

COMMISSIONERS JOURNAL NO. 53 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD JANUARY 28, 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

RESOLUTION NO. 10-124

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JANUARY 25, 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 25, 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

PUBLIC COMMENT
 (Refer To CD Minutes For Entire Record)

Here to answer questions; Mr. Thomas Hart with Wiles, Boyle, Burkholder & Bringardner, Co., LPA agent for the petitioner, of 26.3 acres in Liberty Township to the City of Powell

RESOLUTION NO. 10-125

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0127, MEMO TRANSFERS IN BATCH NUMBERS MTAPR0127:

It was moved by Mr. Hanks, seconded by Mr. O'Brien to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0127, memo transfers in batch numbers MTAPR0127, and Purchase Orders as listed below:

PR Number	Vendor Name	Line Desc	Line Account	Line Amount	Line Number
R1000849	JOB & FAMILY SERVICES, OHIO DEPT OF	UNEMPLOYMENT CHARGES	10011108 - 5370	\$12,000.00	0001
R100857	THOMAS AND COMPANY LPA	BWC LEGAL SERVICES	61311923-5361	\$5,000.00	0001
R100857	THOMAS AND COMPANY LPA	BWC LEGAL SERVICES	75110902-5361	\$1,000.00	0002
R1000940	ALLIED TECHNICAL SERVICE INC	SERVICE TO SEWER DISTRICT	66211903 - 5335	\$10,000.00	0001
R1000940	ALLIED TECHNICAL SERVICE INC	REPAIR SERVICES OECC	66211903 - 5328	\$500.00	0002
R1000940	ALLIED TECHNICAL SERVICE INC	SERVICE TO SEWER DISTRICT	66211904 - 5335	\$5,000.00	0003
R1000940	ALLIED TECHNICAL SERVICE INC	REPAIR SERVICES ALUM CREEK	66211904 - 5328	\$500.00	0004
R1000940	ALLIED TECHNICAL SERVICE INC	SERVICE TO SEWER DISTRICT EMERGENCY AND	66211906 - 5335	\$500.00	0005

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R1000940	ALLIED TECHNICAL SERVICE INC	REPAIR SERVICE TO TARTAN	66211906 - 5328	\$50.00	0006
R1000940	ALLIED TECHNICAL SERVICE INC	REPAIR SERVICES SCIOTO HILLS	66211907 - 5328	\$50.00	0007
R1000940	ALLIED TECHNICAL SERVICE INC	SERVICE TO SEWER DISTRICT EMERGENCY AND	66211907 - 5335	\$500.00	0008
R1000968	HOFFMAN ANALYTIC SERVICES INC.	LAB ANALYSIS - OECC	66211903 - 5301	\$15,000.00	0001
R1000968	HOFFMAN ANALYTIC SERVICES INC.	LAB ANALYSIS - ALUM CREEK	66211904 - 5301	\$6,000.00	0002
R1001047	BAREFOOT AND CASE INC	MISC EQUIPMENT PARTS	66211903 - 5270	\$5,000.00	0001
R1001047	BAREFOOT AND CASE INC	EQUIPMENT REPAIRS	66211903 - 5328	\$2,000.00	0002
R1001191	CENTRAL OHIO TIRE OF DELAWARE INC	EMERGENCY ROAD SERVICE FOR BIOSOLIDS VEHICLES	66211904 - 5328	\$6,000.00	0001
R1001402	CITY OF DUBLIN	REIMBURSEMENT TO DUBLIN FOR SEWER CHARGES	66211903 - 5319	\$65,000.00	0001
R1001402	CITY OF DUBLIN	REIMBURSEMENT TO DUBLIN FOR SEWER CHARGES	66211904 - 5319	\$65,000.00	0002
R1001522	KEMIRA WATER SOLUTIONS INC	CHEMICALS - FERRIC CHLORIDE	66211903 - 5290	\$20,000.00	0001
R1001526	K O K PRODUCTS INC	CHEMICAL - HYPOCHLORITE	66211903 - 5290	\$5,000.00	0001
R1001526	K O K PRODUCTS INC	CHEMICAL - HYPOCHLORITE	66211904 - 5290	\$2,000.00	0002
R1001860	OHIO UTILITIES PROTECTION	ESTIMATED SAFETY CALLS	66211903 - 5301	\$6,000.00	0001
R1001860	OHIO UTILITIES PROTECTION	ESTIMATED SAFETY CALLS	66211904 - 5301	\$6,000.00	0002
R1001898	MULTITRODE INC	SOFTWARE SUPPORT FOR SCADA SYSTEM	66211903 - 5320	\$5,250.00	0001
R1001898	MULTITRODE INC	SOFTWARE SUPPORT FOR SCADA	66211904 - 5320	\$5,250.00	0002
R1001947	POLYDYNE INC	CHEMICAL - POLYMER	66211903 - 5290	\$70,000.00	0001
R1001947	POLYDYNE INC	CHEMICAL - POLYMER	66211904 - 5290	\$25,000.00	0002

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R1002000	SUBURBAN NATURAL GAS CO INC	GAS - HEAT SERVICE TO ALUM CREEK	66211904 - 5338	\$12,000.00	0001
R1002003	DELAWARE AREA TRANSIT AGENCY	TRANSPORTATIO N	22411601 - 5355	\$10,000.00	0001
R1002006	TRACTOR SUPPLY COMPANY	MISC OPERATING SUPPLIES	66211903 - 5201	\$2,000.00	0001
R1002006	TRACTOR SUPPLY COMPANY	SAFETY ITEMS - JACKETS - GLOVES - BOOTS ETC	66211903 - 5225	\$3,000.00	0002
R1002006	TRACTOR SUPPLY COMPANY	MISC OPERATING SUPPLIES	66211904 - 5201	\$2,000.00	0003
R1002006	TRACTOR SUPPLY COMPANY	SAFETY ITEMS - JACKETS - BOOTS - GLOVES ETC	66211904 - 5225	\$3,000.00	0004
R1002019	DOWNES FISHEL HASS KIM LLP	PROFESSIONAL ATTORNEY SERVICES	66211903 - 5361	\$5,000.00	0001
R1002019	DOWNES FISHEL HASS KIM LLP	PROFESSIONAL ATTORNEY SERVICES	66211904 - 5361	\$5,000.00	0002
R1002020	TREASURER,STATE OF OHIO	DISCHARGE PERMIT FEE	66211903 - 5316	\$5,200.00	0001
R1002020	TREASURER,STATE OF OHIO	DISCHARGE PERMIT FEE	66211904 - 5316	\$5,200.00	0002
R1002020	TREASURER,STATE OF OHIO	DISCHARGE PERMIT FEE	66211908 - 5316	\$200.00	0003
R1002020	TREASURER,STATE OF OHIO	DISCHARGE PERMIT FEE	66211910 - 5316	\$200.00	0004
R1002020	TREASURER,STATE OF OHIO	ANNUAL SEWAGE SLUDGE FEE	66211903 - 5316	\$1,000.00	0005
R1002020	TREASURER,STATE OF OHIO	ANNUAL SEWAGE SLUDGE FEE	66211904 - 5316	\$2,600.00	0006
R1002020	TREASURER,STATE OF OHIO	ANNUAL SEWAGE SLUDGE FEE	66211908 - 5316	\$100.00	0007
R1002020	TREASURER,STATE OF OHIO	ANNUAL SEWAGE SLUDGE FEE	66211910 - 5316	\$100.00	0008
R1002022	TW TELECOM	PHONE AND INTERNET SERVICE	66211903 - 5330	\$6,000.00	0001
R1002022	TW TELECOM	PHONE AND INTERNET SERVICE	66211904 - 5330	\$6,000.00	0002

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R1002023	USA BLUEBOOK	MISC OPERATING SUPPLIES	66211903 - 5201	\$2,500.00	0001
R1002023	USA BLUEBOOK	MISC EQUIPMENT PARTS	66211903 - 5270	\$500.00	0002
R1002023	USA BLUEBOOK	MISC OPERATING SUPPLIES	66211904 - 5201	\$2,500.00	0003
R1002023	USA BLUEBOOK	MISC EQUIPMENT PARTS	66211904 - 5270	\$500.00	0004
R1002023	USA BLUEBOOK	MISC OPERATING SUPPLIES	66211906 - 5201	\$500.00	0005
R1002023	USA BLUEBOOK	MISC EQUIPMENT PARTS	66211906 - 5270	\$200.00	0006
R1002023	USA BLUEBOOK	MISC OPERATING SUPPLIES	66211907 - 5201	\$500.00	0007
R1002023	USA BLUEBOOK	MISC EQUIPMENT PARTS	66211907 - 5270	\$200.00	0008
R1002023	USA BLUEBOOK	MISC EQUIPMENT PARTS	66211908 - 5270	\$200.00	0009
R1002023	USA BLUEBOOK	MISC OPERATING SUPPLIES	66211909 - 5201	\$100.00	0010
R1002023	USA BLUEBOOK	MISC EQUIPMENT PARTS	66211909 - 5270	\$200.00	0011
R1002023	USA BLUEBOOK	MISC OPERATING SUPPLIES	66211910 - 5201	\$100.00	0012
R1002023	USA BLUEBOOK	MISC EQUIPMENT PARTS	66211910 - 5270	\$200.00	0013
R1002023	USA BLUEBOOK	MISC EQUIPMENT PARTS	66211911 - 5270	\$200.00	0014
R1002064	JOBS FOR OHIO GRADUATES	SUMMER YOUTH PROGRAM	22311614 - 5348	\$5,298.52	0001
R1002073	DELAWARE CAB CO INC	CLIENT TRANSPORTATION	22411601 - 5355	\$20,000.00	0001
R1002073	DELAWARE CAB CO INC	CLIENT TRANSPORTATION	22511607 - 5355	\$1,000.00	0002
R1002073	DELAWARE CAB CO INC	CLIENT TRANSPORTATION	22311611 - 5355	\$500.00	0003
R1002094	DELAWARE AREA CAREER CENTER	WORK READINESS/ CAREER ASSESSMENTS	22311611 - 5348	\$33,296.11	0001
R1002094	DELAWARE AREA CAREER CENTER	WORK READINESS/ CAREER ASSESSMENTS	22311614 - 5348	\$33,296.10	0002
R1002095	DELAWARE AREA CAREER CENTER	ABLE	22411601 - 5348	\$57,307.50	0001

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R1002179	JFS CHILD CARE	DAY CARE	22511607 - 5348	\$10,000.00	0001
R1002331	TREASURER, DELAWARE COUNTY	REAL ESTATE TAXES	10011102 - 5380	\$30,000.00	0001
R1002342	WINDSTREAM CORP	NEW 911 PHONE SYSTEM	21411306 - 5450	\$615,354.00	0001
R1002342	WINDSTREAM CORP	MAINTENANCE COVERAGE ON NEW SYSTEM	21411306 - 5325	\$41,071.00	0002
R1002091	BOARD OF DEVELOPMENTAL DISABILITIES	FCFC COUNCIL MANAGER	70161603-5301	\$21,642.00	0001

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

RESOLUTION NO. 10-126

IN THE MATTER OF APPROVING PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0127BR:

It was moved by Mr. O'Brien, seconded by Mr. Thompson to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0127BR.

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

RESOLUTION NO. 10-127

IN THE MATTER OF GRANTING THE ANNEXATION PETITION OF 26.3 ACRES OF LAND IN LIBERTY TOWNSHIP TO THE CITY OF POWELL:

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

Whereas, on December 29, 2009, the Clerk to the Board of the Delaware County Commissioners received an annexation petition filed by , Eugene L Hollins; Wiles, Boyle, Burkholder & Bringardner, Co., LPA agent for the petitioner, of 26.3 acres, more or less, in Liberty Township to the City of Powell, and

Whereas, ORC Section 709.023-Expedited Type 2 Annexation Petition; Petitions By All Property Owners With Or Without Consent of Municipality & Township(s) – If the Municipality or Township does not file an objection within 25 days after filing of annexation, the Board at its next regular session shall enter upon its journal a resolution granting the proposed annexation, and

Whereas, 25 days have passed and the Clerk of the Board has not received an objection from the City of Powell or the Township of Liberty.

Therefore, Be It Resolved, the Delaware County Board of Commissioners grants the annexation petition request to annex 26.3 acres, more or less, in Liberty Township to the City of Powell.

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

RESOLUTION NO. 10-128

IN THE MATTER OF THE DELAWARE COUNTY BOARD OF COMMISSIONERS ACCEPTING WITHOUT RESERVATION THE DETERMINATION OF THE BUREAU OF CRIMINAL INVESTIGATION & IDENTIFICATION, SHERIFF WALTER DAVIS, AND THE PROSECUTING ATTORNEY THAT FORMER SHERIFF MYERS HAD ACTED HONORABLY AND WITHIN THE SCOPE OF THIS OFFICE:

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

WHEREAS, on May 31, 2007, Mark Wolfe was appointed interim Sheriff for Delaware County, Ohio, pending a permanent appointment to a vacancy in that office; and

WHEREAS, during his time in office, Sheriff Wolfe issued a press release on June 6, 2007, noting the discovery of certain image files on former Sheriff Al Myers' county computer, and implying that former Sheriff Al Myers had been involved child pornography; and

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WHEREAS, Sheriff Wolfe's press release named former Sheriff Myers as a suspect, although no criminal charges had been, or ever would be filed; and

WHEREAS, the image files discovered on former Sheriff Myers' computer were related to his proper duties as Sheriff, investigating and enforcing the laws against child pornography; and

WHEREAS, the State of Ohio Bureau of Criminal Investigation & Identification, Delaware County Sheriff Walter Davis, and the Delaware County Prosecuting Attorney all agreed that former Sheriff Myers had acted honorably and within the scope of this office, and

WHEREAS, this Board believes that former Sheriff Myers' reputation was improperly and unfairly maligned by Sheriff Wolfe's press release,

WHEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY, OHIO:

1. That former Sheriff Mark Wolfe should be, and hereby, is censured for his intemperate and defamatory press release.
2. That former Sheriff Myers was not a suspect at any time regarding any crime involving child pornography, and should have not been described that way.
3. That this Board formally recognizes that former Sheriff Myers, during his term of office, was a leader in the fight against the sexual exploitation of children, taking aggressive enforcement action against child pornographers and against so-called "travelers" who used the internet to lure underage children.
4. That this Board accepts without reservation the determination of the Bureau of Criminal Investigation & Identification, Sheriff Walter Davis, and the Prosecuting Attorney that former Sheriff Myers had acted honorably and within the scope of this office.

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

RESOLUTION NO. 10-129

IN THE MATTER OF APPROVING A SERVICE AGREEMENT BETWEEN DELAWARE COUNTY AND THE OHIO STATE UNIVERSITY/OARnet:

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

Whereas, the Data Center Director recommends approval of the following service agreement with The Ohio State University/OARnet;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the following service agreement with The Ohio State University/OARnet:

Agreement for Services between OARnet And Delaware County

This Agreement (the "Agreement") is made and entered into as of the 28th day of January, 2010, (the "Effective Date") by and between The Ohio State University/OARnet, with offices located at 1224 Kinnear Road, Columbus, Ohio 43212 (herein after called "OARnet") and Delaware County with offices located at 10 Court Street, Delaware, Ohio 43015 (herein after called "Delaware"). Ohio State University/OARnet and Delaware are each referred to in this Agreement as a "Party," and collectively as the "Parties".

Whereas, OARnet is the provider of the State of Ohio's OARnet, which supports education, research, healthcare and economic development initiatives throughout the state.

Whereas, Delaware County is responsible for providing network services for economic development and public safety in Delaware County, Ohio, and is interested in receiving services from the OARnet network.

Whereas, OARnet and Delaware will work together under this agreement to ensure the delivery of services as identified in the following Scope of Work.

1. SCOPE OF THE WORK
OARnet agrees to provide:
 - 40 MB Ethernet connections to OARnet for Delaware
 - Internet bandwidth (20 mb per Ethernet connection)
 - Intra-Ohio bandwidth (20 mb to support public safety)
 - Management and support of the ethernet Connections

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- Management and support of the internet and intra-Ohio bandwidth
- OARnet will provide domain name server management at no cost as long as the Delaware subscribes to OARnet's Internet service.
- Internet and Intra-Ohio Services with an availability of 99.9% for 24 hours/day by 7 days/week for 365 days/year.

Delaware agrees to provide:

- Payment for services within 45 days of invoice based on fee schedule below
- Management of their fiber
- Management of their router and IP space
- Identification of a single point of contact to work with OARnet on the installation and support of the network services.

2. FEE SCHEDULE
 OARNet

Type of Cost	Description	Price
Monthly	Internet Service (20 mb at \$82 per megabit)	\$1640.00
Monthly	Intra –Ohio (20 mb included with Internet)	\$00.00

3. SHARED COSTS.

Each Party shall share in costs related to the network connections between Delaware and OARnet. All such costs must be preapproved by both parties in writing before work is performed or costs are incurred.

4. REPORTING.

Delaware and OARnet shall meet at least quarterly initially to review the progress and activities undertaken due to any addenda effective that year, and to consider any needed modifications to this Agreement or individual addenda. Both parties agree to make on-line access to performance, utilization, routing, and other information to facilitate problem resolution.

5. TERM AND TERMINATION.

5.1 The initial term of this Agreement between OARnet and Delaware shall begin upon the date that the Parties have executed this Agreement, as set forth above, and shall extend until the beginning of the next Fiscal Year, which is July 1.

5.2 This Agreement may be renewed for one year terms by agreement of the parties.

5.3 Either Party may terminate this Agreement if:

5.3.1 The other Party commits a material breach, and

5.3.2 The non-defaulting Party sends notice of such breach describing the breach with reasonable specificity, and

5.3.3 During the thirty (30) day period following notice thereof, the defaulting Party either:

5.3.3.1 Fails to cure the breach, or

5.3.3.2 Fails to present an acceptable plan for curing the breach.

5.4 Either Party shall have the right to terminate this Agreement immediately, in whole or in part, upon written notice to the other if the other Party:

5.4.1 ceases to do business as a going concern;

5.4.2 makes an assignment of its assets for the benefit of its creditors;

5.4.3 is unable or admits in writing its inability to pay its debts as they become due;

5.4.4 becomes insolvent, suspends or abandons its business;

5.4.5 authorizes, applies for, or consents to the appointment of a trustee or receiver of all or a substantial portion of its assets;

5.4.6 files a voluntary petition under any bankruptcy or insolvency law or files a voluntary petition under the reorganization provisions of the laws of the United States;

5.4.7 court assumes jurisdiction over the assets of that Party;

5.4.8 loses its tax-exempt, non-profit status.

6. INDEPENDENT CONTRACTOR STATUS.

Each Party at all times shall be an independent contractor of the other Party in performing under this Agreement. Each Party's employees shall not represent to third parties that they are employees or agents of the other Parties or is party to any form of partnership or joint venture with the other Parties.

7. CONFIDENTIAL INFORMATION.

If either party provides confidential information to the other, if in the course of performing under this Agreement, or course of negotiating this Agreement a party learns confidential information of the other, the receiving party shall, to the extent permitted by Ohio law, including without limitation, Ohio Revised Code

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Section 149.43, protect the confidential information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, but in any case with at least reasonable care and (b) refrain from using such confidential information except in performing under this Agreement.

8. PUBLICITY.

The Parties may jointly develop and distribute periodic press releases addressing activities and initiatives under the Agreement. Neither Party will issue a press release that deals with the collaborative technology and Services, or the relationship or collaborative activities of the Parties under this Agreement, without the prior written consent of the other.

9. NOTICES.

9.1 NOTICES TO OARNET.

9.1.1 Delaware shall provide all routine notices, announcements and other related communications electronically to OARnet, to any electronic mail address specified by OARnet

9.1.2 All written notices required to be given by Delaware to OARnet under this Agreement shall be sufficient if delivered by one of the following methods: Certified Mail - return receipt requested, Courier Delivery, Hand Delivery, or Facsimile ("Fax") to OARnet at the address set forth or to such other address as OARnet has designated by notice to Delaware.

OARnet

Attention: Pankaj Shah, Executive Director OARnet
1224 Kinnear Rd
Columbus, OH 43212
Fax: 614-728-8110

9.2 NOTICES TO Delaware

9.2.1 OARnet may provide all routine notices or other communications electronically to Delaware, to the electronic mail address of the CIO or to the address of any other staff member specified by the Delaware to receive particular notices or communications.

9.2.2 All written notices required to be given by OARnet to Delaware under this Agreement shall be sufficient if delivered by one of the following methods: Certified Mail - return receipt requested, Courier Delivery, Hand Delivery, or Facsimile ("Fax") to Delaware at the address set forth or to such other address as Delaware has designated by notice to OARnet.

Steve Lewis, IT Director

10 Court Street
Delaware, Ohio 43015
(740)833-2061
(740)833-2059 (Fax)
slewis@co.delaware.oh.us

All notices shall be effective on receipt.

10. GENERAL PROVISIONS.

10.1 CHANGES AND AMENDMENT. This Agreement may not be amended, and none of its provisions waived, except by written amendment executed by duly authorized representatives of all Parties.

10.2 GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio applicable to contracts executed and performed therein.

10.3 ENTIRE AGREEMENT. Except as otherwise stated herein, this document is the entire agreement of the Parties and supersedes all prior agreements and understandings with respect to the same subject matter. No other document, unless in writing and signed by an authorized representative of each Party, shall modify or add to the terms agreed to herein of this Agreement.

10.4 BINDING EFFECT. This Agreement shall be binding upon the legal representatives, heirs, employees, agents, affiliates, successors and assigns of the respective Parties hereto.

10.5 CHANGE IN LAW. By entering into this Agreement, the Parties specifically intend to comply with all applicable laws, rules and regulations as they may be amended from time to time. In the event that any part of this Agreement is determined to violate federal, state, or local laws, rules, or regulations, the parties agree to negotiate in good faith revisions to the provision or provisions that are in violation. In the event the Parties are unable to agree to new or modified terms as required to bring the entire Agreement into compliance, either Party may terminate this Agreement on thirty (30) days written notice to the other Party.

10.6 WAIVER. Any waiver by any Party of any act, failure to act or breach on the part of the other Party shall not constitute a waiver of such waiving Party of any prior or subsequent act, failure to act or breach by such other Party.

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10.7 CAPTIONS. The captions used in connection with the sections and subsections of this Agreement are inserted only for the purpose of reference. Such captions shall not be deemed to govern or limit, or in any manner be used to interpret the scope, meaning or intent of the provisions of this Agreement or any part thereof; nor shall such captions otherwise be given any legal effect.

10.8 THIRD PARTIES. Nothing herein expressed or implied is intended or shall be construed to confer upon or give any person other than the Parties hereto, and their permitted successors and assigns, any rights or remedies under or by reason of this Agreement.

10.9 SEVERABILITY. The Parties agree that if any part, term or provision of this Agreement shall be found illegal, invalid or unenforceable by any court of law, the remaining provisions shall be severable, valid and enforceable in accordance with their terms.

10.10 FURTHER ASSURANCES. Consistent with the terms and conditions hereof, each Party hereto shall execute and deliver all instruments, certificates and other documents and shall perform all other acts which the other Party may reasonably request in order to carry out this Agreement and the transactions contemplated hereby.

10.11 ASSIGNMENT. This Agreement shall be binding upon and inure to the benefit of Parties hereto and their respective successors and assigns; provide however that, that no assignment hereof or licensing or assignment of any rights or obligations hereunder shall be valid for any purpose without the prior written consent of each Party hereto.

10.12 VENUE. This agreement shall be subject to and construed in accordance with Ohio law. Any action based in whole or in part on this agreement must be brought in an Ohio court of competent jurisdiction.

10.13 SURVIVABILITY. This Agreement shall remain in effect and supersede any transition of responsibilities of OARnet to the TFN or 3rd party.

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

RESOLUTION NO. 10-130

IN THE MATTER OF APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND OFFICE CITY EXPRESS:

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

Whereas, the Facilities Supervisor recommends approval of the contract between the Delaware County Commissioners and Office City Express;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the contract between The Delaware County Commissioners and Office City Express.

**Delaware County Board of Commissioners
Contract**

This Contract made by and between:

**Office City Express
150 Johnson Dr.
Delaware, Ohio 43015**

(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 provide the goods and/or services described in the Bid Documents, which is attached hereto as Exhibit "A" and as necessary to produce the results intended by the Bid Documents for:

**ITB #09-04 Office Supplies
For Delaware County, Ohio**

ARTICLE 2

2.1 The Delaware County Board of Commissioners shall pay the Contractor for the performance of this

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Contract, subject to terms and conditions as provided in the Bid Documents, at an estimated annual value of One Hundred Twenty Thousand dollars (\$120,000.00), based upon the unit pricing and discount percentage set forth in the Bid Documents, submitted by the Contractor and opened on December 14, 2009.

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

ARTICLE 3

3.1 The original term of this contract shall be for two (2) years, beginning February 1, 2010, and ending January 31, 2012.

3.2 This contract may be renewed at the end of the original period or any renewal period for up to two (2) additional one (1) year periods, if agreed upon in writing by both parties.

3.2 The Delaware County Board of Commissioners may, at its sole option, terminate this Contract with the contractor upon thirty (30) days written notice of its intent to do so. Furthermore, it is understood and agreed that should the contractor fail to provide the quality of good and/or service(s) as specified in the bid instructions, such failure shall constitute a breach of this Contract. Upon a breach of the Contract, the Delaware County Board of Commissioners may, at its sole option, terminate this Contract with the contractor effective immediately upon written notice of its intent to do so.

ARTICLE 4

4.1 This Contract 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, and made a part hereof. This Contract, along with all documents incorporated by reference, 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.

4.2 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 filed in and heard before the courts of Delaware County, Ohio.

4.3 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 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 Insurance:

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

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

4.5.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio.

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

4.5.5 Proof of Insurance: Prior to the commencement of any work under this Contract, Contractor shall

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furnish the County with properly executed certificates of insurance for all insurance required by this Contract. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Contract.

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

4.7 For all services being provided under this Contract, the Delaware County Board of Commissioners shall have the right and Contractor agrees to allow the inspection and examination of any and all books, accounts, invoices, records, writings, or documentation of any type and in any form which it maintains in relation to performing said services

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

4.9 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.

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

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

ARTICLE 5

5.1 It is expressly understood by the Contractor that none of the rights, duties and obligations described in the Contract shall be valid and enforceable unless the Delaware County Auditor 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. 10-131

IN THE MATTER OF AUTHORIZING THE USE OF A PROCUREMENT CARD:

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

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

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

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

Appointing Authority: Board of Commissioner
Office/Department: 911 Emergency Communications
Daily spending per card: \$2,500.00
Monthly spending per card: \$2,500.00
Single transaction limit: \$ 500.00
Daily number of transactions per card: 5
Monthly number of transactions per card: 50

Name on Card 1: Robert Greenlaw

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

RESOLUTION NO. 10-132

IN THE MATTER OF ESTABLISHING NEW ORGANIZATIONAL KEYS, APPROVING TRANSFER OF FUNDS, TRANSFERS OF APPROPRIATIONS AND SUPPLEMENTAL APPROPRIATIONS:

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

Transfer of Funds

From	To	
10015102-5801 Data Processing/Transfers	20315101-4601 Data Center/Interfund Revenue	\$ 650,000.00
10011110-5801 Human Services/Transfers	22411601-4601 JFS Income Maintenance/Interfund Revenue	\$ 296,649.00
10011110-5801 Human Services/Transfers	22511607-4601 Childrens Services/Interfund Revenue	\$ 2,095,000.00
10011102-5801 Commissioners General/Transfers	72291901-4601 Data Transit Board/Interfund Revenue	\$ 50,000.00
10011102-5801 Commissioners General/Transfers	21011113-4601 Economic Development/Interfund Revenue	\$ 220,000.00
10012301-5801 Victims Assistance/Transfers	23612302-4601 Victims of Crime Grant/Interfund Revenue	\$ 7,523.00
10022202-5801 Adult Court Services/Transfers	25822306-4601 Pretrial Supervision/Interfund Revenue	\$ 10,000.00
10022202-5801 Adult Court Services/Transfers	25922307-4601 Mental Health Docket/Interfund Revenue	\$ 6,824.00
10011304-5801 911 Dispatching/Transfers	50111117-4601 Bond Retirement/Interfund Revenue	\$ 1,414,437.50
66611903-5801 URF OECC	50111117-4601 Bond Retirement/Interfund Revenue	\$ 707,132.50
10011102-5801	50111117-4601	

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Commissioners General/Transfers	Bond Retirement/Interfund Revenue	\$ 1,658,665.00
10031303-5801	50111117-4601	
Sheriff Jail/Transfers	Bond Retirement/Interfund Revenue	\$ 538,076.25
Supplemental Appropriations		
24414102-5260	Delinquent Tax Treasurer/Inventoried Tools	\$ 1,600.00
10011301-5330	Code Compliance/Communication Services	\$ 1,783.46
10011301-5301	Code Compliance/Professional Services	\$ 350.00
10011301-5380	Code Compliance/Other Services	\$ 2,797.48
10011301-5370	Code Compliance/Insurance	\$ 1,372.62
20315101-5260	Data Center/Inventoried Tools	\$ 4,730.97

Establish New Org Keys

41411433	2010 Bond Capital Facilities
41411434	2010 Bond/Jail Expansion
74214104	Unclaimed Sheriff Pro-Rations

Change Org Key Description

41411435	2010 Bond/ Hayes Expansion
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Supplemental Appropriation

41211434-4802	Jail Expansion/Bond Proceeds	\$ (3,200,000.00)
41211434-5410	Jail Expansion/Capital Outlay	\$ (3,019,085.09)
41211434-4240	Jail Expansion/Board & Care	\$ 100,400.00
41411433-4802	2010 Bond Capital Facilities/Bond Proceeds	\$ 4,500,000.00
41411435-4802	2010 Bond/Hayes Expansion/Bond Proceeds	\$ (1,600,000.00)
41411435-5410	2010 Bond/Hayes Expansion/Capital Improvements	\$ (90,000.00)
41411434-5268	2010 Bond/Jail Expansion /Building Improvements	\$ 200,000.00
41411434-5410	2010 Bond/Jail Expansion /Capital Outlay	\$ 2,790,000.00

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

RESOLUTION NO. 10-133 (this resolution tabled to Monday February 1, 2010)

IN THE MATTER OF AMENDING THE ALLOCATION OF REVENUES FROM THE HOUSING OF FEDERAL PRISONERS:

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

Whereas, the Delaware County Board of County Commissioners approved an agreement with the United States Marshall's Service for the confinement of federal prisoners, and

Whereas, Resolution No. 09 -779 which approved the allocation of revenues for the housing of federal prisoners is in need of amending to direct revenues to the General Fund, and

Whereas, the Delaware County Board of County Commissioners desires to amend the allocate of revenues from the housing of federal prisoners

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

1. *The first \$15,000 of revenues derived under resolution 09-290 from the housing of federal prisoners is allocated to the County Sheriff to fund salaries for current employees of the jail.*
2. *The remaining revenues generated from 09-290 be allocated into a capital projects fund for the purpose of paying for improvements and renovations to the county jail, until such time as new personnel are hired for the expansion.*
3. *As the Sheriff is ready to begin hiring the new personnel for the jail expansion, all such revenues from the housing of federal prisoners shall be deposited in the General Fund for the purpose of paying personnel costs, other costs associated with the jail expansion, equipment and bond service payments associated with the jail expansion beginning January 29, 2010. All revenues in excess of those described above shall be used for funding existing personnel and costs associated with the operations of the county jail.*

Resolution tabled to Monday February 1, 2010

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

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RESOLUTION NO. 10-134

IN THE MATTER OF RECONSIDERING AND WAIVING ANY CONFLICT OF INTEREST OF DELAWARE COUNTY BOARD OF COMMISSIONERS AND THE BERLIN TOWNSHIP TRUSTEES REGARDING AMENDMENT TO LEASE AGREEMENT TO ALLOW DELAWARE COUNTY EMS AT BERLIN TOWNSHIP FIRE STATION:

MOTION: by Mr. Thompson, Seconded by Mr. Hanks, to reconsider and waive any Conflict of Interest of the Delaware County Board of Commissioners and the Berlin Township Trustees regarding Amendment to Lease Agreement to allow Delaware County EMS at Berlin Township Fire Station.

WHEREAS, Pursuant to Ohio Revised Code Section 309.09, the Delaware County Prosecuting Attorney is charged, by himself or acting through his assistants (collectively "Prosecutor"), with acting as legal advisor to numerous Delaware County boards and office holders, as well as all Delaware County township boards and officer holders (individually "Client" and collectively "Clients"). At times, the Prosecutor is faced with a situation which places him in the position of potentially acting as legal advisor to more than one Client at the same time on the same case, matter, or issue (collectively "Issue"). Under such circumstances, the Clients may have the same or different positions on the Issue. Nevertheless, a conflict of interest exists by the Prosecutor simultaneously representing both Clients on the same Issue. The present situation, as described above, presents such a potential conflict of interest by placing the Prosecutor in the position of acting as legal advisor to more than one Client at the same time on the same Issue, and

WHEREAS, the undersigned recognizes the existence of the conflict of interest inherent in the present situation. The undersigned acknowledges that the nature of the above described conflict of interest has been fully and completely disclosed to the undersigned. The undersigned acknowledges that the conflict of interest has been fully explained to the undersigned, the undersigned fully understands the conflict of interest, that the undersigned has had the opportunity to ask the Prosecutor questions regarding the conflict of interest, and all questions that the undersigned may have about the conflict of interest have been fully answered by the Prosecutor to the undersigned's complete understanding and satisfaction. In light of the full and complete disclosure of the conflict of interest and having a complete understanding of the conflict of interest, the undersigned hereby voluntarily and of the undersigned's own free will gives the undersigned's informed consent for the Prosecutor to simultaneously act as legal advisor to the undersigned and all of the above named Other Clients and waives the conflict of interest. By giving such informed consent and waiving the conflict of interest the undersigned acknowledges and understands that the Prosecutor will simultaneously act as legal advisor to the undersigned and the above named Other Clients. The undersigned understands that the Prosecutor will do his best to individually represent each Client's interest whenever and wherever possible. Understanding this, the undersigned, by signing this Client Informed Consent and Waiver of Conflict of Interest, gives the Prosecutor the undersigned's full and complete informed consent and permission to simultaneously act as legal advisor to the undersigned and the above listed Other Clients in the present situation as described above, and

WHEREAS, the undersigned recognizes and understands that this Informed Consent and Waiver may be immediately withdrawn by the above named Client at any time by giving written notice to the Prosecutor signed by the above named Client stating that this Informed Consent and Waiver are withdrawn.

NOW THEREFORE BE IT RESOLVED, by the Board of County Commissioners, Delaware County, State of Ohio, that:

1. The Board of County Commissioners waives any conflict of interest regarding the Amendment to Lease Agreement to allow Delaware County EMS at Berlin Township Fire Station.
2. The Delaware County Prosecutor's Office may continue to act as legal counsel for the Board regarding the Amendment to Lease Agreement to allow Delaware County EMS at Berlin Township Fire Station.

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

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

Commissioner O'Brien

-Postponed Executive Committee RPC Meeting; Not Much Going On; Tonight's Meeting Is New Location

Commissioner Hanks

-Jobless Rate 7.7%

-Gazette Article On Lochmond Project

-Rail Road Task Force

-Sarcom New Jobs

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-Treasurer’s Email; Financial Transaction Device Collection Rate

- Commissioner Thompson
- Attended Media Event For Lochmond Project
- Sarcom
- Activity May Be Happening In Sunbury
- DKMM Budget Meeting; Struggles

RESOLUTION NO. 10-135

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

It was moved by Mr. Hanks, seconded by Mr. O’Brien to adjourn into Executive Session at 9:48AM.

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

RESOLUTION NO. 10-136

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Hanks, seconded by Mr. O’Brien to adjourn out of Executive Session at 10:02AM.

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

RESOLUTION NO. 10-137

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

Todd Hanks

Ken O'Brien

Tommy Thompson

Letha George, Clerk to the Commissioners