

**COMMISSIONERS JOURNAL NO. 56 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JANUARY 23, 2012**

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. 12-68

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JANUARY 19, 2012:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on January 19, 2012; 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. 12-69

IN THE MATTER OF APPROVING A RESOLUTION HONORING THE SOCCER COACH AND TEAM OF OHIO WESLEYAN UNIVERSITY:

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

Ohio Wesleyan University Soccer Program

WHEREAS, the Ohio Wesleyan University men's soccer team has distinguished itself this past season by winning the North Coast Athletic Conference Championship and becoming the NCAA Division III National Champions for the second time in Ohio Wesleyan history; and

WHEREAS, nine members of the team were named to All-North Coast Athletic Conference teams – senior Andrew Miller (Medina), junior Kit North (Powell/Bishop Watterson) senior Dylan Stone (Easton, Conn./Barlow), senior Travis Wall (Columbus/Upper Arlington) to the first team; senior Tyler Bryant (Chillicothe/Uniot), junior Paul Hendricks (Columbus/Worthington Kilbourne), and sophomore Matt Shadoan (Dublin/Scioto) to the second team; and freshman Colton Bloecher (Lewis Center/Olentangy Orange) and sophomore Jon Stegner (Powell/Olentangy Liberty); and

WHEREAS, with the victory in the national championship game, the team provided Coach Dr. Jay Martin with his 608th victory, making him the all-time winningest coach in collegiate men's soccer, and honored for the third time with an NCAA Division III National Coach of the Year award; and

WHEREAS, Martin has coached at Ohio Wesleyan since 1977, compiling a record of 608-115-49 and Martin's teams have won the NCAC championship 20 times, reached the NCAA Division III semifinals nine times, and finished as national runner-up twice; and

WHEREAS, five Ohio Wesleyan University men's soccer players were named to the National Soccer Coaches Association of America All-Great Lakes Region teams – Kit North and Travis Wall to the first team; Andrew Miller to the second team; and Matt to the third team; Travis Wall earned first-team All-America honors from the NSCAA, and Dylan Stone earned third-team All-America honors, and Travis Wall was named NCAA Division III Player of the Year by the National Soccer Coaches Association of America, and

WHEREAS, many of the more than 175,000 residents living in Delaware County support OWU and its programs, and several members of the soccer team are from Delaware County and attended area school districts;

NOW THEREFORE, be it resolved that the Delaware County Board of Commission honors and applauds the Ohio Wesleyan University men's soccer team for its outstanding season and Coach Jay Martin for his exemplary

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career with the presentation of this proclamation.

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

RESOLUTION NO. 12-70

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0120 AND PROCUREMENT CARD PAYMENTS IN BATCH NUMBER PCAPR0120:

It was moved by Mr. Thompson, seconded by Mr. Stapleton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0120, and Procurement Card Payments in batch number PCAPR0120 and Purchase Orders as listed below:

PR Number	Vendor Name	Line Desc	Line Account	Amount	Number
R1202063	UNITED LABORATORIES INC	DEGREASER AND ODOR CONTROL - OECC	66211903 - 5201	\$8,000.00	0001
R1202063	UNITED LABORATORIES INC	DEGREASER AND ODOR CONTROL - ALUM CREEK	66211904 - 5201	\$10,000.00	0002
R1202063	UNITED LABORATORIES INC	DEGREASER AND ODOR CONTROL - TARTAN	66211906 - 5201	\$3,000.00	0003
R1202063	UNITED LABORATORIES INC	DEGREASER AND ODOR CONTROL - SCIOTO RESERVE	66211907 - 5201	\$2,100.00	0004
R1202063	UNITED LABORATORIES INC	DEGREASER AND ODOR CONTROL - SCIOTO HILLS	66211910 - 5201	\$1,200.00	0005
R1202071	VOSS BROS SALES & RENTAL INC	OPERATING SUPPLIES - OECC	66211903 - 5201	\$1,200.00	0001
R1202071	VOSS BROS SALES & RENTAL INC	EQUIPMENT REPAIRS - OECC	66211903 - 5328	\$250.00	0002
R1202071	VOSS BROS SALES & RENTAL INC	OPERATING SUPPLIES - ALUM CREEK	66211904 - 5201	\$2,000.00	0003
R1202071	VOSS BROS SALES & RENTAL INC	MINOR TOOLS AND EQUIPMENT - ALUM CREEK	66211904 - 5250	\$1,000.00	0004
R1202071	VOSS BROS SALES & RENTAL INC	INVENTORIED EQUIPMENT - TARTAN	66211906 - 5260	\$500.00	0005
R1202071	VOSS BROS SALES & RENTAL INC	INVENTORIED EQUIPMENT - SCIOTO RESERVE	66211907 - 5260	\$500.00	0006
R1202071	VOSS BROS SALES & RENTAL INC	INVENTORIED EQUIPMENT - SCIOTO HILLS	66211910 - 5260	\$500.00	0007
R1202117	ARAMARK UNIFORM SERVICES	RENTAL AND CLEANING OF UNIFORMS - REGIONAL SEWER	66211901 - 5336	\$15,000.00	0001
R1202117	ARAMARK UNIFORM SERVICES	RENTAL AND CLEANING OF MATS - OECC	66211903 - 5328	\$2,000.00	0002
R1202117	ARAMARK UNIFORM SERVICES	RENTAL AND CLEANING OF MATS - ALUM CREEK	66211904 - 5328	\$2,000.00	0003
R1202240	DOWNES FISHEL HASS KIM LLP	PROFESSIONAL LEGAL SERVICES	10011303 - 5301	\$15,000.00	0001
R1202328	CEBCO	MEDICAL PRESCRIPTIONS 2012	60211902 - 5370	\$10,000,000.00	0001

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

RESOLUTION NO. 12-71

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The EMS Department is requesting that Brent Staley attend an ITLS Emergency Care Conference in Columbus, Ohio February 24-26, 2012, at the cost of \$250.00.

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Environmental Services is requesting that Joe Scherler and Duane Matlack attend the Central Ohio Code Officials Association Conference (and seminar) in Reynoldsburg, Ohio on January 23, 2012 at a total cost of \$10.00 from org key 10011301.

Environmental Services is requesting that Brian Keener and Kevin Brutchey attend the Ohio Pesticide Commercial Applicator Recertification Conference in Columbus, Ohio on March 8, 2012 at a total cost of \$190.00 from org key 66211901.

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

RESOLUTION NO. 12-72

IN THE MATTER OF APPROVING A CONTRACT OF SALE AND PURCHASE BETWEEN DONDRA E. SANDS, TRUSTEE OF THE DONDRA E. SANDS TRUST DATED THE 17 DAY OF NOVEMBER, 2006, AND THE BOARD OF DELAWARE COUNTY COMMISSIONERS FOR THE BROWN ROAD BRIDGE REPLACEMENT PROJECT:

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

Whereas, the County Engineer recommends approval of the contract of sale and purchase with Dondra E. Sands, Trustee of the Dondra E. Sands Trust Dated the 17 day of November, 2006, for the Brown Road Bridge Replacement Project;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approves the contract of sale and purchase with Dondra E. Sands Trust Dated the 17 day of November, 2006, for the Brown Road Bridge Replacement Project;

**CONTRACT OF SALE AND PURCHASE
VACANT LAND/IMPROVEMENTS**

WITNESSETH: On this 23rd day of January, 2012, Dondra E. Sands, Trustee of the Dondra E. Sands trust dated the 17 day of November, 2006, whose address is 242 Brown Road, Marysville, Ohio, 43040 hereinafter, the SELLER, in consideration of the mutual promises, agreements, and covenants herein do hereby grant, remise, and sell to the Board of County Commissioners of Delaware County, Ohio, whose address is 101 North Sandusky Street, Delaware, Ohio 43015, hereinafter the PURCHASER, the following described premises, hereinafter the PROPERTY, to wit:

See Attached Exhibit A (Property Description)
6-WD, 6-T Brown Road Bridge over Bokes Creek

By this reference, Exhibit A is incorporated herein and made a part hereof as if fully rewritten herein.

TERMS OF PURCHASE:

1. PURCHASER promises and agrees to pay to the SELLER the total sum of Twelve Thousand Two Hundred Fifty-Three Dollars (\$12,253.00) which total sum to be paid the SELLER pursuant to this CONTRACT shall be in exchange and constitute the entire compensation for all of the following:
 - (A) All title, rights, and interest in and to the PROPERTY; and,
 - (B) For damages to any residual lands of the SELLER; and,
 - (C) For SELLER's covenants herein; and,
 - (D) For expenses related to the relocation of the SELLER, their family, and business; and,
 - (E) For any supplemental instruments necessary for transfer of title.

It is understood and agreed that the SELLER is responsible for all delinquent taxes and assessments on the PROPERTY, including, but not limited to, penalties and interest and all other real estate taxes and assessments which are a lien on the PROPERTY on the date of closing. The current calendar year's taxes are to be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever date is earlier. SELLER is also responsible for all future installments of special assessments levied and assessed against the PROPERTY, whether these special assessments have or have not been certified to the county auditor for collection, provided those installments are a lien on the PROPERTY at the date of transfer. The PURCHASER may hold in escrow a sufficient amount of the purchase money to satisfy the above items. Any balance remaining after taxes, assessments, etc. are discharged, shall be refunded to the SELLER and any deficiency shall be the responsibility of the SELLER.

2. Closing shall occur at a time and place agreed upon between the parties, but no later than 30 days after notification of the SELLER by the PURCHASER that PURCHASER is ready to close. All title and interest in the PROPERTY shall transfer from the SELLER to the PURCHASER and closing shall occur within ninety (90) days. This date by which transfer and closing must occur may be modified via a signed writing mutually agreed upon by all parties to this CONTRACT.

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3. SELLER agrees to transfer, sell, and convey, upon the fulfillment of all the obligations and terms of this CONTRACT, by a good and sufficient deed of general warranty of title, with full release of dower, to said PURCHASER, its successors and assigns, the PROPERTY in fee simple, together with all the appurtenances and hereditaments thereunto belonging and improvements now located thereon and all fixtures of every nature now attached or used with said land and improvements.
4. SELLER further agrees to release to the PURCHASER, its heirs, successors and assigns, any and all abutters rights or easements, including access rights to and from the PROPERTY, what ever the nature of such access rights, including but not limited to, across, in, over, upon, and above, appurtenant to any remaining lands of the SELLER not sold, transferred, or conveyed to the PURCHASER pursuant to this CONTRACT of which the PROPERTY now forms a part. (This paragraph applies to limited access parcels only.)
5. SELLER further agrees to execute supplemental instruments necessary for the construction and maintenance over, across, and upon the PROPERTY, necessary for the road, street, and/or highway project for which the PROPERTY was acquired.
6. SELLER further agrees to transfer, sell, and convey the PROPERTY with release of dower and warranting the same free and clear from all liens and encumbrances whatsoever, excepting zoning restrictions and public utility easements of record.
7. SELLER further agrees to assist wherever possible to procure, record, and deliver to the PURCHASER releases and cancellations of all interest in such title, including, but not limited to tenants, lessees or others now in possession, or in any manner occupying or having an interest in the PROPERTY, and all assessment claims against the PROPERTY.
8. Prior to acceptance by the PURCHASER, the execution of this CONTRACT by the SELLER shall constitute an offer to sell which shall continue for a period of twenty (20) days from the date of such execution. Upon acceptance of this CONTRACT by the PURCHASER within said period, it shall constitute a valid and binding CONTRACT of Sale and Purchase.
9. SELLER agrees that the PURCHASER may designate an escrow agent who shall act on behalf of both parties in connection with the consummation and closing of this CONTRACT.
10. SELLER also agrees that he will not destroy, change, alter, or damage the existing character of the PROPERTY. The SELLER understands and hereby assumes the risk of and any and all damage, change, or alteration that may occur to the PROPERTY between execution of this CONTRACT and the date the PURCHASER takes possession of the PROPERTY and hereby agrees to indemnify the PURCHASER for any and all such damage, change, or alteration that occurs.

In the event that any damage, change, alteration or destruction occurs to the PROPERTY resulting from any cause whatsoever, prior to the date possession is surrendered to the PURCHASER, the SELLER agrees to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER, or to accept the purchase price consideration, hereinabove stated, less the cost of restoration. In the event the SELLER refuses to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER or to accept the money consideration less the cost of such restoration as hereinabove stated, the PURCHASER may, at its option after discovery or notification of such destruction, change, alteration, damage, removal, or injury, terminate this CONTRACT by signed written notice to said SELLER. In addition to termination of the CONTRACT, PURCHASER hereby preserves and may exercise any and all legal options, actions, causes, or remedies that are or may be available to the PURCHASER. Nothing in this provision or this CONTRACT shall be interpreted to limit the PURCHASER from exercising any such available legal options, actions, causes, or remedies.

11. Until such time as the SELLER completely vacates the PROPERTY, the SELLER agrees to indemnify, save and hold the PURCHASER, and all of its officers, employees, agents, servants, representatives, and volunteers free and harmless from any and all claims of liability, whatever the source or nature, related to the SELLER's use and occupation of the PROPERTY and from any and all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the SELLER's use or occupation of the PROPERTY. The SELLER shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the PURCHASER or any of its officers, employees, agents, servants, representatives, and volunteers by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees.
12. The SELLER hereby acknowledges that the compensation or consideration specified in this CONTRACT represents and is the full and total amount of compensation and consideration that the SELLER will and is entitled to receive from the PURCHASER in exchange for, in relation to, and in

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connection with the transfer of the PROPERTY. The SELLER and the SELLER's heirs, executors, administrators, successors, and assigns hereby forever release the PURCHASER from any and all claims for any damages, injuries, or any additional compensation or consideration than is expressly provided for in this CONTRACT. The SELLER hereby further forever releases the PURCHASER from any and all claims the SELLER, and the SELLER's heirs, administrators, executors, successors, and assigns may make as related to the transfer of the PROPERTY, costs associated with the transfer of the PROPERTY, for any damage to any residue property as a result of the transfer, for any damage or injury suffered to the SELLER or the SELLER's business as a result of relocating from the PROPERTY, for expenses related to the relocation of the SELLER, their family, and business, or any other cost, damage, or injury, whatever the source or nature, associated with or the result of the transfer of the PROPERTY.

13. This CONTRACT shall be binding upon the SELLER and the SELLER's heirs, executors, administrators, successors and assigns, and shall inure to the benefit of the PURCHASER, its heirs, successors and assigns.
14. If any item, condition, portion, or section of this CONTRACT 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 CONTRACT and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
15. This CONTRACT shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this CONTRACT shall be filed in and heard before the courts of Delaware County, Ohio.
16. This CONTRACT and its Attachments shall constitute the entire understanding and agreement between the SELLER and the PURCHASER, 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.
17. This CONTRACT shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.
18. This CONTRACT shall include a letter from the Delaware County Engineer to the SELLER, dated July 26, 2011, which is attached as Exhibit B and, by this reference, fully incorporated herein, and a letter from the Delaware County Engineer to the SELLER, dated September 12, 2011, which is attached as Exhibit C and, by this reference, fully incorporated herein.

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

RESOLUTION NO. 12-73

IN THE MATTER OF APPROVING A CONTRACT OF SALE AND PURCHASE BETWEEN CLAUDE E. FRY AND JOYCE A FRY, CO-TRUSTEES, AND THE BOARD OF DELAWARE COUNTY COMMISSIONERS FOR THE DEL-CR124-0.26 HOME & CONCORD INTERSECTION IMPROVEMENTS:

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

Whereas, the County Engineer recommends approval of the contract of sale and purchase with Claude E. Fry and Joyce A. Fry, Co-Trustees for the DEL-CR124-0.26 Home & Concord Intersection Improvements.

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the contract of sale and purchase with Claude E. Fry and Joyce A. Fry, Co-Trustees for the DEL-CR124-0.26 Home & Concord Intersection Improvements.

**CONTRACT FOR SALE AND PURCHASE OF REAL PROPERTY
WITHOUT BUILDING(S)**

**PARCEL(S): 4-SH, 4-SH1
DEL-CR124-0.26**

This Agreement is by and between the Delaware County Board of Commissioners ["Purchaser"] and Claude E. Fry and Joyce A. Fry, Co-Trustees ["Seller"; "Seller" includes all of the foregoing named persons or entities]. Purchaser and Seller are referred to collectively in this Agreement as "Parties."

In consideration of the mutual promises, agreements and covenants herein contained the Parties contract as follows:

1. Price and Consideration

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Purchaser shall pay to Seller the sum of \$25,000.00, which sum shall constitute the entire amount of compensation due Seller for: (a) the real property to be conveyed, including all fixtures; (b) any and all damages to any residual lands of Seller; (c) Seller's covenants set forth herein; (d) any and all supplemental instruments reasonably necessary to transfer the title of the subject property. Purchaser is purchasing the subject property in order to construct a round-about for public use. Notwithstanding any other term or provision in this Agreement, Purchaser shall remain liable to Seller for any damages to Seller's property resulting from work negligently performed by Purchaser or its agents.

In addition to the foregoing considerations, Purchaser further agrees to the following:

A. Purchaser shall permit construction of a driveway for residential and agricultural access purposes, at no additional cost to the Purchaser, within 2 years of execution of this Agreement. The center of said driveway shall be located at or near the location of an existing driveway on Concord Road, located approximately 230 feet south of the proposed intersection with Home Road, further described as being at or near Station 107+33 as shown on the plans for DEL-CR124-0.26. The width of the driveway approach shall not exceed 30 feet when measured at the edge of pavement of Concord Road. Seller further agrees to apply for a permit, which the Purchaser agrees to grant, subject to compliance with all applicable rules and regulations for permit applications, for construction of said driveway and to be bound by the rules and regulations of such permit, except that any fees charged by the Purchaser associated with the permit for construction of said driveway shall be waived. As additional consideration for this Agreement, the Purchaser shall provide to Seller, on or before the final completion date of the project known as DEL-CR124.0.26, a culvert pipe for the Seller's driveway construction permitted herein. The pipe shall meet or exceed any and all applicable design, construction, and permitting criteria or requirements for the driveway permitted herein.

B. Purchaser shall offer, at no cost to Seller, wood logs from trees removed on the Seller's property by the Purchaser or his authorized contractor(s) or agent(s), as part of DEL-CR124-0.26, available to the Seller at the time of removal at no cost to the Seller. The Seller shall make arrangements with Purchaser to remove any wood logs chosen by Seller from the road right of way within 30 days of removal.

Seller shall be exclusively responsible for all delinquent taxes and assessments, including penalties and interest, and for all other real estate taxes and assessments that are a lien as of the date on which this Agreement closes. The taxes and assessments for the current calendar year shall be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever is earlier in time. Seller shall be responsible for any and all future installments of any special assessments levied and assessed against the real property, whether or not any such special assessment has been certified to the county auditor for collection, provided that such installments of special assessments shall be a lien on the subject real property as of the date of transfer of title. Purchaser shall clearly identify the boundaries of the property purchased through the use of survey pins. Purchaser may withhold in escrow a sufficient amount of the purchase money to satisfy the foregoing items to be paid by Seller; any balance remaining after such taxes, assessments, etc., are discharged shall be paid to Seller and any deficiency shall be the responsibility of Seller.

2. Estate Sold and Deed to Transfer

Seller, upon fulfillment of all the obligations and terms of this Agreement, shall sell and convey to Purchaser, its successors and assigns, the property which is more particularly described in Exhibit A attached hereto and by this reference incorporated herein, together with all improvements now located thereon and all fixtures of every nature now attached to or used with said land and improvements including, but not limited to, driveways, signs, utility fixtures, shrubbery and trees.

If the rights, titles and estates described in Exhibit A constitute the fee simple in, to and of the real property, then such sale and conveyance by Seller shall be by a good and sufficient general warranty deed with, if applicable, full release of dower. In the event the rights, titles, and estates described in Exhibit A constitute something less than the fee simple of the real property, then such sale and conveyance by Seller shall be by a good and sufficient deed or other instrument regularly and ordinarily used to transfer such lesser rights, titles and estates with, if applicable, full release of dower.

3. Limited Access Parcels - Waiver of Abutters' Rights

If the property described in Exhibit A is designated by Purchaser as a limited access parcel, then Seller further agrees to release to Purchaser, its successors and assigns, any and all abutters' rights, including access rights, appurtenant to any remaining lands of Seller (from which the property described in Exhibit A is being severed) in, over, on, from and to the property described in Exhibit A.

4. Supplemental Instruments

Seller agrees to execute any and all supplemental instruments or documents necessary to vest Purchaser with the rights, titles and interests described in Exhibit A.

5. Warranty of Title

Seller shall, and hereby does, warrant that the property described in Exhibit A is free and clear from all liens and encumbrances whatsoever, except: (a) easements, restrictions, conditions and covenants of record; (b) all legal highways; (c) zoning and building laws, ordinances, rules and regulations; and (d) any and all taxes and assessments not yet due and payable.

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6. Elimination of Others' Interests

Seller shall assist, in whatever manner reasonably possible under the circumstances, to procure and deliver to Purchaser releases and cancellations of any and all other rights, titles and interests in the property described in Exhibit A, such as, but not limited to, those belonging to tenants, lessees, mortgagees or others now in possession or otherwise occupying the subject premises, and all assessment claims against said property.

Seller and Purchaser agree that if a mortgagee of Seller or of a predecessor in title fails to cooperate with the efforts to obtain a release of that mortgagee's mortgage lien secured by the property described in Exhibit A, then and in that event this Agreement shall become null and void and the parties to this Agreement shall be discharged and released from any and all obligations created by this Agreement; for the purposes of this provision, the term "fails to cooperate" shall include a demand or request by any such mortgagee for a fee to process such a release of that mortgagee's mortgage lien that Purchaser, in its sole discretion, deems to be excessive.

7. No Change in Character of Property

Seller shall not change the existing character of the land or alter, remove, destroy or change any improvement located on the property described in Exhibit A. However, Seller shall have the rights to remove the wood logs pursuant to Section 1(B) of this agreement. If, prior to the date on which possession of the subject property is surrendered to Purchaser, the subject property suffers any damage, change, alteration or destruction then, and without regard to the cause thereof, Seller shall restore the subject property to the condition it was in at the time Seller executed this Agreement; in the alternative, Seller may agree to accept the abovementioned purchase price less the costs associated with such restoration. If the Seller refuses to either restore the premises or accept the decreased consideration as aforementioned, then Purchaser, at its option after discovery or notification of such damage, change, alteration or destruction, may terminate and cancel this Agreement upon written notice to Seller.

8. Offer to Sell

If Seller executes this Agreement prior to Purchaser, then this Agreement shall constitute and be an Offer to Sell by Seller that shall remain open for acceptance by Purchaser for a period of 20 days immediately subsequent to the date on which Seller delivers such executed Agreement to Purchaser. Upon Purchaser's acceptance and execution of this Agreement within said period of 20 days, this Agreement shall constitute and be a valid Contract for Sale and Purchase of Real Property that is binding upon the Parties.

9. Designation of Escrow Agent

Seller agrees that Purchaser may (at no cost to Seller) designate an escrow agent to act on behalf of the Parties in connection with the consummation and closing of this Agreement.

10. Closing Date

The consummation and closing of this Agreement shall occur at such time and place as the Parties may agree, but no later than 10 days after Purchaser notifies Seller in writing that Purchaser is ready to consummate and close this Agreement. Provided, however, in no event shall such consummation and closing occur more than 120 days after the last date on which one of the Parties executes this Agreement.

11. Physical Possession of Structures Occupied by Seller

Seller shall surrender physical possession of the land and improvements to Purchaser not later than the date on which Purchaser tenders the purchase price to Seller.

12. Binding Agreement

Any and all of the terms, conditions and provisions of this Agreement shall be binding upon and shall inure to the benefit of Seller and Purchaser and their respective heirs, executors, administrators, successors and assigns.

13. Multiple Originals

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute but one and the same instrument.

14. Entire Agreement

This instrument contains the entire agreement between the Parties, and it is expressly understood and agreed that no promises, provisions, terms, warranties, conditions or obligations whatsoever, either express or implied, other than herein set forth, shall be binding upon Seller or Purchaser.

15. Amendments and Modifications

No amendment or modification of this Agreement shall be valid or binding upon the Parties unless it is made in writing, cites this Agreement and is signed by Seller and Purchaser.

16. Repurchase of the Property

If Purchaser decides not to use appropriated property for the purpose of creating a public round-about, Seller may repurchase the property for its fair market value as determined by an independent appraisal made by an appraiser chosen by agreement of the parties or, if the parties cannot agree, an appraiser chosen by the court. The right of repurchase shall be extinguished if any of the following occur:

(A) The Seller declines to repurchase the property.

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(B) The Seller fails to repurchase the property within sixty days after the Purchaser offers the property for repurchase.

(C) A plan, contract, or arrangement is authorized that commences an urban renewal project that includes the property.

(D) The agency grants or transfers the property to any other person or agency.

(E) Five years have passed since the property was appropriated.

(F) Prior to the filing of the petition for appropriation, the appropriated property was a blighted parcel, and the prior owner contributed to the blight.

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

RESOLUTION NO. 12-74

IN THE MATTER OF AWARDING THE BID AND APPROVING A CONTRACT WITH SHELLY AND SANDS, INC. FOR DEL-CR124-0.26 HOME & CONCORD INTERSECTION IMPROVEMENTS:

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

Whereas, the County Engineer recommends approval of the following:

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

**DEL-CR124-0.26 HOME & CONCORD INTERSECTION IMPROVEMENTS
BID OPENING OF JANUARY 10, 2012**

As the result of the above referenced bid opening, The Engineer recommends that a bid award be made to Shelly and Sands, Inc. of Columbus, Ohio, the low bidder for the project. A copy of the bid tabulation is available for your information.

Also available are two copies of the contract with Shelly for your approval. Also available are the Certification/Affidavit in Compliance with ORC Section 3517.33 and the Terrorist Exclusion List along with the Prosecutor's and Auditor's approvals have been obtained.

CONTRACT

THIS AGREEMENT is made this 23rd day of January, 2012 by and between Shelly and Sands, Inc., 1515 Harmon Avenue, Columbus, Ohio 43223, hereinafter called the "Contractor" and the Delaware County Board of Commissioners, hereinafter called the "Owner".

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-CR124-0.26 Home & Concord Intersection Improvements", and required supplemental work for the project all in strict accordance with the Contract Documents.

Article 2. The Contract Price:

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed *One Million Five Hundred Twenty-Three Thousand Three Dollars and Ten Cents (\$1,523,003.10)* 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 Bidder

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- e. Signed Copy of Bid
- f. Work Specifications (including all plans, drawings, etc.)
- g. Specifications – General Provisions
- h. Federal and State Requirements

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. Stapleton Aye Mr. O'Brien Aye

RESOLUTION NO. 12-75

IN THE MATTER OF ACCEPTING THE AWARD AND APPROVING THE GRANT AGREEMENT BETWEEN THE COUNCIL FOR OLDER ADULTS AND THE DELAWARE COUNTY COMMISSIONERS AND THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES:

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

WHEREAS, the Delaware County Department of Job and Family Services has applied for and been awarded the Council for Older Adults (COA) Grant (the “Grant”); and

WHEREAS, the Grant enables the Department to provide seasonal chore services for older adults while creating youth work experiences; and

WHEREAS, a local match is not required for the Grant; and

WHEREAS, Commissioner Stapleton, as President of the Board of County Commissioners (the “Board”), is listed as the designated official for Delaware County for the Grant; and

WHEREAS, the Board desires uninterrupted compliance with the Grant reporting requirements by maintaining Commissioner Stapleton as the designated official;

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

Section 1. The Board hereby accepts the award of the Grant as follows:

Grant #	n/a
Source:	COA
Grant Period:	April 1, 2012 – November 1, 2012
Federal Grant Amount:	n/a
Local Match:	<u>0.00</u>
Total Grant Amount:	\$32,836.00

Section 2. The Board hereby authorizes Commissioner Stapleton, as the designated official, to execute reports and administrative documents for the Grant.

Section 3. When reports or administrative documents require execution by the designated official, a copy of the report or documents shall be provided to the Clerk of the Board, along with a copy of this Resolution.

NOTIFICATION OF GRANT AWARD

This grant agreement is entered into as a cooperative effort between the Council for Older Adults, grantor, and the Delaware County Department of Job and Family Services, hereinafter referred to as grantee.

The Council for Older Adults hereby grants funds in the amount not to exceed \$32,836 to the grantee, for the purpose of providing summer chore services for eligible older adults residing in Delaware County. The period of this grant will be April 1, 2012 through November 1, 2012.

The parties intend this agreement to form a contractual understanding regarding services enumerated herein. This agreement does not provide an agency relationship. The grantee is responsible for honoring the spirit of this agreement and serving the service mission stated in the grant application. Toward this end, Grantee will have all reasonable autonomy in performing the services described in the grant.

It is understood and agreed that this grant is being made pursuant to all application materials and representations made therein, including, but not limited to Goals and Objectives, Budget, and Conditions of Participation and that these documents are made part of this agreement.

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Further it is agreed that the granting of these funds does not imply any intent or obligation on the part of the Council for Older Adults to continue or extend this agreement beyond the period of this grant or to award future grants for this or other purposes. All unutilized funds, as well as, equipment purchased with grant funds are the properties of the Council for Older Adults and will be returned to the Council upon request.

Grantee agrees to add the Council for Older Adults' logo and the following statement to all stationary and promotional materials throughout the duration of grant: "Services funded in part through your local Council for Older Adults."

The grantee agrees to live within the scope of the approved budget. A line item variance of up to ten percent is approved. Any anticipated line item variance of more than ten percent must be formally requested in writing and approved in writing. The grantee accepts liability for all unapproved expenditures.

Additional Provisions:

1. Grantee agrees to submit each **monthly Programmatic and Financial Request Reports** to the Council not later than the 10th of the month following the month outlined in the report. The final report shall be submitted not later than December 1, 2012.

We the undersigned, desiring to enter into this agreement and to faithfully pursue the goals of this agreement, in acknowledgment of all conditions and representations made herein affix our names as the authorized representatives of the parties to this agreement.

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

RESOLUTION NO. 12-76

IN THE MATTER OF APPROVING THE DKMM COUNTY RECYCLING AND LITTER PREVENTION OFFICE PROGRAM STATUS REPORT FOR THE SECOND HALF OF 2011:

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

**Exhibit #2
Program Status Report - 2011
Report of DKMM District Funds Spent**

REPORTS due: July 15, 2011 January 15, 2012

CRLPO: Delaware Board of Commissioners (Delaware General Health District

DATE OF REPORT: July 1 2011 through December 31 2011

June 30, 2011 Cash balance	\$26,468.54
AMOUNT OF FUNDS RECEIVED:	\$12,500.00
APPROVED CARRYOVER BALANCE (2010)	\$_____
TOTAL FUNDS AVAILABLE	\$38,968.54

EXPENDITURES:

Salaries	\$22,724.71
Fringe Benefits	\$15,939.29
Contracts	\$ 1,500.00
Advertising	\$ 1,403.75
Equipment	-
Travel	\$ 301.14
Supplies	\$ 473.38
Awards/Recognition	-
Other (Explain)	\$ 554.88 (54.88 copies, 200 postage meter reimbursement, 300.00 KAB membership)

TOTAL EXPENDITURES \$ 42,897.15

FUND BALANCE \$ -3,928.61

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

RESOLUTION NO. 12-77

IN THE MATTER OF APPROVING THE FORMULA 2011 ENVIRONMENTAL REVIEW RECORD, CERTIFICATION OF DETERMINATION OF SUBSEQUENT EXEMPTION FOR A CATEGORICAL EXCLUSION PROJECT, FOR THE VILLAGE OF ASHLEY STREET IMPROVEMENTS AND THE VILLAGE OF SUNBURY SIDEWALK IMPROVEMENTS ADA RAMPS, AND THE SUBMITTAL OF THE ENVIRONMENTAL REVIEW RECORD TO THE OHIO

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DEPARTMENT OF DEVELOPMENT, OFFICE OF COMMUNITY DEVELOPMENT (OCD):

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

WHEREAS, the Ohio Department of Development allocated \$153,000 in the Fiscal Year 2011 Small Cities Community Development Block (CDBG) grant funds under the Formula Program to Delaware County, and

WHEREAS, the Commissioners approved Resolution No. 11-781 dated July 25, 2011, to use Formula 2011 grant funds to assist Village of Ashley with Street Improvements in the amount up to \$25,000, and the Village of Sunbury with Sidewalk Improvements ADA Ramps in the amount up to \$ 24,000, and

WHEREAS, the Office of Community Development and federal regulations require an Environmental Review Record to be completed, submitted and released for the Street Improvements and Sidewalk Improvements ADA Ramps before any work can be started, and

WHEREAS, the Economic Development Department completed the Environmental Review Record and recommends that the projects be certified as Categorical Exclusion, and

WHEREAS, the Certification of Determination of Subsequent Exemption for a Categorical Exclusion Project for the Street Improvements and Sidewalk Improvements ADA Ramps follows and needs to be signed and submitted to the Office of Community Development for their consideration, and

WHEREAS, once reviewed and approved, OCD will issue a Release of Funds for these Formula 2011 projects to start;

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

Section 1. The Delaware County Commissioners approve and authorize the President of the Board to execute and submit the Environmental Review Record Certification of Determination of Subsequent Exemption for a Categorical Exclusion Projects for the Village of Ashley Street Improvements, and the Village of Sunbury Sidewalk Improvement ADA Ramps.

**CERTIFICATION OF
DETERMINATION OF SUBSEQUENT EXEMPTION FOR A
CATEGORICAL EXCLUSION PROJECT**

The Delaware County requests that the State of Ohio release Federal funds under Section 104 (g) of Title I of the Housing and Community Development Act of 1974, as amended; Section 288 of Title II of the Cranston Gonzales National Affordable Housing Act (NAHA), as amended; and/or Title IV of the Stewart B. McKinney Homeless Assistance Act, as amended; to be used for the following projects:

<u>Project Name</u> <u>(if applicable)</u> <u>Activity Name</u>	<u>Location</u>	<u>Activity No.</u>	<u>Activity Amt.</u>	<u>Grant Agreement</u> <u>No.</u>
Street Improvements	Village of Ashley	01	\$25,000.00	B-F-11-1AT-1
Sidewalk Improvements ADA Ramps	Village of Sunbury	03	\$24,000.00	B-F-11-1AT-1

An Environmental Review Record (ERR) has been prepared for each of the projects listed above by Delaware County. The environmental review records are on file and available for the public's examination and copying, upon request, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday (except holidays) at the Economic Development Office, 101 North Sandusky Street, Delaware, OH 43015.

Pursuant to the review, it is the finding of Delaware County that the above listed projects were initially determined to be categorically excluded per 24 CFR 58.35 (a) (1 - 6), and in compliance with the applicable requirements of 24 CFR 58.6. Upon completion of the items in the Statutory Checklist, Delaware County has determined that there are no circumstances which require compliance with any other Federal laws and authorities cited in 24 CFR 58.5.

The above listed projects do not require an environmental impact statement or environmental assessment. No extraordinary circumstances exist for the projects. Therefore, pursuant to 24 CFR 58.34 (a) (12), the above projects are can subsequently be determined to be exempt.

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

RESOLUTION NO. 12-78

IN THE MATTER OF APPROVING THE FORMULA 2011 ENVIRONMENTAL REVIEW RECORD, CERTIFICATION OF CATEGORICAL EXCLUSION PROJECT NOT SUBJECT TO 58.5, FOR THE DELAWARE AREA TRANSIT AUTHORITY (DATA) ADA EQUIPMENT, AND THE SUBMITTAL OF THE ENVIRONMENTAL REVIEW RECORD TO THE OHIO DEPARTMENT OF DEVELOPMENT, OFFICE OF COMMUNITY DEVELOPMENT (OCD):

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

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WHEREAS, the Ohio Department of Development allocated \$153,000 in the Fiscal Year 2011 Small Cities Community Development Block (CDBG) grant funds under the Formula Program to Delaware County, and

WHEREAS, the Commissioners approved Resolution No. 11-781 dated July 25, 2011, to use Formula 2011 grant funds in the amount of \$22,900, and Resolution No. 11-782 dated July 25, 2011, to use Revolving Loan Funds in the amount of \$4,800 to assist DATA with ADA Equipment for two new buses, and

WHEREAS, the Office of Community Development and federal regulations require an Environmental Review Record to be completed, submitted and released for the ADA Equipment before any work can be started, and

WHEREAS, the Economic Development Department completed the Environmental Review Record and recommends that the project be certified as Categorical Exclusion Not Subject to 58.5, and

WHEREAS, the Certification of Categorical Exclusion Project Not Subject to 58.5 follows and needs to be signed and submitted to the Office of Community Development for their consideration, and

WHEREAS, once reviewed and approved, OCD will issue a Release of Funds for this Formula 2011 project to start;

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

Section 1. The Delaware County Commissioners approve and authorize the President of the Board to execute and submit the Environmental Review Record Certification of Categorical Exclusion Project Not Subject to 58.5 for DATA ADA Equipment for two buses.

**CERTIFICATION OF
CATEGORICAL EXCLUSION PROJECT NOT SUBJECT TO § 58.5
(BUT REQUIRED TO COMPLY WITH 24 CFR 58.6)**

Delaware County requests that the State of Ohio release Federal funds under Section 104 (g) of Title I of the Housing and Community Development Act of 1974, as amended; Section 288 of Title II of the Cranston Gonzales National Affordable Housing Act (NAHA), as amended; and/or Title IV of the Stewart B. McKinney Homeless Assistance Act, as amended; to be used for the following projects:

<u>Project Name, (if applicable)/ Activity Name</u>	<u>Location</u>	<u>Activity No.</u>	<u>Activity Amt</u>	<u>Grant Agreement No.</u>
Delaware County Transit Authority (DATA) Purchase handicap Accessible equipment for 2 buses	County-wide.	4	\$22,900	B-F-11-1AT-1
		N/A	\$ 4,800	RLF

Delaware County has reviewed the aggregated scope of each of the above listed projects and has determined that each is consistent with the criteria described at 24 CFR 58.35 (b), Categorical exclusions not subject to Sec. 58.5. The projects, funded in whole or in part, will not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in § 58.5. There are no extraordinary circumstances or conditions that indicate that these activities could have a significant environmental effect.

Delaware County has documented in a written environmental review record (ERR) its determination that each project meets the conditions specified for inclusion in this category. If the project scope is changed or modified and will result in a physical impact on a structure or property, a new environmental review will be conducted for the modified project.

Delaware County acknowledges that it remains responsible for carrying out any applicable requirements under 24 CFR 58.6 (e.g. flood hazards, coastal barrier resources, and runway clear zones). Updates for unidentified sites will be performed and maintained in the ERR. The ERR is on file and available for the public's examination and copying, upon request, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday (except holidays) at the address listed below.

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

RESOLUTION NO. 12-79

IN THE MATTER OF EXPRESSING THE BOARD'S INTENT TO SELL PERSONAL PROPERTY THAT IS NOT NEEDED FOR PUBLIC USE, IS OBSOLETE, OR IS UNFIT FOR THE USE FOR WHICH IT WAS ACQUIRED, BY INTERNET AUCTION:

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

WHEREAS, pursuant to section 307.12(E) of the Revised Code, the Delaware County Board of Commissioners (the

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“Board”) may sell personal property, including motor vehicles acquired for the use of county officers and departments, and road machinery, equipment, tools, or supplies, that is not needed for public use, is obsolete, or is unfit for the use for which it was acquired, by internet auction; and

WHEREAS, the Board shall adopt, during each calendar year, a resolution expressing its intent to sell that property by internet auction;

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

Delaware County

Online Surplus Property Disposition
General Guidelines

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

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

Online Sales – Terms and Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RESOLUTION NO. 12-80

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

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

WHEREAS, throughout the year, Delaware County will have miscellaneous office furniture, office equipment, building hardware and materials, and minor tools and equipment, including, but not limited to, chairs, desks, tables, filing cabinets, book shelves, shelving, modular office furniture, computers, monitors, printers, fax machines, copiers, typewriters, adding machines, small hand and power tools, which are not needed for public use, or are obsolete or unfit for the use for which they were acquired;

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

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Section 1. When the above type of personal property becomes obsolete, unfit, or not needed for public use and when the estimated fair market value of each item is less than \$250.00, the Board hereby authorizes the sale of such property by internet auction.

Section 2. When the above type of personal property becomes obsolete, unfit, or not needed for public use and when the property has no value, the Board hereby authorizes the disposal or salvage of such property.

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

RESOLUTION NO. 12-81

IN THE MATTER OF DECLARING PERSONAL PROPERTY OBSOLETE, UNFIT, OR NOT NEEDED FOR PUBLIC USE AND THE INTENT OF SELLING SUCH PROPERTY VIA INTERNET AUCTION OR DISPOSAL OF PROPERTY OF NO VALUE:

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

- WHEREAS, Delaware County has personal property not needed for public use, obsolete, or unfit for the use for which it was acquired; and
- WHEREAS, Ohio Revised Code Section 307.12 (E) allows, by resolution adopted each calendar year, the sale of such property by internet auction; and
- WHEREAS, the Delaware County Board of Commissioners passed Resolution 12-79 on January 23, 2012, declaring its intent to sell such property by internet auction; and
- WHEREAS, Delaware County has personal property not needed for public use, obsolete, or unfit for the use for which it was acquired; and
- WHEREAS, certain of such property may require a signature to transfer such property from the county to a buyer; and
- WHEREAS, certain of such property may receive no bids during the internet auction and can be declared to be of no value;

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners, Delaware County, State of Ohio, that the following property listed below be sold in the manner prescribed in Resolution 12-79 and the disposal or salvage of property that has no value. The President of the Board of Commissioners is hereby authorized to sign any documents needed to transfer such property on behalf of the Board.

<u>Item/Asset Type</u>	<u>Manufacturer/Model</u>	<u>Serial Number/Asset Number</u>
CAR	FORD, 2000 CVPI 4.6L	2FAFP71W4YX152660
CAR	FORD, 1997 CVPI 4.6L	2FALP71W8VX125573
CAR	CHEVY, 1996 LUMINA	2G1WL52M3T1173768
PICKUP	CHEVY, 1999 S-10	1GCCS19X2X8176377
001526	CHAMBER	N/A

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

RESOLUTION NO. 12-82

IN THE MATTER OF APPROVING THE POWER SALES AGREEMENT BY AND BETWEEN AEP RETAIL ENERGY PARTNERS LLC AND THE DELAWARE COUNTY BOARD OF COMMISSIONERS FOR ELECTRICITY GENERATION:

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

Whereas, the Facilities Supervisor recommends approval of the Power Sales Agreement with AEP Retail Energy Partners Llc And The Delaware County Board Of Commissioners For Electricity Generation;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve The Power Sales Agreement By And Between AEP Retail Energy Partners Llc And The Delaware County Board Of Commissioners For Electricity Generation.

(The PSA, together with the General Terms and Conditions for Sale and Purchase of Power-Attachment A, Attachment B, and all other attachments, tables, schedules, exhibits, other supplements and related credit support arrangements shall form a single agreement between the Parties (collectively referred to as the "Agreement") is on file in the Commissioners' Office until no longer of administrative value).

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

RESOLUTION NO. 12-83

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND T.P.V. DESIGN/BUILD, INC. FOR BID PACKAGE 1, GENERAL TRADES, FOR TENANT IMPROVEMENTS: DELAWARE COUNTY EMS STATION #7: 7177 A NORTHGATE WAY, WESTERVILLE, OHIO:

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

Whereas, the Facilities Supervisor recommends the contract for bid package 1, general trades, for tenant improvements to Delaware County EMS Station #7 at 7177a Northgate Way Westerville, Ohio 43081;

Now Therefore Be It Resolved, that the Delaware County Commissioners approve the contract for bid package 1, general trades, for tenant improvements to Delaware County EMS Station #7 at 7177a Northgate Way Westerville, Ohio 43081.

**DELAWARE COUNTY BOARD OF COMMISSIONERS
CONTRACT**

This Contract made by and between:

T.P.V. Design/Build, Inc.
7383 Brooke Blvd.
Reynoldsburg, OH 43060

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

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

ARTICLE 1

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

Tenant Improvements to:
DELAWARE COUNTY EMS STATION #7
7177 A Northgate Way
Westerville, Ohio 43081
Bid Package 1 – General Trades

ARTICLE 2

2.1 The Delaware County Board of Commissioners shall pay the Contractor for the performance of this Contract, subject to additions and deletions as provided in the Contract Documents, the amount of \$66,400.00 (the "Contract Price"), based upon the Bid Form, dated December 14, 2011, submitted by the Contractor.

Base Bid - \$66,400.00
Alternate - N/A

Total Contract Amount = \$66,400.00

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

ARTICLE 3

3.1 The Contractor shall diligently prosecute the Work and shall effect Contract Completion on or before 60 consecutive working days, following the date set forth in the Notice to Proceed, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

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

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

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

3.5 LIQUIDATED DAMAGES

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

ARTICLE 4

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

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

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

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

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

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

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

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

4.9 Campaign Contributions Compliance with ORC § 3517.13: Ohio Revised Code Section 3517.13 I(3)

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

ARTICLE 5

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

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

ARTICLE 6

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

Furthermore, Be It Resolved that the Board of County Commissioners approve the following purchase order:

R1202302 T P V DESIGN/BUILD INC GENERAL TRADES 10011303 - 5301 \$66,400.00 0001
CONTRACTOR FOR
MEDIC 7 PROJECT

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

RESOLUTION NO. 12-84

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND OHIO HEATING & REFRIGERATION FOR BID PACKAGE 2, HVAC, FOR TENANT IMPROVEMENTS: DELAWARE COUNTY EMS STATION #7: 7177 A NORTHGATE WAY, WESTERVILLE, OHIO:

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

Whereas, the Facilities Supervisor recommends the contract for bid package 2, HVAC, for tenant improvements to Delaware County EMS Station #7 at 7177a Northgate Way Westerville, Ohio 43081;

Now Therefore Be It Resolved, that the Delaware County Commissioners approve the contract for bid package 2, HVAC, for tenant improvements to Delaware County EMS Station #7 at 7177a Northgate Way Westerville, Ohio 43081.

DELAWARE COUNTY BOARD OF COMMISSIONERS
CONTRACT

This Contract made by and between:

Ohio Heating & Refrigeration
PO Box 91203
Columbus, OH 43209

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

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

ARTICLE 1

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

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Tenant Improvements to:
 DELAWARE COUNTY EMS STATION #7
 7177 A Northgate Way
 Westerville, Ohio 43081
 Bid Package 2 - HVAC

ARTICLE 2

2.1 The Delaware County Board of Commissioners shall pay the Contractor for the performance of this Contract, subject to additions and deletions as provided in the Contract Documents, the amount of \$18,598.00 (the "Contract Price"), based upon the Bid Form, dated December 14, 2011, submitted by the Contractor.

Base Bid - \$18,598.00
 Alternate - N/A

Total Contract Amount = \$18,598.00

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

ARTICLE 3

3.1 The Contractor shall diligently prosecute the Work and shall effect Contract Completion on or before 60 consecutive working days, following the date set forth in the Notice to Proceed, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

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

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

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

3.5 LIQUIDATED DAMAGES

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

ARTICLE 4

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

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

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

4.4 Indemnification: To the fullest extent permitted by law, the Contractor shall indemnify, save and hold the

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

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

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

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

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

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

ARTICLE 5

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

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

ARTICLE 6

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

Furthermore, Be It Resolved that the Board of County Commissioners approve the following purchase order:

R1202350	OHIO HEATING & REFRIGERATION	HVAC CONTRACTOR FOR MEDIC 7 PROJECT	10011303 - 5301	\$18,598.00	0001
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Vote on Motion Mr. Stapleton Nay Mr. O'Brien Aye Mr. Thompson Aye

RESOLUTION NO. 12-85

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND SCIOTO MECHANICAL SERVICES, INC. FOR BID

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PACKAGE 3, PLUMBING, FOR TENANT IMPROVEMENTS: DELAWARE COUNTY EMS STATION #7: 7177 A NORTHGATE WAY, WESTERVILLE, OHIO:

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

Whereas, the Facilities Supervisor recommends the contract for bid package 3, plumbing, for tenant improvements to Delaware County EMS Station #7 at 7177a Northgate Way Westerville, Ohio 43081;

Now Therefore Be It Resolved, that the Delaware County Commissioners approve the contract for bid package 3, plumbing, for tenant improvements to Delaware County EMS Station #7 at 7177a Northgate Way Westerville, Ohio 43081.

**DELAWARE COUNTY BOARD OF COMMISSIONERS
CONTRACT**

This Contract made by and between:

Scioto Mechanical Services, Inc.
PO Box 25
Grove City, OH 43123

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

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

ARTICLE 1

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

Tenant Improvements to:
DELAWARE COUNTY EMS STATION #7
7177 A Northgate Way
Westerville, Ohio 43081
Bid Package 3 - Plumbing

ARTICLE 2

2.1 The Delaware County Board of Commissioners shall pay the Contractor for the performance of this Contract, subject to additions and deletions as provided in the Contract Documents, the amount of \$21,100.00 (the "Contract Price"), based upon the Bid Form, dated December 14, 2011, submitted by the Contractor.

Base Bid - \$21,100.00
Alternate - N/A

Total Contract Amount = \$21,100.00

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

ARTICLE 3

3.1 The Contractor shall diligently prosecute the Work and shall effect Contract Completion on or before 60 consecutive working days, following the date set forth in the Notice to Proceed, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

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

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

3.4 The amount of Liquidated Damages is agreed upon by and between the Contractor and the Delaware

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County Board of Commissioners because of the impracticality and extreme difficulty of ascertaining the actual amount of damage the Delaware County Board of Commissioners would sustain.

3.5 LIQUIDATED DAMAGES

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

ARTICLE 4

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

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

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

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

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

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

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

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

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

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

ARTICLE 5

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

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

ARTICLE 6

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

Furthermore, Be It Resolved that the Board of County Commissioners approve the following purchase order:

R1202178	SCIOTO	PLUMBING CONTRACT	10011303 - 5301	\$21,100.00	0001
	MECHANICAL SVCS	FOR EMS STATION #7			
	INC	RENOVATION			

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

RESOLUTION NO. 12-86

IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND OWENS ELECTRIC CO. FOR BID PACKAGE 4, ELECTRIC, FOR TENANT IMPROVEMENTS: DELAWARE COUNTY EMS STATION #7: 7177 A NORTHGATE WAY, WESTERVILLE, OHIO:

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

Whereas, the Facilities Supervisor recommends the contract for bid package 4, electrical, for tenant improvements to Delaware County EMS Station #7 at 7177a Northgate Way Westerville, Ohio 43081;

Now Therefore Be It Resolved, that the Delaware County Commissioners approve the contract for bid package 4, electrical, for tenant improvements to Delaware County EMS Station #7 at 7177a Northgate Way Westerville, Ohio 43081.

**DELAWARE COUNTY BOARD OF COMMISSIONERS
CONTRACT**

This Contract made by and between:

Owens Electric Co.
146 S. Greenwood St.
Marion, OH 43302

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

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

ARTICLE 1

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

Tenant Improvements to:
DELAWARE COUNTY EMS STATION #7
7177 A Northgate Way
Westerville, Ohio 43081
Bid Package 4 - Electrical

ARTICLE 2

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2.1 The Delaware County Board of Commissioners shall pay the Contractor for the performance of this Contract, subject to additions and deletions as provided in the Contract Documents, the amount of \$17,366.00 (the "Contract Price"), based upon the Bid Form, dated December 14, 2011, submitted by the Contractor.

Base Bid - \$17,366.00

Alternate - N/A

Total Contract Amount = \$17,366.00

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

ARTICLE 3

3.1 The Contractor shall diligently prosecute the Work and shall effect Contract Completion on or before 60 consecutive working days, following the date set forth in the Notice to Proceed, unless an extension of time is granted by the Delaware County Board of Commissioners in accordance with the Contract Documents.

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

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

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

3.5 LIQUIDATED DAMAGES

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

ARTICLE 4

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

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

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

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

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the Delaware County Board of Commissioners.

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

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

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

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

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

ARTICLE 5

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

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

ARTICLE 6

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

Furthermore, Be It Resolved that the Board of County Commissioners approve the following purchase order:

R1202347	OWENS ELECTRIC COMPANY	ELECTRICAL CONTRACTOR FOR MEDIC 7 PROJECT	10011303 - 5301	\$17,366.00	0001
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Vote on Motion Mr. Thompson Aye Mr. Stapleton Nay Mr. O'Brien Aye

RESOLUTION NO. 12-87

IN THE MATTER OF APPROVING A PROCUREMENT CARD FOR ENVIRONMENTAL SERVICES FOR RICK THOMAS:

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

WHEREAS, pursuant to Ohio Revised Code Section 301.29, the Board of Commissioners of Delaware County by Resolution No. 04-1193 dated September 30th, 2004, adopted a policy for the use of County Procurement Cards. . In addition, The Board of Commissioners of Delaware County by Resolution No. 11-1040 dated October 3rd, 2011, adopted amendments to the Policies and Procedures for the county procurement card program; and

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

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

Appointing Authority:	Board of Commissioner
Office/Department:	Regional Sewer District
Daily spending per card:	\$1,000
Monthly spending per card:	\$5,000
Single transaction limit:	\$1,000
Daily number of transactions per card:	5
Monthly number of transactions per card:	50
Name on Card:	Rick Thomas
Department Coordinator:	Jan Fawcett

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

RESOLUTION NO. 12-88

IN THE MATTER OF CERTIFICATION OF DELINQUENT ACCOUNTS TO THE COUNTY AUDITOR FOR ACCOUNTS TO BE ASSESSED TO PAYABLE YEAR 2013 TAXES:

It was moved by Mr. Thompson, seconded by Mr. Stapleton 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 \$103,611.24 to the County Auditor for 2013 real property tax list and duplicate.

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

**2013 Sewer Tax Assessments
To be certified by the Board of Commissioners on 1/23/12**

Breakdown of Assessments by Treatment Plant:

66211903 – OECC	\$35,053.24
66211904 – Alum Creek	\$60,104.10
66211906 – Tartan Fields	\$1,001.75
66211907 – Scioto Reserve	\$6,279.27
66211908 – Bent Tree	\$0.00
66211909 – Hoover Woods	\$807.04
66211910 – Scioto Hills	\$365.84
66211911 - Northstar	\$0.00
Total Assessments	\$103,611.24

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

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RESOLUTION NO. 12-89

IN THE MATTER OF APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND RAWDON MEYERS INC. FOR THE ALUM CREEK WATER RECLAMATION FACILITY SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) UPGRADE:

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

Whereas, the Director of Environmental Services recommends approval of the following Agreement;

Now Therefore Be It Resolved that that Delaware County Board of Commissioner approved the following Agreement with Rawdon Meyers, Inc. for the Alum Creek Water Reclamation Facility SCADA Upgrade.

ALUM CREEK WATER RECLAMATION FACILITY SUPERVISORY CONTROL AND DATA ACQUISITION UPGRADE

Section 1 – Parties to the Agreement

This Agreement is made and entered into this 23rd day of January, 2012 by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Rawdon Myers Inc, 300 Milford Parkway Milford Ohio 45150 (“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, Alum Creek Water Reclamation Facility Supervisory Control and Data Acquisition upgrade in accordance with the Scope of Services attached hereto (Exhibit “A”) 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

The County shall pay a Lump Sum of Twenty One Thousand Five Dollars and No Cents (\$21,005.00).

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 Consultant 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 Consultant 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 take immediate effect upon execution, and Contractor shall commence Work upon written authorization of the Administrator.

Section 7 – Insurance

The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the State of Ohio such insurance as will protect the Contractor and the County from claims set forth below which may arise out of or result from the Contractor's operations under this Agreement and for which the Contractor may be legally liable, whether such operations be by the Contractor, by a subcontractor of any tier, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

1. claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts which are applicable to the Scope to be performed;
2. claims for damages because of bodily injury, occupational sickness, sickness or disease, or death of the Contractor's employees;
3. claims for damages because of bodily injury, occupational sickness, sickness or disease, or death of any person other than the Contractor's employees;
4. claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (2) by another person;
5. claims for damages, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
6. claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
7. claims involving contractual liability insurance applicable to the Contractor's obligations under the article titled INDEMNIFICATION found herein; and

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The insurance policy required by this Article shall be written for not less than one million dollars (\$1,000,000.00) for any person injured in any accident and with a total liability of two million dollars (\$2,000,000.00) for all persons injured in any one accident and the amount of one million dollars (\$1,000,000.00) for each accident or occurrence as compensation for damage caused to property of others. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of termination of this Agreement.

Certificates of Insurance acceptable to the County shall be filed with the County prior to commencement of this Agreement. The insurance policies required by this Article shall not be canceled or allowed to expire until at least thirty (30) days' prior written notice has been given to the County. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

The insurance policy described in this Section shall name the County as an additional insured, and prior to any work being performed hereunder, the Contractor shall provide properly executed endorsements indicating the County has been added as an additional insured.

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. 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.

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- 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.

Furthermore, Be It Resolved that the Board of County Commissioners approve a purchase order with Rawdon Meyers, Inc. in the amount of \$21,005.00 from org key 66611904.

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

RESOLUTION NO. 12-90

IN THE MATTER OF EXECUTING AN AGREEMENT WITH S&ME, INC. FOR PROFESSIONAL ENGINEERING SERVICES FOR THE SOLID WASTE TRANSFER STATION:

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

Whereas, the Solid Waste Transfer Station tip floor experiences consistent heavy loading from daily use; and

Whereas, both age and use have caused significant deterioration of the tip floor and it is in need of repair; and

Whereas, staff recommends proceeding with the design for repairs to the tip floor; and

Whereas, both geotechnical and structural engineering services are required for the tip floor rehabilitation design; and

Whereas, S&ME, Inc. of Dublin, Ohio provided a proposal to design the tip floor for an amount not to exceed \$21,496.00; and

Whereas, the Director of Environmental Services recommends approval of the Agreement with S&ME, Inc.

Therefore Be It Resolved that the Delaware County Board of County Commissioners approve the Agreement with S&ME, Inc. of Dublin, Ohio to provide professional engineering services for the Solid Waste Transfer Station Tip Floor Rehabilitation project.

FURTHERMORE, Be It Resolved that the Board of County Commissioners approve a purchase order with S&ME, Inc. in the amount of \$21,496.00 from 68011916-5301.

STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL ENGINEERING SERVICES
FOR THE
SOLID WASTE TRANSFER STATION

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TIP FLOOR REHABILITATION
STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

This is an agreement effective as of January 23, 2012 between the Delaware County Board of Commissioners (“Owner”) and S&ME, Inc. (“Engineer”). Owner intends to retain professional engineering services to develop the final engineering plans and specifications for the Delaware County Solid Waste Transfer Station tip flood rehabilitation as detailed in Exhibit A

Owner and Engineer agree as follows:

SERVICES OF ENGINEER

1.01 Technical Scope

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A including all Appendices to Exhibit A.
- B. Technical scope may be reduced or amended at the discretion of the Director of Environmental Services if provided in writing to the Engineer. Increases to the technical scope that exceed the contract price as detailed in Exhibit B shall only be allowed through a formal contract amendment.

ARTICLE 2 – OWNER’S RESPONSIBILITIES

2.01 General

- A. Owner shall pay Engineer as set forth in Exhibit B.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

- A. Engineer shall begin rendering services as of the Effective Date of the Agreement and upon authorization from the Owner.

3.02 Time for Completion

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer’s services is impaired, or Engineer’s services are delayed or suspended, then the time for completion of Engineer’s services, and the rates and amounts of Engineer’s compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer’s services, and the rates and amounts of Engineer’s compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer’s performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled to the recovery of direct damages resulting from such failure.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 Invoices

- A. Preparation and Submittal of Invoices. Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit A. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

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4.02 Payments

- A. Failure to Pay. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
 - 1. Engineer may, after giving fourteen days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- B. Disputed Invoices. If Owner contests an invoice, Owner may withhold only that portion so contested, and must pay the undisputed portion.
- C. Legislative Actions. If after the Effective Date of the Agreement any governmental entity takes a legislative action that imposes taxes, fees, or charges on Engineer's services or compensation under this Agreement, then the Engineer may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall pay such invoiced new taxes, fees, and charges; such payment shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit B.

ARTICLE 5 – OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

- A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner wishes greater assurance as to probable Construction Cost, Owner shall employ an independent cost estimator.

5.02 Opinions of Total Project Costs

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 Standards of Performance

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in Owner-furnished information.
- B. Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services as approved by Owner.
- C. Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- D. Engineer and Owner shall comply with applicable Laws and Regulations and Owner-mandated standards that Owner has provided to Engineer in writing. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, and compensation.
- E. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose

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existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.

6.02 Design Without Construction Phase Services- Not Used

6.03 Use of Documents

- A. All Documents are instruments of service in respect to this Project, and Engineer shall retain an ownership and property interest therein (including the right of reuse at the discretion of the Owner) whether or not the Project is completed.
- B. A party may relay that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. Engineer grants Owner a license to use the Documents on the Project, extensions of the Project, and other projects of Owner, subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project or on any other project without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to Engineer's Consultants;

6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit C, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.
- B. Engineer shall deliver a certificate of insurance evidencing the coverages indicated in Exhibit C. Such certificate shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement. Engineer shall also deliver properly executed endorsements evidencing the listing of Owner as an additional insured, pursuant to Paragraph 6.04.A.
- C. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer and Engineer's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds or additional insureds thereunder.
- D. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit C. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit C will be supplemented to incorporate these requirements.

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6.05 Suspension and Termination

A. Suspension.

By Owner: Owner may suspend the Project upon seven days written notice to Engineer.

By Engineer: If Engineer's services are substantially delayed through no fault of Engineer, Engineer may, after giving fourteen days written notice to Owner, suspend services under this Agreement.

B. Termination. The obligation to provide further services under this Agreement may be terminated:

1. For cause,

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

b. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 45 days after the date of receipt of the notice.

2. For convenience,

a. By Owner effective upon Engineer's receipt of notice from Owner.

C. Effective Date of Termination. The terminating party under Paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. Payments Upon Termination.

1. In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.

6.06 Controlling Law

A. This Agreement is to be governed by the law of the state in which the Project is located. Any and all disputes arising under this Agreement may only be filed in and heard before the courts of Delaware County, Ohio.

6.07 Successors, Assigns, and Beneficiaries

A. Owner and Engineer are hereby bound and the partners, successors, executors, administrators and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.07.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. The Engineer may not assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

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1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.
2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
3. Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in the Contract Documents.

6.08 Dispute Resolution

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to exercising their rights under law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.08.A, then the parties may exercise their rights under law.

6.09 Environmental Condition of Site – Not Used

6.10 Indemnification and Mutual Waiver

- A. **Indemnification by Engineer.** To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, partners, agents, consultants, and employees from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of Engineer, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, partners, employees, or Consultants.
- B. **Mutual Waiver.** To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

6.11 Miscellaneous Provisions

- A. **Notices.** Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. **Survival.** All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. **Severability.** Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. **Waiver.** A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. **Accrual of Claims.** To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

6.12 Campaign Finance – Compliance with O.R.C. § 3517.13

- A. 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

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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 Engineer /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.

6.13 Homeland Security

- A. Engineer 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, Engineer agrees to make such certification by completing the declaration of material assistance/non-assistance described in R.C. § 2909.33(A) and understands that this Contract is contingent upon full completion of such certificate and "No" being the response to all questions in the Declaration portion of the certificate. Such certification is attached to this Agreement and by this reference made a part of this Agreement.

6.14 Findings for Recovery

- A. Engineer hereby certifies that it is not subject to any unresolved findings for recovery issued against it by the Auditor of State.

6.15 Non-Discrimination

- A. Engineer hereby certifies that it is, and at all times while the Agreement is in effect shall remain, in compliance with all applicable laws concerning or related to non-discrimination and equal opportunity employment.

ARTICLE 7 – DEFINITIONS

7.01 Defined Terms

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above or in the exhibits.
1. Additional Services – The services to be performed for or furnished to Owner by Engineer in accordance with Exhibit A, Part 2, of this Agreement.
 2. Basic Services – The services to be performed for or furnished to Owner by Engineer in accordance with Exhibit A, Part 1, of this Agreement.
 3. Consultants – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.
 4. Documents – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
 5. Drawings – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
 6. Laws and Regulations; Laws or Regulations – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
 7. Reimbursable Expenses – The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.
 8. Specifications – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

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9. Total Project Costs – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits Included

- A. Exhibit A, “Engineer’s Services,” consisting of 5 pages.
- B. Exhibit B, “Work Schedule and Fee,” consisting of 1 pages.
- C. Exhibit C, “Insurance,” consisting of 2 pages.
- D. Exhibit D, “Amendment to Owner-Surveyor Agreement,” consisting of 2 pages.

8.02 Total Agreement

- A. This Agreement (consisting of pages 1 to 12 inclusive, together with the exhibits identified above) constitutes the entire agreement between Owner and Surveyor and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument based on the format of Exhibit D to this Agreement.

8.03 Designated Representatives

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer’s and Owner’s representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

This is EXHIBIT A, consisting of 5 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated _____, _____, Engineer’s Services S&ME’s proposal dated November 9, 2011 is attached as Exhibit A – 5 pages

This is EXHIBIT B, consisting of 1 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated _____, _____.

Payments to Engineer for Services and Reimbursable Expenses

WORK SCHEDULE AND FEE

It is proposed to perform the services proposed herein on a **unit rate basis** for a not to exceed without prior authorization amount of **\$21,496**.

The construction observation portion of the work will be performed on a full-time basis. S&ME will be on-site as scheduled by Delaware County or the contractor. Daily logs will be kept by the Technicians and will be submitted to the Project Engineer at the end of each work day. Preliminary copies will be left on site daily, if requested. A formal progress report will be submitted at completion or montly, whichever occurs first, unless other arrangements are desired. These reports will be prepared by the Project Engineer and two copies will be delivered to your office. As part of this proposal, S&ME has developed a budget for construction phase services based on our past experience with similar projects and our initial thoughts on the amount of repairs necessary. Having said this, the actual budget for these services will be entirely dependent on the contractor’s proposed schedule. If additional construction observation services are required to accommodate the contractor’s schedule, we will inform the county as soon as this is known.

Invoices will be submitted monthly and will be payable within 30 days of receipt.

This is Appendix 1 to EXHIBIT B, consisting of 1 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated _____, _____.

Reimbursable Expenses Schedule

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001-12070-001
Delaware County Solid Waste Transfer Station
Delaware County, Ohio
1/21/2011

Design Services

	Quantity	Unit	Rate	Cost
	Sub Total			
FIELD WORK				
Senior Engineer – site visit	2	hrs @	\$125.00	\$250.00
Project Engineer – site visit/measurement of revised limits	6	hrs @	\$95.00	\$570.00
Engineering Technician - assist with measurement of revised limits	4	hrs @	\$40.00	\$160.00
Coring Machine Rental/Bit Charge	0	day@	\$200.00	\$0.00
1/2 Day Rate- Truck Rig	0	ea	\$950.00	\$0.00
Mileage (40 miles RT)	90	mi. @	\$0.45	\$40.50
				<u>Sub-Total</u>
				<u>\$1,020.50</u>
ANALYSIS/DESIGN (Two designs – PCC and RCC)				
Materials Administrator	5	hrs @	\$55.00	\$275.00
Staff Designer	25	hrs @	\$65.00	\$1,625.00
Project Engineer	30	hrs @	\$95.00	\$2,850.00
Senior Engineer	15	hrs @	\$125.00	\$1,875.00
Senior Project Engineer	5	hrs @	\$155.00	\$775.00
				<u>Sub-Total</u>
				<u>\$7,400.00</u>

Environmental Services

Project Environmental Scientist	8	hrs @	\$95.00	\$760.00
Senior Engineer	8	hrs @	\$125.00	\$1,000.00
TCLP Analysis	1	ea	\$800.00	\$800.00
pH, flashpoint, paint filter \$50.00		1	ea	\$50.00
Pesticides and Herbicides	1	ea	\$165.00	\$165.00
VOC and SVOCs (standard)	1	ea	\$410.00	\$410.00
8 RCRA metals	1	ea	\$110.00	\$110.00

Sub-Total \$3,295.00

Construction Observations and Testing Services

Senior Engineering Tech. – ST	80	hrs @	\$53.00	\$4,240.00
Senior Engineering Tech. - OT (hrs over 8 in a day)	5	hrs @	\$79.50	\$397.50
Materials Administrator	4	hrs @	\$55.00	\$220.00
Project Engineer	10	hrs @	\$95.00	\$950.00
Senior Engineer	2	hrs @	\$125.00	\$250.00
Mileage (estimate 10 trips over 2 week period)	450	each @	\$0.45	\$202.50
Compressive Strength Concrete Cylinder	25	each @	\$16.00	\$400.00
				<u>Sub-Total</u>
				<u>\$6,600.00</u>

Meetings

Senior Engineer	6	hrs @	\$120.00	\$750.00
Project Engineer	6	hrs @	\$95.00	\$570.00
Mileage	90	each @	\$0.45	\$40.50

Sub-Total \$1,360.50

Subconsultant

M2 Design Group (plus 10%)	1	each @	\$1,600.00	\$1,600.00
	0.1	each @	\$1,600.00	\$160.00

Sub-Total \$1,760.00

**ESTIMATED
TOTAL \$21,496.00**

This is EXHIBIT C, consisting of 2 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated _____, _____.

Insurance

Paragraph 6.04 of the Agreement is amended and supplemented to include the following agreement of the parties.

C6.04 Insurance

A. The limits of liability for the insurance required by Paragraph 6.04.A and 6.04.B of the Agreement are as follows:

1. By Surveyor:

a. Workers' Compensation: Statutory

b. Employer's Liability --

- | | |
|----------------------------|--------------------|
| 1) Each Accident: | <u>\$1,000,000</u> |
| 2) Disease, Policy Limit: | <u>\$1,000,000</u> |
| 3) Disease, Each Employee: | <u>\$1,000,000</u> |

c. General Liability --

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1) Each Occurrence (Bodily Injury and Property Damage):	<u>\$1,000,000</u>
2) General Aggregate:	<u>\$2,000,000</u>
d. Excess or Umbrella Liability --	
1) Each Occurrence:	<u>\$2,000,000</u>
2) General Aggregate:	<u>\$2,000,000</u>
e. Automobile Liability --	
1) Bodily Injury:	
a) Each Accident	<u>\$1,000,000</u>
2) Property Damage:	
a) Each Accident	<u>\$1,000,000</u>
[or]	
3) Combined Single Limit (Bodily Injury and Property Damage): Each Accident	<u>\$2,000,000</u>

Professional Liability –
Each Claim Made \$1,000,000
Annual Aggregate \$3,000,000

The Owner shall be listed on Engineer’s general liability policy as provided in Paragraph 6.04.A. To the extent damages are covered by insurance required by this Agreement, the Engineer waives all rights against the Owner, and against the contractors, consultants, agents and employees of the Owner, for such damages. This is EXHIBIT D, consisting of 2 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated , .

AMENDMENT TO OWNER-ENGINEER AGREEMENT

Background Data:

- a. Effective Date of Owner-Engineer Agreement: _____
- b. Owner: Delaware County Board of Commissioners
- c. Engineer: S&ME, Inc.
- d. Project: Delaware County Solid Waste Transfer Station Tip Floor Rehabilitation

Nature of Amendment [Check those that are applicable and delete those that are inapplicable.]

- Additional Services to be performed by Engineer
- Modifications to Services of Engineer
- Modifications to Responsibilities of Owner
- Modifications to Payment to Engineer
- Modifications to Time(s) for rendering Services
- Modifications to other terms and conditions of the Agreement

Description of Modifications
Attachment 1, “Modifications”
[List other Attachments, if any]

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is .

This is Attachment 1, consisting of 1 pages, to Amendment No. , dated , .

Modifications

[Include the following paragraphs that are appropriate and delete those not applicable to this amendment. Refer to paragraph numbers used in the Agreement or a previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments.]

- 1. Engineer shall perform the following Additional Services:

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- 2. The Scope of Services currently authorized to be performed by Engineer in accordance with the Agreement and previous amendments, if any, is modified as follows:
- 3. The responsibilities of Owner are modified as follows:
- 4. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation:
- 5. The schedule for rendering services is modified as follows
- 6. Other portions of the Agreement (including previous amendments, if any) are modified as follows:

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

RESOLUTION NO. 12-91

IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND TOM DEW EXCAVATING, INC. FOR THE HICKORY KNOLL SCHOOL SEWAGE TREATMENT SYSTEM:

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

WHEREAS, on November 28, 2011, the Sanitary Engineer received bids for a sewage treatment system for the Hickory Knoll School, and

WHEREAS, Tom Dew Excavating of Delaware, Ohio, is identified as the lowest and best bid at \$56,662.00, and

WHEREAS, the staff from the Sanitary Engineer evaluated the bid package, and

WHEREAS, the Sanitary Engineer has determined that the bid conforms to the specifications, and

WHEREAS, the Sanitary Engineer recommends enter into contract with Tom Dew Excavating to construct the Hickory Knoll School Sewage Treatment System.

THEREFORE be it resolved that the Board of County Commissioners execute the "Contract" and "Notice to Proceed" for the Hickory Knoll School Sewage Treatment System from Tom Dew Excavating of Delaware, Ohio.

Furthermore, Be It Resolved that the Board of County Commissioners approve a purchase order with Tom Dew Excavating, Inc. in the amount of \$56,662.00 from org keys 66611903 and 66611904.

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR**

THIS AGREEMENT is by and between DELAWARE COUNTY (Owner) and TOM DEW EXCAVATING, INC. (Contractor).

Owner and Contractor, in consideration of the mutual covenants set forth herein, agree as follows:

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: Install sewage treatment system.

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows: HICKORY KNOLL SCHOOL SEWAGE TREATMENT SYSTEM.

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by: Active Wastewater Systems

ARTICLE 4 - CONTRACT TIMES

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Days to Achieve Substantial Completion and Final Payment

A. The Work will be substantially completed within 90 days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final

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payment in accordance with Paragraph 14.07 of the General Conditions within 120 days after the date when the Contract Times commence to run.

4.03 Liquidated Damages

A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$100.00 for each day that expires after the time specified in Paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$100.00 for each day that expires after the time specified in Paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 - CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined below:

A. For all Work a Lump Sum of:

FIFTY-SIX THOUSAND SIX HUNDRED SIXTY-TWO DOLLARS (\$56,662.00)

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be reviewed by the Resident Project Representative and processed by Engineer as provided in the General Conditions.

6.02 Progress Payments

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the last day of each month during performance of the Work. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions.

6.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 7 - INTEREST

7.01 All retainage moneys as provided in Article 14 of the General Conditions shall be placed in an interest bearing account.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.

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- E. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.
- F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
1. This Agreement
 2. Bid Guaranty and Contract Bond
 3. General Conditions
 4. Supplementary Conditions
 5. Plans.
 6. Addenda.
 7. Exhibits to this Agreement:
 - a. Contractor's Bid
 - b. Experience Record
 - c. Corporate Resolution
 - d. Non-Collusion Affidavit
 - e. Personal Property & Real Estate Tax Affidavit
 - f. Certification/Affidavit in Compliance with O.R.C. Section 3517.13
 - g. DMA Form
 - h. Contractor Equal Employment Opportunity Certification
 - i. List of Interested Principals
 - j. Notice of Award
 - k. List of Subcontractors

The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

- a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Order(s).
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9. This Agreement, along with all contract documents, constitutes the complete, entire and fully integrated agreement between the parties.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 - MISCELLANEOUS

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10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.
- B. 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 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 enclosed certificate/affidavit entitled "Certification/Affidavit in Compliance with O.R.C. Section 3517.13". Failure to complete and submit 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.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Other Provisions

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in duplicate. One counterpart each has been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

This Agreement will be effective on January 23, 2012 (which is the Effective Date of the Agreement).

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

COMMISSIONERS' COMMITTEES REPORTS

Commissioner O'Brien
-No Additional Comments

Commissioner Thompson
-No Additional Comments

Commissioner Stapleton
-Attend A CCAO Board Meeting-Appointed To President's Committee Board To State Board; Concerns On The 911 Cell Phone Fee Sun-Setting And Rewrite Of Solid Waste Laws
-Walter D. "Tom" Thomson II, The Delaware Gazette And The Little Brown Jug Harness Race, Died Friday (Jan. 20, 2012)

RESOLUTION NO. 12-92

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF DISCIPLINE OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL:

It was moved by Mr. Thompson, seconded by Mr. Stapleton to adjourn into Executive Session at 10:00AM.

COMMISSIONERS JOURNAL NO. 56 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JANUARY 23, 2012

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

RESOLUTION NO. 12-93

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Thompson, seconded by Mr. Stapleton to adjourn out of Executive Session at 10:30AM.

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

There being no further business, the meeting adjourned.

1:30 PM WORK SESSION

**1.) Chris Franzmann,
Public And Infrastructure Finance Practice Group
Squire, Sanders & Dempsey**

2.) Environmental Services Discussion With Director Jenkins; Service Area Boundary

3.) Will Indest, TechColumbus

Ken O'Brien

Dennis Stapleton

Tommy Thompson

Jennifer Walraven, Clerk to the Commissioners