

COMMISSIONERS JOURNAL NO. 55 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 25, 2011

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

Present:  
Dennis Stapleton, President  
Ken O’Brien, Vice President  
Tommy Thompson, Commissioner

RESOLUTION NO. 11-389

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD APRIL 18, 2011:

It was moved by Mr. O’Brien, seconded by Mr. Thompson to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the “Board”) met in regular session on April 18, 2011; 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. Stapleton   Aye   Mr. O'Brien   Aye

PUBLIC COMMENT

ELECTED OFFICIAL COMMENT

RESOLUTION NO. 11-390

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0422, MEMO TRANSFERS IN BATCH NUMBERS MTAPR0422:

It was moved by Mr. O’Brien, seconded by Mr. Thompson to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0422, memo transfers in batch numbers MTAPR0422 and Purchase Orders as listed below:

<u>Vendor</u>		<u>Description</u>	<u>Account</u>	<u>Amount</u>	
<b>PO’ Increase</b>					
Germain Ford		Vehicle Parts	10011106-5328	\$ 20,000.00	
Delaware Motive		Vehicle Parts	10011106-5228	\$ 15,000.00	
<b>PR Number</b>	<b>Vendor Name</b>	<b>Line Desc</b>	<b>Line Account</b>	<b>Amount</b>	<b>Line Number</b>
R1103597	FLOYD BROWNE ASSOC INC	ENGINEERING SERVICES FOR PERRY TAGGART SANITARY AS	66211903 - 5301	\$8,800.00	0001
R1103815	OHIO CAT	SWITCHES	66211903 - 5328	\$3,600.00	0001
R1103815	OHIO CAT	SWITCHES	66211904 - 5328	\$3,200.00	0002
R1103815	OHIO CAT	SWITCHES	66211906 - 5328	\$400.00	0003
R1103815	OHIO CAT	SWITCHES	66211907 - 5328	\$400.00	0004
R1103815	OHIO CAT	SWITCHES	66211911 - 5328	\$400.00	0005
R1103862	COMMISSIONERS	COST ALLOCATIONS - COUNTY SERVICES	66211901 - 5380	\$224,021.00	0001
R1104030	ITT WATER AND WASTEWATER	PUMP AND ACCESSORIES NEEDED TO REPLACE PEACHBLOW	66611904 - 5450	\$31,226.00	0001

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R1104038	MID OHIO BUSINESS SYSTEMS INC	REPLACEMENT DECKING; WATER DAMAGE @ WILLIS BLDG	60111901 - 5370	\$5,210.44	0001
R1104050	BLUES AUTO SERVICE	REPAIR 21-14	60111901 - 5370	\$5,522.83	0001
R1104075	AVIAT US INC	ANNUAL MAINTENANCE	21411306 - 5325	\$39,452.00	0001
Vote on Motion Mr. Stapleton Aye Mr. Thompson Aye Mr. O'Brien Aye					

RESOLUTION NO. 11-391

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Juvenile/Probate Court is requesting that Sharron McCollister attend an annual AFCC court conference in Orlando, Florida May 31- June 4, 2011, at the cost \$1,710.86. (Fund number 2526304)

The Juvenile/Probate Court is requesting that Dotie Davenport attend an annual AFCC court conference in Orlando, Florida May 31- June 4, 2011, at the cost \$1,795.30. (Fund number 2526304)

The Engineer's Office is requesting that Ryan Mraz attend an International Bridge Conference in Pittsburgh, Pennsylvania June 5-8, 2011, at the cost of \$1,469.00 (fund number 29214001)

The Environmental Services Department is requesting that Brian Keener, William Brutchey and Mark Hobler attend a Wastewater Laboratory Analyst Workshop in Columbus, Ohio May 11, 2011, at the cost of \$465.00 (fund numbers 66211904, 66211908, 66211909 and 66211911).

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

RESOLUTION NO. 11-392

IN THE MATTER OF PROCLAIMING MAY, 2011, AS MOTORCYCLE AWARENESS MONTH  
IN DELAWARE COUNTY:

It was moved by Mr. Thompson, seconded by Mr. O'Brien to proclaim the following:

WHEREAS, Delaware County has many citizens who ride motorcycles for touring, recreation, and economical transportation; and

WHEREAS, May is the month motorcycles become prevalent on our streets and the need to be aware of their presence becomes urgent; and

WHEREAS, an overwhelming number of car-motorcycle crashes could be prevented with due regard to motoring safety and awareness of motorcycles on the roads and at intersections in this county; and

WHEREAS, the inclusion of motorcycle awareness into the driver education curriculum and motorcycle rider education helps promote safe driving and riding practices; and

WHEREAS, it is in the interest of our community and the citizens of Delaware County to note the increase in the number of motorcyclists as we enter the warm weather months, in order to reduce crashes and injuries involving motorcyclists.

NOW, THEREFORE, The Board Of Delaware County Commissioners do hereby proclaim the month of May, 2011, as

MOTORCYCLE AWARENESS MONTH

in the Delaware County , and urge all citizens to use extra caution when driving their vehicles and extend to motorcyclists the same courtesies they wish to be afforded them.

Vote On Motion Mr. Thompson Aye Mr. O'Brien Aye Mr. Stapleton Aye

RESOLUTION NO. 11-393

IN THE MATTER OF APPROVING A DITCH MAINTENANCE PETITION AND THE DITCH  
MAINTENANCE ASSESSMENTS FOR MEADOWS AT LEWIS CENTER SECTION 1, PHASE A:

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

WHEREAS, on April 20, 2011 a Ditch Maintenance Petition for the **Meadows at Lewis Center Section 1, Phase A** was filed with the Board of Commissioners of Delaware County (the “Board”); and

WHEREAS, the Petition sets forth the drainage improvements that have been or will be constructed within the subdivision; and

WHEREAS, the Petitioners have requested that the drainage improvements be accepted into the Delaware County Drainage Maintenance Program and that an annual maintenance assessment be collected with the Real Estate Taxes for each lot in the subject subdivision to cover the cost of current and future maintenance of the improvements; and

WHEREAS, the Petitioners represent 100% of the property owners to be assessed for maintenance related to this drainage improvement and have waived their rights to a public viewing and hearing; and

WHEREAS, based on a review of the Petition and all accompanying documents, the Board has determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program;

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

Section 1. The Board hereby grants the Petition, the Board having found and determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program.

Section 2. The Board hereby approves the maintenance assessments, in accordance with the Petition, as follows:

The cost of the drainage improvements being \$815,259.00 for the benefit of a total of sixty-one (61) lots, the basis for calculating the assessment for each lot is, therefore, \$267.30 per lot. An annual maintenance fee equal to two percent (2%) of this basis (\$5.35) shall be collected for each lot. The basis for calculating the maintenance assessment shall be reviewed and subject to revision every six (6) years. The first year’s assessment for all of the lots in the amount of \$176.42 has been paid to Delaware County, receipt of which is hereby acknowledged.

Section 3. This Board finds and determines that all formal actions taken by this Board concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in said formal actions were in meetings open to the public, in compliance with the laws of the State of Ohio.

Vote On Motion                      Mr. Stapleton      Aye      Mr. O'Brien      Aye      Mr. Thompson      Aye

**RESOLUTION NO. 11-394**

**IN THE MATTER OF APPROVING A DITCH MAINTENANCE PETITION AND THE DITCH MAINTENANCE ASSESSMENTS FOR THE JAIN CENTER OF CENTRAL OHIO:**

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

WHEREAS, on April 20, 2011 a Ditch Maintenance Petition for **The Jain Center Of Central Ohio** filed with the Board of Commissioners of Delaware County (the “Board”); and

WHEREAS, the Petition sets forth the drainage improvements that have been or will be constructed within the subdivision; and

WHEREAS, the Petitioners have requested that the drainage improvements be accepted into the Delaware County Drainage Maintenance Program and that an annual maintenance assessment be collected with the Real Estate Taxes for each lot in the subject subdivision to cover the cost of current and future maintenance of the improvements; and

WHEREAS, the Petitioners represent 100% of the property owners to be assessed for maintenance related to this drainage improvement and have waived their rights to a public viewing and hearing; and

WHEREAS, based on a review of the Petition and all accompanying documents, the Board has determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program;

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

Section 1. The Board hereby grants the Petition, the Board having found and determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program.

Section 2. The Board hereby approves the maintenance assessments, in accordance with the Petition, as follows:

The cost of the drainage improvements being \$56,704.32 for the benefit of a total of 4.5 acres, the basis for calculating the assessment for each acre is, therefore, \$12,601 per acre. An annual maintenance fee equal to two percent (2%) of this basis (\$1,134.09) shall be collected for each developed lot. The basis for calculating the maintenance assessment shall be reviewed and subject to revision every six (6) years. The first year's assessment for all of the lots in the amount of \$1,134.09 has been paid to Delaware County, receipt of which is hereby acknowledged.

Section 3. This Board finds and determines that all formal actions taken by this Board concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in said formal actions were in meetings open to the public, in compliance with the laws of the State of Ohio.

Vote On Motion                      Mr. O'Brien              Aye              Mr. Thompson              Aye              Mr. Stapleton              Aye

RESOLUTION NO. 11-395

IN THE MATTER OF APPROVING A PROJECT AGREEMENT FOR MEADOWS AT LEWIS CENTER  
SECTION 1, PHASE A:

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

Whereas, the County Engineer recommends approval of the project agreement;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the project agreement.

Meadows At Lewis Center Section 1, Phase A

PROJECT AGREEMENT  
PROJECT NUMBER: 10023

**THIS AGREEMENT**, executed on this 25<sup>th</sup> day of April 2011 between **JONES/LEWIS CENTER LLC**, hereinafter called **‘OWNER’** and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **MEADOWS AT LEWIS CENTER SECTION 1, PHASE A** further identified as Project Number 10023 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

**OPTIONS:**

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit “A”** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

**OWNER** hereby elects to use Option 2 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident

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caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date on which this AGREEMENT is executed by the COUNTY COMMISSIONERS.

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

It is further agreed that upon execution of the AGREEMENT, the OWNER shall deposit SIXTY THOUSAND DOLLARS (\$60,000) estimated to be necessary to pay the cost of inspection by the Delaware County Engineer. When the fund has been depleted to ten percent (10%) of the original amount deposited, the OWNER shall replenish the account upon notice by the Delaware County Engineer. Upon completion of the maintenance period and acceptance of the improvements by the Delaware County Commissioners, the remaining amount in the fund shall be returned to the OWNER.

Upon completion of construction, the OWNER shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of one year. Said OWNER’S bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in Exhibit “A” for said maintenance. The reduction may be approved only after the County Engineer has been provided evidence that all work has been accomplished according to the approved plan and/or to the County Engineer’s satisfaction. All work is to be done in accordance with the Delaware County Design, Construction and Surveying Standards, and any supplements thereto.

Acceptance of the project into the public system shall be completed only after written notice to the COUNTY COMMISSIONERS from the County Engineer of his approval. The OWNER’S maintenance responsibility as described above shall be completed upon formal acceptance by the COUNTY COMMISSIONERS.

Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance shall be the responsibility of the OWNER. All of the funds set forth in the AGREEMENT shall be made available to the County Engineer to ensure proper safety compliance.

The OWNER shall, within thirty (30) days of completion of construction and prior to final acceptance, to the COUNTY COMMISSIONERS, as required, “as-built” drawings of the improvements, which plans shall become the property of the COUNTY and remain in the office of the Delaware County Engineer.

The OWNER shall, within thirty (30) days of completion of construction, furnish to the COUNTY COMMISSIONERS an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The OWNER shall indemnify and hold harmless Delaware County and all Townships and/or Villages within Delaware County and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The OWNER shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The OWNER shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the OWNER and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the County.

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

In consideration whereof, the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO hereby grants the OWNER or his agent, the right and privilege to make the improvements stipulated herein.

EXHIBIT “A”

CONSTRUCTION COST ESTIMATE	\$1,495,096.89
CONSTRUCTION BOND AMOUNT	N/A
MAINTENANCE BOND AMOUNT	\$ 149,600.00
INSPECTION FEE DEPOSIT	\$ 60,000.00
Vote on Motion	Mr. Thompson    Aye    Mr. Stapleton    Aye    Mr. O'Brien    Aye

RESOLUTION NO. 11-396

IN THE MATTER OF APPROVING RIGHT OF WAY WORK PERMIT SUMMARY SHEET:

It was moved by Mr. O’Brien, seconded by Mr. Thompson to approve the following work permits:

Whereas, the below requests to perform work within the right of way have been reviewed and approved by the Delaware County Engineer;

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Now Therefore be it resolved, that the following permits are hereby approved by the Board of Delaware County Commissioners:

Permit #	Applicant	Location	Type of Work
U11-018	AEP	FREEMAN RD	REMOVE & INSTALL POLE
U11-019	AT&T	SAWMILL PKWY	TRENCH/BORE & PLACE CABLE

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

RESOLUTION NO. 11-397

IN THE MATTER OF APPROVING BID SPECIFICATIONS AND SETTING BID OPENING DATE AND TIME FOR THE PROJECT KNOWN AS THE 2011-12 ASPHALT MATERIALS Supply Contract:

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

Whereas, the County Engineer recommends approval of the bid specifications and bid opening date and time for the project known as the 2011-12 ASPHALT MATERIALS Supply Contract;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the bid specifications and bid opening date and time for the project known as the 2011-12 ASPHALT MATERIALS Supply Contract.

Public Notice  
Advertisement for Bids

Sealed bids will be received at the Office of the Delaware County Engineer, 50 Channing Street, Delaware, Ohio 43015, until **10:00 a.m. on Tuesday, May 17, 2011**, at which time they will be publicly opened and read aloud, for the project known as 2011-12 ASPHALT MATERIALS Supply Contract.

The proposals must be made on the forms provided in the Contract Documents or a copy thereof and shall contain the full name and address of the bidder. All bids shall be sealed and plainly marked "SEALED BID FOR 2011-12 ASPHALT MATERIALS".

Copies of the bid specifications must be obtained from the Delaware County Engineer's Office, 50 Channing Street, Delaware, Ohio 43015 at no charge. Plans and specifications may also be downloaded, free of charge, from the Delaware County Engineer's website at [www.co.delaware.oh.us/ebids](http://www.co.delaware.oh.us/ebids). All bidders must register as a plan holder with the Delaware County Engineer's Office in person or through the website.

The prices of this contract shall be in effect from June 1, 2011 to November 30, 2011. The Board of Commissioners reserves the right to make a non-exclusive award and to award work on an as needed basis.

Prices for all materials shall also be made available for cooperative purchasing by the 18 Townships within Delaware County, the Delaware County Preservations Parks District, and Delaware Soil and Water Conservation District.

No bids shall be withdrawn for a period of sixty (60) days after the opening thereof. Awarding of the contract shall be to the Lowest and Best bidder as determined by the Delaware County Board of Commissioners in the best interest of the County. The Board reserves the right to reject any or all bids.

Delaware Gazette Advertisement Dates: April 29, 2011, May 6, 2011

SPECIFICATIONS  
2011-12 ASPHALT MATERIALS  
Supply Contract  
Delaware County, Ohio

GENERAL

This contract is an agreement to furnish the materials listed in the bid blank at stated unit prices when requested by Delaware County (County) or any of its cooperative purchasing partners including 18 Townships within Delaware County, the Delaware County Preservations Parks District, and Delaware Soil and Water Conservation District. Purchase orders made by cooperative purchasing partners at the unit prices provided under this Contract shall be considered as separate agreements.

Bidder agrees to furnish ordered materials promptly as requested by the County, with separate prices provided for FOB plant and FOB job site. Failure to furnish ordered materials within the time specified by the County shall be documented by the County and shall be cause to make the order from the next Lowest and Best bidder,

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and may be cause to deny any future contract award under Lowest and Best bidder consideration.

Delaware County reserves the right to award any or all or parts of this bid and make a non-exclusive award. Conditional bids with restrictions may be accepted or rejected at the discretion of the County.

**NON EXCLUSIVE AWARD**

Due to the nature of the goods and services required in addition to not knowing in advance when materials will be needed or a specific job is to be performed, the County will accept all responsive bids submitted on or before the specified bid opening date and make an award to all responsive bidders.

As needs arise, the County will review a tabulated list of the multiple awarded vendors who submitted a bid, and select what vendor best meets its requirements and place an order with that awarded vendor. An award does not guarantee that your company will receive a purchase order during the term of this contract.

**TERM OF CONTRACT**

This contract shall be in effect from June 1, 2011 to November 30, 2011. The County reserves the right to cancel the contract at any time, in the best interest of the County.

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

**RESOLUTION NO. 11-398**

**IN THE MATTER OF APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY  
COMMISSIONERS AND CONIE CONSTRUCTION COMPANY FOR THE OXBOW ROAD BRIDGE  
REPLACEMENT:**

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

**DEL-TR275-0.04**

**Oxbow Road Bridge Replacement**

**Bid Opening of April 5, 2011**

Whereas, as the result of the above referenced bid opening, The Engineer and staff recommend that a bid award be made to Conie Construction Company of Columbus, Ohio, the low bidder for the project. A copy of the bid tabulation is available for your information; and

Whereas, available are two copies of the Contract with Conie for your approval along with copies of the Certification/Affidavit in Compliance with O.R.C. Section 3517.33 and the Terrorist Exclusion List; and

Whereas, the County Engineer recommends approval of the contract between the Delaware County Commissioners and Conie Construction Company for the Oxbow Road Bridge Replacement;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the contract between The Delaware County Commissioners and Conie Construction Company for the Oxbow Road Bridge Replacement.

**CONTRACT**

THIS AGREEMENT is made this 25<sup>th</sup> day of April, 2011 by and between Conie Construction Company, hereinafter called the "Contractor" and the Delaware County Commissioners, hereinafter called the "Owner".

Conie Construction Company  
1340 Windsor Ave.  
Columbus, Ohio 43211

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-TR275-0.04 Oxbow Road Bridge Replacement Project", and required supplemental work for the project all in strict accordance with the Contract Documents.

**ARTICLE 2. The Contract Price**

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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 **One Hundred Eighty-Seven Thousand Eight Hundred Eighteen Dollars and Ninety-Five Cents (\$ 187,818.95)**, 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
- 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. Thompson    Aye            Mr. O'Brien            Aye            Mr. Stapleton            Aye

**RESOLUTION NO. 11-399**

**IN THE MATTER OF APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND UNITED PRECAST, INC. FOR DELAWARE COUNTY BOX CULVERT SUPPLY NO. 2011-1:**

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

**Delaware County Box Culvert  
Supply Contact No. 2011-1  
Bid Opening of March 29, 2011**

Whereas, as the result of the above referenced bid opening, the Engineer and staff recommend that a bid award be made to United Precast, Inc. of Mt. Vernon, Ohio, the only bidder for the project. The engineer's estimate for the project was \$54,000, and United Precast's bid is for \$39,500; and

Whereas, available are two copies of the Contract with United Precast for your approval along with copies of the Certification/Affidavit in Compliance with O.R.C. Section 3517.33 and the Terrorist Exclusion List; and

Whereas, the County Engineer recommends approval of the contract between the Delaware County Commissioners and United Precast, Inc. for Delaware County Box Culvert Supply No. 2011-1;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the contract between The Delaware County Commissioners and United Precast, Inc. for Delaware County Box Culvert Supply No. 2011-1.

**CONTRACT**

THIS AGREEMENT is made this 25<sup>th</sup> day of April 2011 by and between United Precast, Inc., hereinafter called the "Contractor" and the Delaware County Commissioners, hereinafter called the "Owner".

**United Precast, Inc.  
P. O. Box 991  
Roundhouse Lane  
Mt. Vernon, Ohio 43050**

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 "Delaware County Box Culvert, Supply No. 2011-1", and required supplemental work for the project all in strict accordance with the Contract Documents.



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**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 \$39,500.00 (Thirty-nine Thousand Five Hundred Dollars), 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
- 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. Stapleton      Aye      Mr. O'Brien      Aye      Mr. Thompson      Aye

**RESOLUTION NO. 11-400**

**IN THE MATTER OF APPROVING CONTRACT MODIFICATION NUMBER 1 (PRELIMINARY ENGINEERING, PART 2) BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND CH2M HILL, INC. FOR HARRIOTT ROAD IMPROVEMENTS:**

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

Whereas, the County Engineer recommends approval of the contract modification Number 1 (Preliminary Engineering, Part 2) between the Delaware County Board Of Commissioners And CH2M Hill, Inc. for Harriott Road Improvements;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the contract modification Number 1 (Preliminary Engineering, Part 2) between the Delaware County Board Of Commissioners And CH2M Hill, Inc. for Harriott Road Improvements;

**PROFESSIONAL SERVICES CONTRACT**

**DEL-CR131 HARRIOTT ROAD IMPROVEMENTS  
CONTRACT MODIFICATION NUMBER 1 (PRELIMINARY ENGINEERING, PART 2)**

**Section 1 – Parties to the Agreement**

Prior agreement dated January 11, 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"), hereby Modified in its entirety this 10th day of March, 2011.

**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 2) including those services listed in the Scope of Services agreed upon by the County and Consultant and the Price Proposal for Minor PDP Steps 4-8 (dated March 4, 2011), 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 made for prior Work performed under the original Agreement (Part 1) dated January 11, 2010 shall not exceed One Hundred Fifty Eight Thousand Six Hundred Ninety Three Dollars (\$158,693), which includes

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\$151,371.54 paid as of March 2, 2011. Compensation for additional Work performed under this Modification Number 1 shall be based on the Price Proposal dated March 4, 2011 in a lump sum not to exceed two hundred fourteen thousand three hundred three Dollars (\$214,303) for the Base Contract Services, and lump sums for units of work separately identified as "If Authorized" tasks in said Price Proposal whose aggregate sum shall not exceed three thousand three hundred five Dollars, (\$3,305). Said compensation shall constitute full payment for all labor, equipment and materials required to complete the Work. The total compensation made for Work described by this Modification and any prior Work performed in accordance with this Agreement shall not exceed two hundred seventeen thousand six hundred seven Dollars (\$217,607).

**Section 5 – Payment**

Compensation shall be paid based no more than once monthly and shall be based on the estimated percentage of work completed for each unit of work, in accordance with the Consultant's Price Proposal, as 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 August 1, 2012. 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 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.

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**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 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.

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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.

Vote On Motion                      Mr. O'Brien                      Aye                      Mr. Thompson                      Aye                      Mr. Stapleton                      Aye

**RESOLUTION NO. 11-401**

**IN THE MATTER OF ENTERING INTO AGREEMENT WITH THE OHIO DEPARTMENT OF  
TRANSPORTATION REGARDING THE ROAD IMPROVEMENT KNOWN AS DEL-CR124-1.88 (PID  
83217) HOME ROAD & S.R. 257 INTERSECTION IMPROVEMENTS:**

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

Whereas, the Board of Commissioners agreed, by resolution #07-1116, to cooperate with the Ohio Department of Transportation in the project known as DEL-CR124-1.88, which includes improvements to the intersections of Home Road & State Route 257 and Home Road & Section Line Road; and

Whereas, preliminary engineering plans and rights of way plans for the Improvement have been prepared under the direction of the County Engineer and approved by the Ohio Department of Transportation, and;

Whereas, the Engineer requests that the Board authorize the County Engineer to negotiate for the necessary rights of way on behalf of the Board, and;

Whereas, funding assistance up to \$2,000,000 is being provided, on a reimbursement basis, for eighty (80) percent of right of way acquisition and utility relocation costs of the Improvement through federal transportation funding provided by the Mid-Ohio Regional Planning Commission and ODOT; and;

Whereas, ODOT requires that Delaware County enter into agreement regarding the purchase of the necessary rights of way for the Improvement, and;

Whereas, the County Auditor has certified that the funds necessary to meet the obligations of said Agreement are available in Organizational Key #29440425 (Home and SR257 Intersection) and #10040421 (Road & Bridge Projects);

NOW THEREFORE, be it resolved by the Board of Commissioners of Delaware County, Ohio that:

Section 1:

The County Engineer is authorized to negotiate for the purchase of necessary rights of way for said Improvement on behalf of the Board and to prepare and deliver purchase contracts for Board approval, and;

Section 2:

The County’s portion of costs associated with the acquisition for right of way and construction of this Improvement shall be paid from funds appropriated in Organizational Key #29440425 (Home and SR 257 Intersection), and #10040421 (Road & Bridge Projects), and;

Section 3:

The Board hereby enters into the following Real Estate Agreement with the Ohio Department of Transportation

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for the purpose of acquiring the necessary rights of way for the Improvement:

Real Estate Agreement No. 11-0001

CRS: DEL-CR124-1.88  
FPN: FANE071082  
SJN: 46623(2)  
PID No: 83217

Pursuant to both Federal and State law, 49 CFR Part 24 and ORC 163 et.seq., the Ohio Department of Transportation is required to monitor all highway development projects receiving funds from the Federal Highway Administration. The rights of way acquired for the above referenced project will be incorporated into a Federally-assisted project and the following provisions must be set forth and agreed upon between the Delaware County Engineer's Office and ODOT.

Ordinance No. (Resolution No.) 07-1116, passed on 9/10/07 by Delaware County, and subsequently accepted and journalized by the Director of Transportation, provides for cooperation with the State on the acquisition of right of way on the above referenced project, which is described as follows:

**Reconstruction of the intersections of Home Road (CR124) and SR257 and South Section Line Road with two modern roundabouts.**

Discussions and understandings between representatives from our organizations in reference to the acquisition of rights of way must now be officially set forth and agreed upon. If you agree to the following facts and stipulations, please sign all copies of this agreement and return them to the ODOT District Office.

The **ESTIMATED** right of way cost pertinent to this agreement based upon the right of way plans and work plan is \$2,259,525. This amount is inclusive of the cost of utility relocation, which is to be performed by the Delaware County Engineer's Office (or their consultant). (\$2,109,525 for acquisition and \$150,000 for utilities).

This is composed of the following:

<u>Title &amp; Title Updates</u>	<u>Acquisition</u>
<u>Appraisals</u>	<u>Acquisition Relocation</u>
<u>Appraisal Reviews</u>	<u>Utility Relocation</u>
<u>Closings &amp; Recordings</u>	<u>Labor</u>
<u>Acquisition Relocation Review</u>	

This project as programmed, provides for participation in project right of way costs as follows:

Federal Participation of 80%  
Local Participation of 20%

With federal funds being utilized in the right of way phase of this project, Delaware County must have environmental clearance and authorization from the Federal Highway Administration. The Delaware County will work through the District Real Estate Office to secure the Federal Authorization.

Regardless of the right of way funding source, Delaware County must have authorization from the ODOT District Real Estate Office to begin any phase of the acquisition process.

The Federal Participation in this project has a cap of \$2,200,000 (Two Million Two Hundred Thousand and 00/100 Dollars), which will not be exceeded or revised.

Delaware County agrees that it will acquire the right of way necessary in accordance with sections 163.51 through 163.62, inclusive of the revised code of Ohio, sections 5501:2-5-01 et. seq. of the Ohio Administrative Code and any future amendments thereto which supplement and support Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, and Federal Highway regulations and directives on Relocation Assistance and Real Property Acquisition, as well as full compliance with Title VI of the Civil Rights Act of 1964. Delaware County, in accordance with 23 CFR, Part 710, Subpart B., Sec. 710.203, paragraph (c), certifies it is adequately staffed, equipped and organized to manage the Real Estate functions through its own ODOT pre-approved staff and/or pre-approved contractual agents. Delaware County will comply with the Ohio Department of Transportation Real Estate Administration's Policies and Procedures Manual and all applicable State and Federal laws, rules and regulations.

The Delaware County shall maintain all files, accounting records, and other evidence pertaining to costs incurred and agrees to make such materials available at their respective offices at all reasonable times during the contract period and for three (3) years from the date of final payment under the contract for inspection by the Ohio Department of Transportation, Federal Highway Administration or their authorized representatives and copies thereof shall be furnished if requested.

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Delaware County shall submit a letter to ODOT identifying the pre-qualified individuals for the following items pertaining to specific real estate functions, along with a Fee Schedule and must comply with ODOT policies and procedures and are incorporated herewith:

**Title**

Delaware County will provide or arrange to provide for a search of title for each property required for the project's right of way.

**Appraisal**

Delaware County will be responsible for the appraisals and will execute any necessary contracts with private fee appraisers in accordance with ODOT's approved list of appraisers.

**Appraisal Review**

Delaware County will be responsible for contracting with a review appraiser in accordance with ODOT's approved list of review appraisers who will be responsible for approving and/or disapproving the appraisals submitted by the fee appraiser. This contract must be held by Delaware County and cannot be a part of a Delaware County's prime acquisition consultant contract if they are responsible for the appraisals.

**Negotiations**

In compliance with State policies and procedures, negotiations shall not commence until Delaware County is in possession of an approved Fair Market Value Estimate. Negotiations and the settlement shall be governed by said approved fair market value. Delaware County shall negotiate with the owners for the purchase of real property and the conveyance of fee simple title by warranty deed or whatever lesser interest is required for the needs of the project. Such title will be taken in the name of Delaware County. Delaware County shall utilize negotiators in accordance with ODOT's approved list of negotiators.

Warrants for payment of all expenditures incurred in the acquisition of right of way will be issued by Delaware County. Delaware County will issue invoices, with supporting documentation, to ODOT for their 80% reimbursement of eligible acquisition costs.

**Administrative and/or Case Settlement Review:**

Delaware County must contact the District for any settlement authority over \$500. All requests for administrative reviews and case settlement reviews must be in writing and contain all the appropriate documentation to support the request. Delaware County shall have the authority to approve administrative reviews and case settlement reviews up to \$500 over the original offer. Any settlement in excess of the approved administrative review or case settlement review will be the responsibility of Delaware County if not approved by the District 6 Real Estate Administrator.

**Appropriations**

Delaware County will appropriate properties that it is unable to negotiate for the project in accordance with Chapter 163 of the Revised Code of Ohio.

**Relocation**

Delaware County will administer the Relocation Assistance Program (RAP), using ODOT pre-approved relocation agents, if displacement is caused by the project.

**Relocation Review**

Delaware County will be responsible for all Relocation Reviews. Relocation reviews will consist of approving and/or disapproving all relocation determinations before offers are made to the displacee. Reviews will also consist of approving and/or disapproving all relocation claims and supporting documentation prior to presenting the claim(s) to the displacee. Delaware County shall utilize Relocation Reviewers in accordance with ODOT's approved list of Relocation Reviewers.

**Utility Relocation**

Delaware County will be responsible for the relocation and accommodation of all affected utilities, if necessary. If needed, the State can provide assistance in this matter.

**Right of Way Certification**

Upon completion of the acquisition process, Delaware County will certify to the District that the right of way has been fully acquired. The District will then certify the right of way to the Federal Highway Administration. Delaware County will coordinate this certification with the District Real Estate Office. This certification will include the utilities, encroachment removals and all applicable notes and exhibits. Delaware County's right of way certification date to the District is **May 15, 2013**.

Delaware County will provide the **PROPERTY MANAGEMENT, BUILDING DISPOSITION and ASBESTOS TESTING & ABATEMENT** functions, if necessary.

It is understood by Delaware County that disposal of unneeded portions of highway rights of way or limited

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access rights will be subject to State and Federal Highway Administration approval.

Disadvantaged Business Enterprise (DBE) Obligation: Delaware County or its contractor agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this agreement. Delaware County and its contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for, receive and perform such contracts/subcontracts. Delaware County and its contractors shall not discriminate on the basis of race, color, national origin, age or sex in the award and performance of USDOT-assisted contracts.

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

**RESOLUTION NO. 11-402**

**IN THE MATTER OF APPROVING A LETTER OF ARRANGEMENT BETWEEN DELAWARE COUNTY  
AND THE AUDITOR OF STATE'S OFFICE:**

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

Whereas, the Delaware County Auditor recommends approval of the letter of arrangement between the Delaware County and the Auditor of State's Office;

Therefore Be It Resolved, that the Commissioners approves the letter of arrangement between the Delaware County and the Auditor of State's Office.

March 14, 2011

Mr. George Kaitsa, County Auditor and  
County Commissioners  
Delaware County  
140 North Sandusky Street  
Delaware, Ohio 43015

This letter of arrangement between the Delaware County, Ohio, (the County) and the Auditor of State describes the nature and scope of the services we will provide, the County's required involvement and assistance in support of our services, the related fee arrangements, and other terms and conditions designed to ensure that our professional services satisfy the County's audit requirements.

**Summary of Services**

We will audit the County's basic financial statements as of and for the year ended December 31, 2010. We will follow U.S. generally accepted auditing standards and the Comptroller General of the United States' standards for financial audits contained in *Government Auditing Standards*, and the Single Audit Act Amendments of 1996, and the provisions of Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. The objective of an audit is to express our opinion concerning whether the basic financial statements present fairly, in all material respects, the County's financial position, changes in financial position, required budgetary comparisons, and cash flows (where applicable), in conformity with U.S. generally accepted accounting principles.

We will audit to form an opinion on the basic financial statements. The combining and individual nonmajor fund financial statements, the Federal Awards Expenditure Schedule and other supplemental information provide additional analysis, and are not a required part of the basic financial statements. We will subject this information to the auditing procedures applied in our audit of the basic financial statements and will render an opinion on whether this information is fairly presented, in all material respects, in relation to the basic financial statements taken as a whole.

We expect to deliver our report on or about June 15, 2011.

We will apply certain limited procedures, which will consist principally of inquiries of management regarding the methods of measuring and presenting Management's Discussion and Analysis, which is Supplementary Information the Governmental Accounting Standards Board requires. However, we will not opine on this information.

We also will read the other information included in the introductory and statistical sections of the Comprehensive Annual Financial Report (CAFR) and consider whether this information, including the manner of its presentation, is materially consistent with information appearing in the financial section. However, we will not opine on the introductory or statistical sections of the CAFR.

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**Engagement Team**

The engagement will be led by:

- \* William Collier, CPA, Chief Auditor, who will be responsible for assuring the overall quality, value, and timeliness of our services to you;
- \* George Elliott, CPA, Senior Audit Manager, who will be responsible for managing the delivery of our services to you; and
- \* Nicholas Neuerer, Audit Manager, who will be responsible for on-site administration of our services to you.

**The Auditing Process***Our Responsibilities:*

The *Summary of Services* above describes our responsibilities for the County's basic statements and other financial information.

We will plan and perform the audit to reasonably assure that the financial statements are free of material misstatement, whether caused by error or fraud. However, there are inherent limitations in auditing that prevent an auditor from providing absolute assurance on the fair presentation of the financial statements. For example, we may limit certain procedures to selective testing of data. Therefore we might not detect material error and fraud if it exists. It is not cost-efficient to design procedures to detect immaterial error or immaterial fraud. Also, because of the characteristics of fraud, including attempts at concealment through collusion and forgery, a properly designed and executed audit may not detect a material fraud.

We will communicate all instances where we believe fraud *may* exist to you. These would include instances where we:

- Have persuasive evidence that fraud occurred.
- Determined fraud risks exist and were unable to obtain convincing evidence to determine that fraud was unlikely.

Similarly, illegal acts may have occurred. However, our audit provides no assurance that illegal acts generally will be detected and only reasonable assurance that we will detect illegal acts directly and materially affecting the determination of financial statement amounts. We will inform you regarding material error or illegal acts that come to our attention.

If we find indications of abuse, we will expand our tests to determine its financial statement effect. *Government Auditing Standards* defines *abuse* as behavior which while not necessarily a legal violation, is behavior a prudent person would deem improper or deficient. Because this determination is subjective, *Government Auditing Standards* does not expect auditors to provide reasonable assurance of detecting abuse.

If for any reason we are unable to complete the audit or are unable to form an opinion, we may disclaim an opinion on your financial statements. In this unlikely event, we will communicate the reason for terminating the audit to you, and to those charged with governance, in writing.

*Your Responsibilities:*

Management and those charged with governance are responsible for:

1. Preparing the financial statements and other financial information, including related disclosures and selecting and applying accounting principles.



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2. Coordinating the completion of component unit audits to meet the County's reporting deadlines.
3. Reporting fraud and illegal acts of which you are aware to us.
4. Reviewing drafts of the audited financial statements, footnotes, any supplemental information, auditor's reports and any findings; and informing us of any edits you believe may be necessary.
5. Designing and implementing programs and controls to prevent and detect fraud.

***You should not rely on our audit as your primary means of detecting fraud.***

**Compliance with Laws and Regulations**

*Our Responsibilities*

As part of reasonably assuring whether the financial statements are free of material misstatement, we will test the County's compliance with certain provisions of laws, regulations, contracts, and grants if noncompliance might reasonably directly and materially affect the financial statements. However, except for major federal financial assistance programs, our objective is not to opine on overall compliance with these provisions.

*Your Responsibilities:*

Management and those charged with governance are responsible for:

1. Being knowledgeable of, and complying with, laws, regulations, contracts, and grants applicable to the County.
2. Identifying for us other financial audits, attestation engagements, performance audits, internal audits, reports from regulators or other studies related to the Organization (if any), and the corrective actions taken to address these audits' significant findings and recommendations.
3. Tracking the status of prior audit findings.
4. Taking timely and appropriate steps to remedy fraud, illegal acts, violations of provisions of laws, regulations, contracts or grant agreements, or abuse we may report.
5. Providing your views and planned corrective action on audit findings we may report.

**Internal Control**

*Our Responsibilities:*

As a part of our audit, we will consider the County's internal control (as part of our understanding of the County's operating environment), as required by generally accepted auditing standards and *Government Auditing Standards*. These standards require us to obtain an understanding of internal control and the County's environment, and assess risk to determine the nature, timing, and extent of auditing procedures necessary for expressing our opinion on the financial statements. Our objective does not include opining on internal control over financial reporting.

While our audit is not designed to identify significant deficiencies, as required by *Government Auditing Standards*, we will prepare a written report to those charged with governance describing any significant deficiencies or material weaknesses we may detect.

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*Your Responsibilities:*

Maintaining internal control over financial reporting and over compliance is management's responsibility. Appropriate supervisory reviews are necessary to reasonably assure that adopted policies and prescribed procedures are followed.

*Your Responsibility for Service Organizations:*

Service organizations are entities to which you have outsourced accounting functions. Service organizations process transactions reflected in your County's financial statements, and therefore fall within the scope of our audit. While service organizations are responsible for establishing and maintaining their internal control, you are responsible for being aware of the service organizations your County uses, and for establishing controls to monitor the service organization's performance. Because the complexity of service organization transaction processing can vary considerably, your monitoring activities can vary accordingly.

When transaction processing is complex and the volume of transactions is relatively high, obtaining and reviewing a service organization auditor's *Report on Controls Placed in Operation and Tests of Operating Effectiveness* may be the most effective method of meeting your responsibility to monitor a service organization, and may also be the only efficient means by which we can obtain sufficient evidence regarding their internal controls. Statement on Auditing Standards No. 70 (SAS 70) discusses the aforementioned report. (In some circumstances, we can accept a suitably-designed agreed-upon procedures report (AUP) in lieu of a SAS 70 report.) Our staff can discuss SAS 70 and possible monitoring controls you might use with you.

***You are responsible for informing our staff of the service organizations your County uses, and for monitoring these service organizations' performance.***

We are aware of no service organizations your County uses. Please confirm to us that our understanding is correct.

**Additional Responsibilities and Reporting Under Circular A-133**

*Our Responsibilities:*

As OMB Circular A-133 requires, we will consider and test the County's internal control policies and procedures used in administering the federal award programs we determine to be major programs, using criteria from A-133. Based on this consideration and these tests, we will assess risk and determine the nature, timing, and extent of tests of compliance with requirements that, if not complied with, could materially affect a major federal financial assistance program's compliance.

In accordance with A-133, we will prepare the following report:

*Independent Accountants' Report on Compliance With Requirements Applicable To Each Major Federal Program and on Internal Control Over Compliance in Accordance With OMB Circular A-133*

Our report on compliance will include our opinion on compliance with major federal financial assistance programs and also describe instances of noncompliance with Federal requirements we detect that require reporting per Circular A-133. This report will also describe any significant deficiencies we identify relating to controls used to administer Federal award programs, and identify any significant deficiencies we determine to be material weaknesses. However, this report will not opine on internal control used to administer Federal award programs.

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We are also responsible for completing certain parts of OMB Form SF-SAC (the Data Collection Form).

*Your Responsibilities:*

You are responsible for identifying laws and regulations relating to Federal award programs, and for complying with them. You are responsible for compiling the Federal Awards Expenditure Schedule and accompanying notes. You are also responsible for establishing and maintaining internal control sufficient to reasonably assure compliance with laws and regulations relating to Federal award programs and controls related to preparing the Federal Awards Expenditure Schedule.

You are responsible for following up and taking corrective action on audit findings. You are also responsible for informing us of significant subrecipient relationships and vendor relationships, when a vendor is responsible for complying with Federal program requirements.

You are responsible for completing your County's Data Collection Form and assuring the reporting package (including the Data Collection Form) is filed in accordance with the revised electronic submission requirements effective for audit periods ending in 2008.

**Representations from Management**

*Your Responsibilities*

At the conclusion of the engagement, the County's management will provide to us a representation letter that, among other things, will confirm, to the best of their knowledge and belief:

- Management's responsibility for preparing the financial statements in conformity with generally accepted accounting principles, and the federal awards expenditure schedule in conformity with the applicable accounting basis;
- The availability of original financial records and related data, the completeness and availability of all minutes of the legislative or other bodies and committee meetings;
- Management's responsibility for the entity's compliance with laws and regulations;
- The identification and disclosure to the auditor of all laws, regulations, and provisions of contracts and grant agreements directly and materially affecting the determination of financial statement amounts and;
- The absence of fraud involving management or employees with significant roles in internal control.

Additionally, we will request representations, as applicable, regarding:

- The inclusion of all component units, and the disclosure of all joint ventures and other related organizations;
- The proper classification of funds, net assets and fund balances;
- The proper approval of reserves of fund equity;
- Compliance with laws, regulations, and provisions of contracts and grant agreements, including budget laws or ordinances; compliance with any tax or debt limits, and any debt covenants;
- Representations relative to GASB-required supplementary information;
- The identification of all federal assistance programs, and compliance with grant requirements.
- Events occurring subsequent to the fiscal year end requiring adjustment to or disclosure in the financial statements or federal awards expenditure schedule.

Management is responsible for adjusting the financial statements to correct misstatements we may detect during our audit and for affirming to us in the representation letter that the effects of any uncorrected misstatements we aggregate during our engagement and pertaining to the latest period the statements present are immaterial, both individually and in the aggregate, to the opinion units. (*Financial statements include the related footnotes and required and other supplemental information*).

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**Communication**Our Responsibilities

As part of this engagement the Auditor of State will communicate certain additional matters (if applicable) to the appropriate members of management and to those charged with governance. These matters include

- The initial selection of and changes in significant accounting policies and their application;
- The process management uses to formulate particularly sensitive accounting estimates and the basis for their conclusions regarding the reasonableness of those estimates;
- Audit adjustments, whether posted or waived;
- Any disagreements with management, whether or not satisfactorily resolved, about matters that individually or in the aggregate could be significant to the financial statements or our opinion;
- Our views about matters that were the subject of management's consultation with other accountants about auditing and accounting matters;
- Major issues that were discussed with management related to retaining our services, including, among other matters, any discussions regarding the application of accounting principles and auditing standards; and
- Serious difficulties we encountered in dealing with management during the audit.

We will present those charged with governance our Summary of Unadjusted Differences (if any) at the conclusion of our audit.

**Terms and Conditions Supporting Fee**

As a result of our planning process, the County and the Auditor of State have agreed to an approach designed to meet the County's objectives for an agreed-upon fee, subject to the following conditions.

Our Responsibilities:

In providing our services, we will consult with the County regarding matters of accounting, financial reporting or other significant business issues. Accordingly, our fee includes estimated time necessary for this consultation. However, should a matter require research, consultation or audit work beyond this estimate, the Auditor of State and the County will agree to an appropriate revision in services and fee. These revisions will also be set forth in the form of the attached *Amendment to Letter of Arrangement*.

Your Responsibilities:

The County will provide in a timely manner all financial records and related information to us, an initial list of which has been furnished to you, including timely communication of all significant accounting and financial reporting matters, as well as working space and clerical assistance as mutually agreed upon and as is normal and reasonable in the circumstances. When and if for any reason the County is unable to provide these schedules, information and assistance, the Auditor of State and the County will mutually revise the fee to reflect additional services, if any, we require to achieve these objectives. These revisions will be set forth in the form of the attached *Amendment to Letter of Arrangement*.

Confidential Information:

You should make every attempt to minimize or eliminate the transmission of personal information to the Auditor of State (AOS). All documents you provide to the AOS in connection with our services including financial records and reports, payroll records, employee rosters, health and medical records, tax records, etc. should be redacted of any personal information. Personal information includes social security numbers, date of birth, drivers' license numbers or financial institution account numbers associated with an individual. The public office should redact all personal information from electronic records before they

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are transmitted to the AOS. This information should be fully blacked out in all paper documents prior to sending to the AOS. If personal information cannot be redacted from any records or documents; the public office must identify these records to the AOS.

If redacting this personal information compromises the audit or the ability to prepare financial statements, the public office and the AOS will consider these exceptions on a case-by-case basis. Additionally, if redacting this information creates a hardship on the public office in terms of resources, recordkeeping or other issues, the public office and the AOS may collaborate on alternative methods of providing the public office's data to the AOS without compromising the personal information of individuals served by the public office. The AOS is willing to work with the public office and it is our intent to greatly reduce the amount of personal information submitted to the AOS for audit or financial statement preparation purposes. It is important that the public office review internal policies to find ways to eliminate as much personal information from financial records as possible by substituting non-personal information (i.e., change social security numbers to employee identification numbers).

**Fee**

Except for any changes in fees and expenses which may result from the circumstances described above, we expect our fees and expenses for our audit services will not exceed \$79,500.

Pursuant to Ohio Rev. Code Section 117.13, you may charge all of this audit's cost to the general fund or you may allocate the cost among the general fund and other eligible funds in accordance with Auditor of State Bulletin 2009-011.

**Access to Our Reports and Working Papers**

Statement on Auditing Standards No. 87 (SAS 87, *Restricting the Use of an Auditor's Report*), requires our reports to disclose the following:

*Our Independent Accountants' Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Required by Government Auditing Standards, and our Independent Accountants' Report on Compliance With Requirements Applicable To Each Major Federal Program and on Internal Control Over Compliance in Accordance With OMB Circular A-133 are intended solely for the information and use of the management, those charged with governance and federal awarding agencies and pass-through entities. It is not intended for anyone other than these specified parties.*

SAS 87 requires us to include this restrictive language in our reports due to concerns that other readers may not fully understand the purpose of the report, the nature of the procedures applied in its preparation, the basis or assumptions used in its preparation, the extent to which the procedures performed are generally known or understood, and the potential for the report to be misunderstood, when taken out of the context for which it was intended.

However, under Revised Code Section 117.26, an audit report becomes a public record under Section 149.43, Revised Code, when we file copies of the report with the public officers enumerated in the Revised Code. When we file the reports, our working papers become available to the public upon request, subject to information protected for criminal investigations, by attorney-client privilege or by local, state or federal law. SAS 87 does not affect public access to our reports or working papers.

Under generally accepted auditing standards, we must retain working papers for five years after the release date of our opinion.

**Peer Review Report**

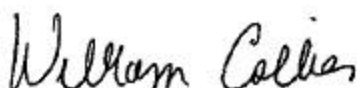
As required by *Government Auditing Standards*, we have attached a copy of our most recent external

quality control review report (Peer Review). The report was unqualified.

If the foregoing is in accordance with your understanding, please sign the copy of this letter in the space provided and return it to us. If you have any questions, please call George Elliott, CPA, Senior Audit Manager at 1-800-443-9275.

Very truly yours,

Robert R. Hinkle, CPA  
Chief Deputy Auditor



William Collier, CPA, Chief Auditor

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

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RESOLUTION NO. 11-403

IN THE MATTER OF PURCHASING EQUIPMENT FOR THE USE OF THE DELAWARE COUNTY OFFICE  
OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT:

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

WHEREAS, the Delaware County Office of Homeland Security and Emergency Management (the "DCOHSEM") may expend monies for the purchase of assets or equipment for use by DCOEMHS; and

WHEREAS, the DCOHSEM has a need to purchase lighting equipment to carry out the duties and responsibilities in the all-hazards management plan; and

WHEREAS, the equipment is available for purchase at discounted pricing through the State of Ohio's cooperative purchasing program; and

WHEREAS, the Board of County Commissioners (the "Board") is a member of the State of Ohio's cooperative purchasing program and wishes to purchase the equipment on behalf of the DCOHSEM;

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, STATE OF OHIO:

Section 1. The Board hereby approves the purchase of three (3) AL5000 20kW Terex light towers and three (3) AL5000 winches (the "Equipment") from W.W. Grainger, Inc., for the use of the DCOEMHS at a total price of \$53,584.83.

Section 2. The purchase of the Equipment shall be in accordance with the State of Ohio's cooperative purchasing program, pursuant to the contract and terms and conditions set forth in Contract # RS900510, which is, by this reference, fully incorporated herein and of which the purchase orders approved herein shall be made a part.

Section 3. The Board hereby approves a purchase order in the amount of \$53,584.83 to W.W. Grainger, Inc., from Fund Number 21581304.

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

RESOLUTION NO. 11-404

IN THE MATTER OF APPROVING THE FIRST QUARTER REPORT FOR THE PRETRIAL SUPERVISION  
GRANT FOR ADULT COURT SERVICES:

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

Grant #	2010-JG-C01-6270
Source:	Ohio Office of Criminal Justice Services
Grant Period:	January 1, 2011 to December 31, 2011
Federal Grant Amount:	\$ 25,000.00
Local Match:	\$ 8,333.33
Total Grant Amount:	\$ 33,333.33

The Grant funds a pretrial officer that supervises offenders that would otherwise remain in the Delaware County Jail. Offenders may be subject to drug testing, house arrest, GPS, substance abuse treatment as well as employment as a condition of bond.

Vote On Motion            Mr. Thompson    Aye        Mr. O'Brien    Aye        Mr. Stapleton    Aye

RESOLUTION NO. 11-405

IN THE MATTER OF APPROVING THE FIRST QUARTER REPORT FOR THE MENTAL HEALTH  
DOCKET GRANT FOR ADULT COURT SERVICES:

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

Grant #	2010-JG-C01-6596
Source:	Ohio Office of Criminal Justice Services
Grant Period:	January 1, 2011 to December 31, 2011



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Federal Grant Amount:	\$ 30,000.00
Local Match:	\$ 5,000.00
Local Match – City:	\$ 5,000.00
 Total Grant Amount:	 \$ 40,000.00

The Grant is a unique collaboration between Delaware Common Pleas and Municipal Court to initiate a mental health court docket. The courts will share a probation officer, and docket coordinator. The dockets primary purpose is to reduce the amount of time offenders with significant mental health issues spend in jail. The mental health docket will not only reduce the use of the Delaware County Jail, it will reduce the impact on many social service agencies in the county.

Vote On Motion                      Mr. Stapleton      Aye      Mr. O'Brien      Aye      Mr. Thompson      Aye

**RESOLUTION NO. 11-406**

**IN THE MATTER OF APPROVING TRANSFER OF APPROPRIATIONS FOR JUVENILE/PROBATE COURT:**

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

<b>Transfer of Appropriation</b>	
<b>From</b>	<b>To</b>
28027204-5260	28027204-5320
Probate Court Data Fund/Inventoried Tools	Probate Court/Data Processing Services
26026203-5260	26026203-5320
Juvenile Court Data Fund/Inventoried Tools	Juvenile Court Data Fund/Data Processing Services

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

**RESOLUTION NO. 11-407**

**IN THE MATTER OF APPROVING THE INTERGOVERNMENTAL COOPERATION AGREEMENT FOR PUBLIC SAFETY RADIO COMMUNICATIONS BETWEEN THE CITY OF COLUMBUS, OHIO, DEPARTMENT OF PUBLIC SAFETY, ACTING THROUGH THE DIVISION OF SUPPORT SERVICES AND THE DELAWARE COUNTY BOARD OF COMMISSIONERS:**

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

Whereas, the 911 Communications Director and the Public Safety Systems Administrator recommend approval of the Intergovernmental Cooperation Agreement For Public Safety Radio Communications Between The City of Columbus, Ohio, Department of Public Safety, acting through the Division of Support Services and the Delaware County Board of Commissioners;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the Intergovernmental Cooperation Agreement For Public Safety Radio Communications Between The City of Columbus, Ohio, Department of Public Safety, acting through the Division of Support Services and the Delaware County Board of Commissioners.

**INTERGOVERNMENTAL COOPERATION AGREEMENT  
FOR PUBLIC SAFETY RADIO COMMUNICATIONS**

This Agreement is made and entered into this 25<sup>th</sup> day of April 2011, by and between the City of Columbus, Ohio, Department of Public Safety, acting through the Division of Support Services (hereinafter referred to as the "City") and the Delaware County Board of Commissioners (hereinafter referred to as the "County") (hereinafter collectively referred to as the "Parties").

**RECITALS:**

WHEREAS, the County owns and operates a County Wide 800 MHz Radio System for all public safety agencies in Delaware County and for other agencies in Franklin County as part of the Central Ohio Interoperable Radio System (COIRS); and

WHEREAS, the County owns and provides subscriber radios to all public safety agencies in Delaware County; and

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WHEREAS, the County is responsible for maintaining and assigning system identification numbers for each subscriber radio operated on the COIRS system; and

WHEREAS, Public Safety agencies using County-owned radios interact with public safety agencies in Franklin County that communicate on the Central Ohio 800MHz public safety radio system; and

WHEREAS, the Central Ohio 800MHz public safety radio system is owned and operated by the City; and

WHEREAS, the City is responsible for maintaining and assigning system identification numbers for each subscriber radio operated on the Central Ohio 800MHz public safety radio system; and

WHEREAS, the Parties have a shared interest in providing interoperable communication capabilities for the public safety agencies throughout the region;

NOW, THEREFORE, the Parties mutually agree as follows:

1. Each Party shall maintain their respective systems in good working order, maintain all necessary licenses, and use the system solely for the purposes of public safety.
2. Each Party shall provide system identification numbers and system access to the other Party's public safety subscribers at no charge.
3. Each identification number will be issued to a specific, corresponding subscriber serial number.
4. The Parties shall at all times maintain accurate inventories of identification numbers.
5. Lost or stolen radios will be reported as soon as practical, so the radio can be disabled.
6. Each of the Parties shall program identification numbers into approved public safety and public service radios.
7. In the event of abuse of or potential harm to the system, the Parties shall, upon request, promptly disable a radio.

This Agreement shall take effect immediately upon adoption by all Parties and shall remain in effect unless and until terminated by either Party upon one hundred eighty (180) days written notice, provided however that either Party may terminate this Agreement immediately in the event of a breach of the terms and conditions stated herein.

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

**RESOLUTION NO. 11-408**

**IN THE MATTER OF TRANSFERRING PERSONAL PROPERTY NOT NEEDED FOR PUBLIC USE TO GENOA TOWNSHIP:**

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

WHEREAS, pursuant to the Agreed Judgment Entry, dated February 26, 2011, in Delaware County Court of Common Pleas Case No. 09-CR-I-05-0261, the Delaware County Board of Commissioners (the "Board") received title to certain motor vehicles; and

WHEREAS, the forfeited vehicles are not needed for public use by Delaware County; and

WHEREAS, the Genoa Township Police Department incurred costs in the investigation and prosecution of the above-named case; and

WHEREAS, Genoa Township has agreed to auction the forfeited vehicles to provide for the disbursement ordered in the Agreed Judgment Entry; and

WHEREAS, pursuant to section 307.12(D) of the Revised Code, the Board may sell or donate county personal property to any political subdivision of the state without advertisement or public notification, regardless of the property's value;

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

Section 1. The Board hereby approves the transfer of the following motor vehicles to Genoa Township:



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- (a) 2004 BMW 745L WBAGN63434DS46036
- (b) 2007 CADILLAC ESCALADE 1GYFK66807R272357
- (c) 2004 YAMAHA YZFR1 JYARNN13E24A000907

Section 2. Pursuant to section 307.12(D) of the Revised Code, the Board makes no determination of the value of the motor vehicles, which shall be transferred upon the condition that they are accepted “as is.”

Section 3. The Clerk of the Board shall provide a certified copy of this Resolution to the Genoa Township Board of Trustees.

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

RESOLUTION NO. 11-409

IN THE MATTER OF APPROVING TRANSFER OF APPROPRIATIONS AND SUPPLEMENTAL APPROPRIATIONS FOR ENVIRONMENTAL SERVICES :

It was moved by Mr. O’Brien, seconded by Mr. Thompson to approve the following:

<b>Supplemental Appropriation</b>		
66211903-5319	SRF OECC/Reimbursements/Refunds	\$ 65,000.00
<b>Transfer of Appropriation</b>		
<b>From</b>	<b>To</b>	
66611906-5410	66611906-5328	\$ 3,500.00
URF Tartan Fields/Capital	URF Tartan Fields/Maintenance & Repair	
66611903-5410	66611903-5301	\$2,500.00
URF OECC/Capital	URF OECC/Professional Services	

Vote On Motion Mr. Thompson Aye Mr. O'Brien Aye Mr. Stapleton Aye

RESOLUTION NO. 11-410

IN THE MATTER OF CERTIFICATION OF DELINQUENT ACCOUNTS TO THE COUNTY AUDITOR FOR ACCOUNTS TO BE ASSESSED TO PAYABLE YEAR 2012 TAXES:

It was moved by Mr. O’Brien, seconded by Mr. Thompson to certify to the County Auditor the delinquent accounts for placement on the tax duplicate.

Whereas, the County owns and operates a Sewer District as authorized by Ohio Revised Code (ORC) 6117, and

Whereas, ORC 6117.02 authorizes the County to set rates and charges for the sanitary services provided by the Sewer District, and

Whereas, when any of the sanitary rates or charges are not paid when due, the board may certify the unpaid rates or charges, together with any penalties, to the County Auditor, who shall place them upon the real property tax list and duplicate against the property served by the connection, and

Whereas, staff has determined that there are unpaid rates and charges that need to be collected, and

Whereas, staff recommends collection of the unpaid rates and charges by certifying these delinquent accounts to the County Auditor.

Therefore be it resolved that the Board of County Commissioners certify the delinquent accounts in the amount of \$160,906.33 to the County Auditor for 2012 real property tax list and duplicate.

(Itemized listing of delinquent accounts available for review at the Commissioners’ Office until no longer of administrative value).

2012 Sewer Tax Assessments  
To be certified by the Board of Commissioners on 4/25/11

Breakdown of Assessments by Treatment Plant:

66211903 – OECC	\$47,724.87
66211904 – Alum Creek	\$102,214.72
66211906 – Tartan Fields	\$783.44

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66211907 – Scioto Reserve	\$8,333.71
66211908 – Bent Tree	\$361.62
66211909 – Hoover Woods	\$264.60
66211910 – Scioto Hills	\$1,223.37
Total Assessments	\$160,906.33

Vote On Motion                      Mr. Stapleton      Aye      Mr. O'Brien      Aye      Mr. Thompson      Aye

RESOLUTION NO. 11-411

IN THE MATTER OF REMOVING THE CERTIFICATION TO THE COUNTY AUDITOR FOR SANITARY SEWER CAPACITY CHARGES AT 1791 EAST ORANGE ROAD, LEWIS CENTER, OHIO 43035:

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

Whereas, on January 20, 2011, the Board of County Commissioners approved resolution 11-67 to certify the Sanitary Sewer Capacity Charges as follows:

1791 East Orange Road, Lewis Center, Ohio 43035 in the amount of \$5,900.00 with a \$1,321.60 finance charge (pro-rated over a 6 year period) making a total of \$7,221.60 for placement on the tax duplicate, bi-annual payment being \$601.80.

Whereas, the homeowner has since obtained a STS permit from the Delaware General Health District and no longer wishes to tie into sanitary sewer.

Therefore be it resolved that the Board of County Commissioners remove the certification to the County Auditor for sanitary sewer capacity charges at 1791 East Orange Road, Lewis Center, Ohio 43035 to the 2012 real property tax list and duplicate.

Vote On Motion                      Mr. O'Brien      Aye      Mr. Thompson      Aye      Mr. Stapleton      Aye

RESOLUTION NO. 11-412

IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND MAIL PRO 1, LLC FOR PRINTING AND MAILING SERVICES FOR THE REGIONAL SEWER DISTRICT:

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

Whereas, the Regional Sewer District needs printing and mailing services to send the quarterly sanitary sewer user billing statements to its customers, and

Whereas, sewer district staff obtained and evaluated quotes from several vendors and determined that Mail Pro 1, LLC provided the lowest quote meeting the required services, and

Whereas, sewer district staff recommends executing an agreement with Mail Pro 1 for the required printing and mailing services for a unit price of \$94.73 per 1,000 statements.

THEREFORE BE IT RESOLVED that the Board of County Commissioners approve the Agreement with Mail Pro 1, LLC for the printing and mailing services for the Regional Sewer Dis trict.

Furthermore be it resolved that the Board of County Commissioners approve a purchase order with Mail Pro 1 in the amount of \$7,000.00 for 2011 services.

PRINTING & MAILING SERVICES CONTRACT

Section 1 – Parties to the Agreement

Agreement made and entered into this 25<sup>th</sup> day of April, 2011 by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Mailpro 1 LLC, 439 B Dunlap St, Delaware, Ohio 43015 (“Contractor”).

Section 2 – Contract Administrator

The Delaware County Board of Commissioners hereby designates the Delaware County Sanitary 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 thereof.

Section 3 – Scope of Services (Work)

Contractor agrees to furnish, unto the County, printing and mailing services in accordance with the Scope of

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Services attached hereto and, by this reference, hereby made part of this Agreement (hereinafter “the Scope”). Contractor shall perform the Work in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

**Section 4 – Compensation**

Compensation for Work performed under this Agreement shall be in accordance with the following schedule:

<u>Unit Price</u>	<u>Estimated Quantity</u>	<u>Estimated Cost</u>		
\$94.73/1000	96,000/yr	\$9,094.08/yr	ESTIMATED TOTAL	\$9,094.08/yr

**Section 5 – Payment**

Compensation shall be paid periodically, but no more than once per month, and shall be based on invoices in accordance with the Scope. Invoices shall be submitted to the Administrator by the Contractor on company letterhead clearly listing the word “Invoice” with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Contractor shall promptly submit documentation as needed to substantiate said invoices. The County shall pay invoices within thirty (30) days of receipt.

**Section 6 – Term**

This Agreement shall be in effect from April 25, 2011 to April 24, 2012.

**Section 7 – Insurance**

Not used in this contract.

**Section 8 – Liability and Warranties**

To the fullest extent permitted by law, neither party shall be liable to the other for any incidental, indirect or consequential damages arising out of or connected in any way to the Work or this Agreement. This mutual waiver shall include, but not be limited to, loss of profit, loss of business or income, or any other consequential damages that either party may have incurred from any cause of action whatsoever.

Notwithstanding any other provision to the contrary, and to the fullest extent permitted by law, the Contractor 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 Contractor, 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 Contractor ordering termination of Work. The Contractor shall immediately suspend or terminate Work, as ordered by the County. In the case of Termination, the Contractor 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 in writing.

**Section 11 – Miscellaneous Terms & Conditions**

- 11.1 Prohibited Interests: Contractor 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. Contractor 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.
- 11.2 Entire Agreement: This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Contractor, 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.
- 11.3 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.
- 11.4 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.

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This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

- 11.5 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.
- 11.6 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.
- 11.7 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.
- 11.8 Non-Discrimination/Equal Opportunity: Contractor 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.

Contractor 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.

Contractor 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.

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

#### SCOPE OF SERVICES

##### Printing and Mailing Services for the Delaware County Regional Sewer District

The CONTRACTOR shall provide for the printing and mailing of the County's Quarterly Sanitary Sewer user billing statements. The County's billing cycle is quarterly with bills sent out the first of February, May, August and November with the billing due the 10<sup>th</sup> day of the following month.

#### PRINTING SERVICES

The CONTRACTOR shall provide the following for each user bill:

- 1) #10 window envelope printed 1/0
- 2) #9 BRE envelope printed 1/0
- 3) 8 ½" x 11" billing statement with tear off at 3 ½'
- 4) Data file will be Cass certified, NCOA, to USPS standards. File will be sorted to qualify for the best possible automation postage rates.
- 5) Billing statement will be laser simplex with variable data and tri-folded.
- 6) Insert the BRE and billing statement into the #10 window envelope, seal and sort to USPS standards.

#### MAILING SERVICES

The CONTRACTOR shall provide the following for each user bill:

- 1) Prepared billing statements will be entered into the mail stream at the Delaware Post Office on the Mail Pro 1 mailing permit.

#### PAYMENT METHOD

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- 1) The CONTRACTOR shall bill the COUNTY once per quarter following the mailing of the quarterly billing.
- 2) The COUNTY shall issue a check prior to each quarterly mailing for postage made out to the United States Postal Service. The CONTRACTOR shall accept a check for the average postage amount and the CONTRACTOR will bill and/or credit the COUNTY for any under or overage.

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

**RESOLUTION NO. 11-413**

**IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND MULTITRODE, INC. FOR MAINTENANCE AND SUPPORT SERVICES:**

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

Whereas, the Director of Environmental Services recommends approval of the agreement with Multitrode for Maintenance and Support Services;

Therefore Be It Resolved, that the Board of Delaware County Commissioners approve the agreement with Multitrode for Maintenance and Support Services.

**SUPPORT & MAINTENANCE CONTRACT  
BETWEEN MULTITRODE, INC., AND DELAWARE COUNTY, OHIO**

This Agreement is made and entered into this 25<sup>th</sup> day of April, 2011 by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 ("County"), and MultiTrode, Inc., 990 South Rogers Circle, Suite 3, Boca Raton, Florida 33487 ("Contractor").

**Section 1 – Term of the Agreement**

This Agreement shall commence as of the date indicated above and shall remain in full force and effect for a term of twelve (12) months, unless earlier terminated pursuant to this Agreement.

**Section 2 – Contract Administrator**

The Delaware County Board of Commissioners hereby designates the Delaware County Sanitary 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 thereof.

**Section 3 – Scope of Services (Work)**

3.1 **Support Service:** Contractor will provide remote "Gold Support Service," as defined in this paragraph, for the Outpost 2 Software and Equipment (said software and equipment being hereinafter called the "Equipment"). Remote support shall be conducted over telephone or via the World Wide Web.

- (a) As used in this agreement, "Gold Support Service" means remote support (i) assisting the County with the maintenance and use of Outpost 2 and Iconics software purchased under the original SCADA proposal including "bug" fixes and critical updates; (ii) periodic inspections and testing of the Outpost 2 environment; and (iii) assistance in the configuration of system operation.
- (b) Support Service shall not include (i) software feature upgrades; (ii) on site support service; (iii) rebuilding or reinstallation of software; or (iv) installation of new software or peripherals.

3.2 **Maintenance Service:** Contractor will provide "Maintenance Service," as defined in this paragraph, for the Outpost 2 Software.

- (a) As used in the Agreement, "Maintenance Service" means (i) keeping the software in good operating condition; and (ii) performing inspections and tests and making necessary adjustments (herein called "Preventative Maintenance"). The County shall be notified of any adjustments made.
- (b) Maintenance Service shall not include (i) maintenance, repair or replacement of parts resulting from catastrophe, accident neglect, misuse, fault or negligence of the County, or causes external to the equipment such as, but not limited to, failure of or faulty electric power or air conditioning, or any other devices not identified in the Addendum; (ii) changes, modifications or alterations in accessories or supplies; (iii) rebuilding or overhauling the Equipment or Software environment; (iv) installation or removal services; (v) waiting time. Such excluded services shall be performed at Contractor's hourly rate.
- (c) All parts will be furnished on an exchange basis and will be new parts or reconditioned to perform as new when used in the Equipment.

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- (d) The yearly maintenance charge described herein entitles the County to weekday remote Maintenance Service Availability during the hours of 8:00 a.m. and 5:00 p.m. EST, daily as selected by the County, Monday through Friday, not to exceed 70 hours, except nationally observed legal holidays.
- (e) Scheduled Preventative Maintenance as determined by Contractor will be performed during that portion of the period selected by the County which falls between the hours of 8:00 a.m. and 5:00 p.m. EST, Monday through Friday, referred to hereafter as Contractor's normal working hours. If the Customer requests Preventative Maintenance at times outside of Contractor's normal working hours, Contractor will charge at the per call rates and terms then in effect.
- (f) The hours of Maintenance Service Availability for Equipment on Monday through Friday, except nationally observed legal holidays, shall be the same each day.
- (g) If the County requests unscheduled on-call remedial maintenance to be performed at a time that is outside the selected period of Maintenance Service Availability, the service will be furnished at the applicable Contractor per call rates and terms then in effect. Travel time and expenses are billable in connection with such maintenance. For the purpose of this Agreement, any unscheduled on-call remedial maintenance service started during a selected period of Maintenance Service Availability and completed within one hour after such period will be treated, as having been performed within such period and no additional charge will be made therefor.

**Section 4 – Compensation**

The County shall pay a Yearly Maintenance Charge to Contractor. The Yearly Maintenance Charge shall be a Lump Sum of Eight Thousand Five Hundred Dollars and No Cents (\$8,500.00). For services provided at an hourly rate pursuant to this Agreement, Contractor shall be compensated at the rate of One-Hundred Fifty Dollars and No Cents (\$150.00) per hour.

**Section 5 – Payment**

The County shall pay the Yearly Maintenance Charge within thirty (30) days of the execution of this Agreement. The County shall pay for services billed at the hourly rate periodically, but no more than once per month, based on Contractor's written Invoices. Invoices shall be submitted to the Administrator by the Contractor on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices, and the Contractor shall promptly submit documentation as needed to substantiate said invoices. The County shall pay invoices within thirty (30) days of receipt.

**Section 6 – Inspections, Repairs, and Access to Equipment**

Prior to the commencement date of maintenance under this Agreement, Contractor may require County to provide Contractor with a certificate of maintainability. In addition or in lieu thereof, in the sole exercise of Contractor's discretion, the Equipment shall be subject to inspection by Contractor to determine if it is in acceptable condition for maintenance under this Agreement. Contractor shall notify County of any repair or adjustments it deems necessary to bring the Equipment up to an acceptable condition for maintenance under this Agreement. Upon written authorization of County, Contractor shall make such repairs at then current hourly rates. Should County fail to authorize such maintenance or to pay all charges thereof, Contractor shall have no obligation to provide the maintenance service contemplated by this Agreement.

County will provide Contractor with full and free access to the Equipment and a safe place in which to perform any service. If persons other than Contractor's Engineers repair, modify or perform any service on any item of Equipment covered by this Agreement, and as a result thereof, any service by Contractor is required to restore the Equipment in good operating condition, such service will be performed at the applicable Contractor per call rates and terms then in effect.

**Section 7 – Insurance**

- 7.1 General Liability Coverage: Contractor 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: Contractor 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: Contractor 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 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. Contractor shall require all of its subcontractors to provide similar endorsements.

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- 7.5 **Proof of Insurance:** Prior to the commencement of any work under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement and properly executed endorsements required by Subsection 7.4. 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 Agreement.

**Section 8 – Indemnification**

The Contractor 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 Contractor, 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 Contractor ordering termination of Work. The Contractor shall immediately suspend or terminate Work, as ordered by the County. In the case of Termination, the Contractor 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. Contractor may terminate this Agreement for cause upon written notice to the County, provided however the County shall have thirty (30) days in which to cure the breach.

**Section 10 – Warranties and Waiver of Damages**

CONTRACTOR'S OBLIGATIONS UNDER THIS AGREEMENT ARE IN LIEU OF ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL INDIRECT OR CONSEQUENTIAL DAMAGES, OR LOSS OF PROFITS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

**Section 11 – Excused Non-Performance**

Contractor shall not be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting, directly or indirectly, from causes beyond the reasonable control of Contractor.

**Section 12 – Notices**

Any written notice or other correspondence shall be sent via certified U.S. mail, effective on the date of mailing, to the recipient's address as set forth in this Agreement or as designated in writing.

**Section 13 – Miscellaneous Terms & Conditions**

- 13.1 **Prohibited Interests:** Contractor 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. Contractor 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 Contractor, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended or assigned 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.

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- 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: Contractor certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.
- 13.8 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.
- 13.9 Non-Discrimination/Equal Opportunity: Contractor 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.

Contractor 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.

Contractor 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.

Contractor 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.

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

**RESOLUTION NO. 11-414 WAS NOT UTILIZED**

**RESOLUTION NO. 11-415**

**IN THE MATTER OF APPROVING PERSONNEL ACTIONS:**

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

The Director of 911 Communications recommends accepting the resignation of Kevin Hale a part-time Tele Communicator for 911 Communications; effective April 15, 2011;

Therefore Be It Resolved, that the Board of Delaware County Commissioners accept the resignation of Kevin Hale a part-time Tele Communicator for 911 Communications; effective April 15, 2011.

Vote On Motion Mr. Stapleton Aye Mr. O'Brien Aye Mr. Thompson Aye



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**RESOLUTION NO. 11-416**

**IN THE MATTER OF APPROVING A SERVICE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COUNTY COMMISSIONERS AND DOWNES FISHEL HASS AND KIM, LLP. ATTORNEYS AT LAW;**

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

**CONTRACT FOR SERVICES FOR DELAWARE COUNTY, OHIO**

**THIS AGREEMENT**, made this 25th day of April 2011, by and between the Delaware County Board of County Commissioners, hereinafter "County" and Downes Fishel Hass Kim LLP, Columbus, Ohio, hereinafter "Attorneys."

**WITNESSETH:**

**WHEREAS**, the County is desirous of securing the services of the Attorneys to assist and represent the County in matters of human resource personnel management, civil service, and public sector issues, labor relations, and negotiations, and such other and further labor and employment matters that may affect or come before the County; and

**WHEREAS**, the results of the decisions regarding such matters have a very significant fiscal and operational impact on the County; and

**WHEREAS**, the County has determined that certain legal, technical, and professional assistance will enable them to participate more effectively in these processes; and

**WHEREAS**, Downes Fishel Hass Kim LLP, is experienced and willing to perform the above services, wherein there is an agreement specifying the rights and duties of each party;

**NOW, THEREFORE**, in consideration of the mutual covenants herein, the parties agree as follows.

**ARTICLE I      SCOPE OF WORK**

The Attorneys will perform services in assisting the County as may be instructed by the County, including advice and services in order for the County to carry out their human resource management, civil service administration, labor relations programs and other matters. Such services to the County include:

- A. To provide necessary assistance, research, and analysis with respect to the specific problems that develop in matters that come before the County and to advise and/or represent the County in matters as directed by the County;
- B. To advise the County as to the implications of both economic and non-economic issues raised in both formal and informal bargaining sessions, along with the implications of the existing personnel practices and collective bargaining agreements, if any;
- C. To advise the County and participate in both formal and informal bargaining sessions with the representatives of the various employee organizations that may represent employees with the County; and
- D. To provide any other necessary representation to the County's management personnel and elected officials throughout specific negotiating periods and, at the request of the County, on other matters relating to the County's labor relations program, civil service, or as otherwise directed.

**ARTICLE II      CONSIDERATION AND TERM OF CONTRACT**

The compensation of the Attorneys shall be on the basis of an hourly rate of one hundred eighty dollars (\$180) per hour for all time expended by Partners on behalf of the County, and one hundred fifty-five dollars (\$155) per hour for all time expended by Associates on behalf of the County. The term of the contract shall commence on [January 1, 2011] and shall terminate on December 31, 2012. The Attorneys shall be compensated for all necessary and reasonable costs incurred exclusive of normal administrative costs. The Attorneys shall be compensated for all actual hours of work performed for the County including those hours for consultation, assistance, research, and preparation.

The Attorneys shall bill for services and costs on a monthly basis with compensation to be payable within thirty (30) calendar days after billing. The Attorneys shall provide the County with monthly billings setting forth, in itemized detail, all time charges and reasons therefore, along with all necessarily incurred disbursements and expenses and reasons therefore.

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This Agreement may be canceled by either party upon notice, in writing, delivered upon the party thirty (30) days prior to the effective date of cancellation. If such cancellation should be by the County, the County will be obligated to pay for the amount of work completed by the Attorneys. The parties further agree that should the Attorneys become unable for any reason to complete such work called for by virtue of this Agreement, that such work as the Attorneys have completed to the date of their inability to continue the terms of this Agreement shall become the property of the County as full discharge of Attorneys' liability hereunder without obligation for additional payment.

**ARTICLE III CONTRACT CONSTRUCTION AND ADMINISTRATION**

The parties expressly agree that this Agreement shall not be assigned by either party. The Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced under the laws of Ohio. The obligations of the County under this Agreement shall be subject to the applicable provisions of the Ohio Revised Code.

The Agreement constitutes the entire understanding between the parties and shall not be modified in any manner except by an instrument in writing executed by the parties.

If any term or provision of this Agreement or the application thereof to any person or circumstances should, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be effected thereby, and each remaining term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

Notwithstanding any provisions herein contained, it is expressly understood and agreed that the County shall not be construed or held to be a partner, associate, or joint venturer of the Attorneys in the conduct of the provisions of this Agreement. The Attorneys shall at all times have the status of an independent contractor without the right or authority to impose tort or contract liability on the County for contracts entered into by the Attorneys with third parties.

The County agrees to make available to the Attorneys all necessary records in the custody of the County and the assistance of all appropriate department employees, as the Attorneys may need for carrying out the work under this Agreement within legal limitations.

The parties agree that subsequent to the stated ending date of this Agreement, the Agreement and its terms shall remain in effect and automatically renew for successive thirty (30) day periods unless either party cancels this Agreement through the procedures stated herein.

**ARTICLE IV MISCELLANEOUS TERMS & CONDITIONS**

1. Non-Discrimination: The Attorneys hereby certify that they are—and shall, for the life of this Agreement, remain—in compliance with all applicable Federal, State, and Local laws, rules, and regulations in regard to equal opportunity employment and non-discrimination. In the event the Attorneys are determined, by the final order of a court or appropriate administrative agency, to be in violation of any applicable Federal, State, or Local law, rule, or regulation in regard to equal opportunity employment or non-discrimination, this Agreement may be immediately terminated, in whole or in part, and Attorneys may be ruled ineligible for future contracts with the County.
2. Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all disputes arising from this Contract shall be filed in and heard before the courts of Delaware County, Ohio.
3. Professional Liability Insurance: Throughout the life of this Agreement, the Attorneys agree to maintain, current and without lapse, professional liability insurance in an amount adequate to protect it and the County against any and all liability arising from the professional services provided under the Agreement. At any time throughout the life of the Agreement Delaware County may request proof of such insurance, which shall be promptly provided upon request.

Vote On Motion                      Mr. O'Brien              Aye              Mr. Thompson              Aye              Mr. Stapleton              Aye

**RESOLUTION NO. 11-417**

**IN THE MATTER OF APPROVING THE RENEWAL OF THE PARTICIPATION AGREEMENT BETWEEN THE COUNTY RISK SHARING AUTHORITY (CORSA) AND THE DELAWARE COUNTY BOARD OF COMMISSIONERS:**

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

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Whereas, the Director of Administrative Services recommends approval of the County Risk Sharing Authority (CORSA) Renewal Agreement;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the County Risk Sharing Authority (CORSA) Renewal Agreement;

Further Be It Resolved, that the Commissioners approve the Voucher to CORSA in the amount of \$359,902.00 (from organizational Key 60111901).

INVOICE	
Board of Commissioners of Delaware County 2011 / 2012 CORSA Program Costs	
Primary Loss Fund	\$182,980
Secondary Loss Fund	<u>\$54,657</u>
Total Loss Fund	\$237,637
Excess Insurance / Administrative Costs	\$136,796
Uninsured / Under Insured Motorists (UM/UIM)	\$Excluded
TOTAL PROGRAM COSTS	\$374,433
LESS: LOSS FUND MEMBER EQUITY	\$10,752
NET PROGRAM COSTS	\$363,681
LESS: LOSS CONTROL INCENTIVE PROGRAM	\$3,779
NET DUE CORSA	<u>\$359,902</u>

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

RESOLUTION NO. 11-418

IN THE MATTER OF APPROVING TRANSFER OF APPROPRIATIONS AND SUPPLEMENTAL APPROPRIATIONS FOR VETERANS SERVICES:

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

Transfer of Appropriation			
From	To		
10062601-5101	10062601-5001		
Veterans Services/Hospital Insurance	Veterans Services/Compensation	\$	14,500.00
Supplemental Appropriation			
10062601-5001	Veterans Services/Compensation	\$	14,600.00

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

RESOLUTION NO. 11-419

IN THE MATTER OF APPROVING THE ADVANCING OF FUNDS AND THE RETURNING OF PREVIOUSLY ADVANCED FUNDS:

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

Advance of Funds			
From	To		
10011102	20210108		\$ 280.20
Comm General	Bureau of Motor Vehicles		
Return Advance			

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<b>From</b>	<b>To</b>	
24531326	10011102	\$ 21,897.00
Sheriff ARRA Servers	Commissioners General	
20210108	10011102	\$ 30,600.00
Bureau of Motor Vehicles	Commissioners General	
Vote on Motion	Mr. O'Brien	Abstain Mr. Thompson Aye Mr. Stapleton Aye

COMMISSIONERS' COMMITTEES REPORTS

Commissioner O'Brien  
-The Annual MORPC Lunch Meeting Was Thursday; Director's Comments On Funding For Projects Not On First Tier

Commissioner Thompson  
-The Annual MORPC Lunch Meeting  
-On Tuesday Will Attend The Executive DKMM Meeting In Mt. Vernon In Preparation For The Upcoming Full Board Meeting

Commissioner Stapleton  
-Private/Public Partnership Will Improve Chances (On Director's Comments On MORPC Funding For Projects Not On First Tier)  
-Work Session Later Today

RESOLUTION NO. 11-420

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT, EMPLOYMENT, DISMISSAL, DISCIPLINE, PROMOTION, DEMOTION OR COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL; FOR PENDING OR IMMINENT LITIGATION AND TO CONSIDER THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSES :

It was moved by Mr. O'Brien, seconded by Mr. Thompson to adjourn into Executive Session at 10:20AM.

Vote On Motion                      Mr. Thompson    Aye        Mr. O'Brien        Aye        Mr. Stapleton        Aye

RESOLUTION NO. 11-421

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. O'Brien, seconded by Mr. Thompson to adjourn out of Executive Session at 12:25PM.

Vote On Motion                      Mr. Stapleton    Aye        Mr. O'Brien        Aye        Mr. Thompson        Aye

There being no further business, the meeting adjourned.

2:00PM Work Session

Fire Chiefs; County Wide EMS Discussion

Other Business To Come Before The Board

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Ken O'Brien

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Dennis Stapleton

COMMISSIONERS JOURNAL NO. 55 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 25, 2011

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Tommy Thompson

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Jennifer Walraven, Clerk to the Commissioners