIA/OJFSDA meetings at Columbus and various locations for the period of 01/01/10 through 12/31/10.

(10 meetings x 60 miles x \$0.40)	
Mileage for personal automobile <u>actual</u> miles at \$0.40	\$240
Parking for <u>actual</u> cost	\$ 60
Registration for <u>actual</u> cost (\$15 x 3 staff x 6 meetings) <u>\$270</u>	
Approximate of total request	\$570

13.

I hereby request authorization for:

Positions classified as Assistant Director, Fiscal Supervisor, Fiscal Technician, Account Clerk 2

to attend, at the expense of Delaware County, Annual PET & QUIC user meetings (fiscal software at various locations for the period of 01/01/10 through 12/31/10.

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(4 days x 100 miles x \$0.40)		
Mileage for personal automobile <u>actual</u> miles at \$0.40	\$160	
Parking for <u>actual</u> cost	-0-	
Registration for <u>actual</u> cost		\$900
Approximate of total request	\$1,060	

14.

I hereby request authorization for:

Positions classified as Director, Assistant Director, Employment Services Supervisor, Office Manager, Children Services Administrator

to attend, at the expense of Delaware County, Monthly JFSDA and PCSAO meetings at various locations for the period of 01/01/10 through 12/31/10.

(24 days x 60 miles x \$0.40)		
Mileage for personal automobile <u>actual</u> miles at \$0.40	\$576	
Parking for <u>actual</u> cost	\$200	
Registration for <u>actual</u> cost		\$500
Approximate of total request	\$1276	

15 and 16 not used

17.

I hereby request authorization for:

Positions classified as Income Maintenance Supervisor, Employment Services Supervisor, Office Manager

to attend, at the expense of Delaware County, Quarterly MIS & Northwood's meetings at various location in Central Ohio for the period of 01/01/10 through 12/31/10.

(4 days x 60 miles x \$0.40)		
Mileage for personal automobile <u>actual</u> miles at \$0.40	\$ 96	
Registration for <u>actual</u> cost		-0-
Approximate of total request	\$ 96	

18.

I hereby request authorization for:

Positions classified as Income Maintenance Supervisor, Employment Services Supervisor, Office Manager

to attend, at the expense of Delaware County, Bi-annual TPOC meetings at Columbus for the period of 01/01/10 through 12/31/10.

(2 days x 60 miles x \$0.40)		
Mileage for personal automobile <u>actual</u> miles at \$0.40	\$ 48	
Parking for <u>actual</u> cost	\$ 30	
Registration for <u>actual</u> cost		-0-
Approximate of total request	\$ 78	

Requested/Recommend by: Mona Reilly, Director
Delaware County Department of Job and Family Services

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

RESOLUTION NO. 10-48

IN THE MATTER OF MODIFYING THE CURRENT TERMS FOR DELAWARE COUNTY TRANSIT BOARD MEMBERS AND APPOINTING A NEW MEMBER:

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

Whereas, the Delaware County Commissioners appoint members to the Delaware County Transit Board according to R.C. § 306.02 and,

Whereas, R.C. § 306.02 states that vacancies shall be filled for the unexpired term and,

Whereas, previous vacancy appointments were not made to fill the unexpired terms and have caused the appointments to expire in close proximity to each other and,

Whereas, the Delaware County Transit Board has established by-laws to allow for members to serve an

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additional two three-year terms beyond their initial appointment if the initial appointment was to fill a vacancy; and

Whereas, the DCTB has requested that the Delaware County Commissioners revise the current membership schedule of the Transit Board; and

Now therefore be it resolved that the Delaware County Commissioners revise the current membership of the Delaware County Transit Board as follows:

- a. Merlin (Boots) Sheets term effective January 1, 2010, term to end December 31, 2012;
- b. Gary Dougherty, designated as Chair, term effective January 1, 2010, term to end December 31, 2010 with no additional concurrent eligibility for reappointment;
- c. Joe Clase term effective January 1, 2010, term to end December 31, 2010;
- d. Roger VanSickle's term effective January 1, 2010, term to end December 31, 2012.

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

RESOLUTION NO. 10-49

IN THE MATTER OF DECLARING THE INTENT OF THE DELAWARE COUNTY COMMISSIONERS TO PROCEED WITH VARIOUS PROJECTS FROM THE PERMANENT IMPROVEMENT FUND, HAYES BUILDING AND JAIL RENOVATION:

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

Whereas, the Delaware County Board of County Commissioners has appropriated funds in the Permanent Improvement Fund for various projects, and

Whereas, there is a need to begin planning for several projects that are planned for 2010, and

Whereas there are various projects that can be completed in conjunction with the build-out and renovation of the Hayes Building and County Jail projects, and

Whereas, the space for these projects can be planned and coordinated for the efficient use of the space for future needs

THEREFORE BE IT RESOLVED by the Board of Commissioners of Delaware County:

1. It is the intention of the Board of Delaware County Commissioners to move forward with the projects identified below and direct the County Administrator to move forward with the planning, design and construction of the projects:

1. Courthouse Roof Replacement
2. Relocation of the Records Center to the Willis Building
3. Willis Carport Roof
4. Jail Seal Coat and Striping
5. Jail Storm Drain and Asphalt Repairs
6. Storm Drain and Seal Cote and Striping at 149 N Sandusky St
7. Hayes Building Parking Lot Manholes
8. Asphalt Seal at Hayes Building
9. Jail Lobby Tile Replacement
10. Maintenance Van Replacement
11. Medic Vehicle Replacement

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

RESOLUTION NO. 10-50

IN THE MATTER OF APPOINTING A COUNTY SANITARY ENGINEER:

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

Whereas, Chapter 6117.01 of the Ohio Revised Code governs the appointment of a county sanitary engineer, and

Whereas, the Board of County Commissioners may employ a registered professional engineer to be the county sanitary engineer for the time and on the terms it considers best, and

Whereas, the position of sanitary engineer will become vacant on January 1, 2010

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Now Therefore be it resolved, that the Board of County Commissioners of Delaware County, State of Ohio, appoint Tiffany Jenkins as interim sanitary engineer until April 1, 2010 or until a new Director of Environmental Services is appointed sooner.

Further be it resolved that the Board of County Commissioners of Delaware County, State of Ohio, that in addition to appointing Tiffany Jenkins as the interim county sanitary engineer, the Board authorizes Eric Kletrovetz, Lead Project Engineer, to sign documents in the absence or with the approval of the interim sanitary engineer.

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

RESOLUTION NO. 10-51

IN THE MATTER OF APPROVING PERSONNEL ACTIONS:

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

Approval of a 30-day suspension for Dan Lemke, a Residential Plans Examiner with the Code Compliance Department; effective January 11, 2010-February 23, 2010.

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

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

**Commissioner O'Brien
-TRN Meeting**

**Commissioner Hanks
-Email From Recorder; Sheriff Sales Are Down**

**Commissioner Thompson
-Mr. Cannon's Budget Update**

RESOLUTION NO. 10-52

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. Thompson Aye Mr. Hanks Aye Mr. O'Brien Aye

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Todd Hanks

Ken O'Brien

Tommy Thompson

Letha George, Clerk to the Commissioners