

COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD APRIL 12, 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. 12-347

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD APRIL 9, 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 April 9, 2012; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 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

RESOLUTION NO. 12-348

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM WORK SESSION HELD APRIL 9, 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 a Work Session on April 9, 2012; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 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 work session.

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

PUBLIC COMMENT

ELECTED OFFICIAL COMMENT

RESOLUTION NO. 12-349

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0411, MEMO TRANSFERS IN BATCH NUMBERS MTAPR0411:

It was moved by Mr. Thompson, seconded by Mr. Stapleton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0411, memo transfers in batch numbers MTAPR0411 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
Janette Hill	Public Defender -Transcription	10011202-5301	\$ 7,000.00
PNC	JFS Procurement Card (Line 1)	22511607-5200	\$ 1,000.00
PNC	JFS Procurement Card (Line 2)	22511607-5300	\$ 5,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Desc</u>	<u>Line Account</u>	<u>Amount</u>	<u>Line</u>
R1203452	XYLEM WATER SOLUTIONS USA INC	PUMPS FOR SAND FILTERS NEEDED TO KEEP EQUIPMENT IN	66611904 - 5450	\$34,675.54	0001

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R1203480	XYLEM WATER SOLUTIONS USA INC	THIS IS PART OF THE MIXER CONTRACT STARTED IN FEB	66611903 - 5410	\$13,000.00	0001
R1203521	US BANK	REVENUE BONDS PRINCIPAL	66311901 - 5725	\$1,860,000.00	0001
R1203521	US BANK	REVENUE BONDS INTEREST	66311901 - 5720	\$1,204,175.00	0002
R1203524	BANK OF NEW YORK MELLON,THE	RADIO COMMUNICATIONS PRINCIPAL	50111117 - 5725	\$1,325,000.00	0001
R1203524	BANK OF NEW YORK MELLON,THE	RADIO COMMUNICATIONS INTEREST	50111117 - 5720	\$93,662.50	0002
R1203525	BANK OF NEW YORK MELLON,THE	PERRY TAGGART PRINCIPAL	50111117 - 5725	\$660,000.00	0001
R1203525	BANK OF NEW YORK MELLON,THE	PERRY TAGGART INTEREST	50111117 - 5720	\$46,745.00	0002
R1203526	BANK OF NEW YORK MELLON,THE	1997 REFUNDED PRINCIPAL	50111117 - 5725	\$360,000.00	0001
R1203526	BANK OF NEW YORK MELLON,THE	1997 REFUNDED INTEREST	50111117 - 5720	\$87,700.00	0002
R1203533	BANK OF NEW YORK MELLON,THE	CFOA PRINCIPAL	50211119 - 5725	\$510,000.00	0001
R1203533	BANK OF NEW YORK MELLON,THE	CFOA INTEREST	50211119 - 5720	\$398,850.00	0002
R1203535	HUNTINGTON BANK	HAYES REFUNDING PRINCIPAL	50111117 - 5725	\$145,000.00	0001
R1203535	HUNTINGTON BANK	HAYES REFUNDING INTEREST	50111117 - 5720	\$444,350.00	0002
R1203537	HUNTINGTON BANK	JAIL EXPANSION PRINCIPAL	50111117 - 5725	\$480,000.00	0001
R1203537	HUNTINGTON BANK	JAIL EXPANSION INTEREST	50111117 - 5720	\$28,562.50	0002
R1203538	HUNTINGTON BANK	HAYES REMODEL PRINCIPAL	50111117 - 5725	\$25,000.00	0001
R1203538	HUNTINGTON BANK	HAYES REMODEL INTEREST	50111117 - 5720	\$53,825.00	0002
R1203539	HUNTINGTON BANK	JAIL IMPROVEMENTS PRINCIPAL	50111117 - 5725	\$65,000.00	0001
R1203539	HUNTINGTON BANK	JAIL IMPROVEMENTS INTEREST	50111117 - 5720	\$103,062.50	0002
R1203540	HUNTINGTON BANK	SAWMILL PARKWAY PRINCIPAL	50811125 - 5725	\$88,400.00	0001
R1203540	HUNTINGTON BANK	SAWMILL PARKWAY INTEREST	50811125 - 5720	\$87,749.00	0002
R1203540	HUNTINGTON BANK	LEWIS CENTER PRINCIPAL	50411121 - 5725	\$97,500.00	0003
R1203540	HUNTINGTON BANK	LEWIS CENTER INTEREST	50411121 - 5720	\$94,635.00	0004
R1203540	HUNTINGTON BANK	OLENTANGY TIF PRINCIPAL	50911126 - 5725	\$57,600.00	0005
R1203540	HUNTINGTON BANK	OLENTANGY TIF INTEREST	50911126 - 5720	\$57,209.00	0006
R1203541	HUNTINGTON BANK	PRIMMER PRINCIPAL	50511122 - 5725	\$8,300.00	0001
R1203541	HUNTINGTON BANK	PRIMMER INTEREST	50511122 - 5720	\$1,404.00	0002
R1203541	HUNTINGTON BANK	GWINNER PRINCIPAL	51011127 - 5725	\$5,100.00	0003
R1203541	HUNTINGTON BANK	GWINNER INTEREST	51011127 - 5720	\$864.00	0004
R1203541	HUNTINGTON BANK	COOMER PRINCIPAL	51211129 - 5725	\$15,900.00	0005
R1203541	HUNTINGTON BANK	COOMER INTEREST	51211129 - 5720	\$2,696.00	0006
R1203541	HUNTINGTON BANK	OLD KINGSTON PRINCIPAL	51111128 - 5725	\$7,000.00	0007
R1203541	HUNTINGTON BANK	OLD KINGSTON INTEREST	51111128 - 5720	\$1,184.00	0008
R1203541	HUNTINGTON BANK	SMITH PRINCIPAL	50611123 - 5725	\$4,400.00	0009

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R1203541	HUNTINGTON BANK	SMITH INTEREST	50611123 - 5720	\$752.00	0010
R1203541	HUNTINGTON BANK	SACKETT PRINCIPAL	50711124 - 5725	\$800.00	0011
R1203541	HUNTINGTON BANK	SACKET INTEREST	50711124 - 5720	\$132.00	0012
R1203542	DELAWARE COUNTY BANK & TRUST CO	PATRIOT PRINCIPAL	21411306 - 5725	\$146,150.00	0001
R1203542	DELAWARE COUNTY BANK & TRUST CO	PATRIOT INTEREST	21411306 - 5720	\$18,387.00	0002
R1203543	DELAWARE COUNTY BANK & TRUST CO	SAWMILL PRINCIPAL	50811125 - 5725	\$1,778.92	0001
R1203543	DELAWARE COUNTY BANK & TRUST CO	SAWMILL INTEREST	50811125 - 5720	\$1,957.18	0002
R1203543	DELAWARE COUNTY BANK & TRUST CO	LEWIS CENTER PRINCIPAL	50411121 - 5725	\$1,921.08	0003
R1203543	DELAWARE COUNTY BANK & TRUST CO	LEWIS CENTER INTEREST	50411121 - 5720	\$2,113.58	0004
R1203547	DELAWARE COUNTY BANK & TRUST CO	BASINGER PRINCIPAL	51311130 - 5725	\$19,600.00	0001
R1203547	DELAWARE COUNTY BANK & TRUST CO	BASINGER INTEREST	51311130 - 5720	\$4,828.50	0002
R1203548	DELAWARE COUNTY BANK & TRUST CO	JONES TIMMS PRINCIPAL	51411131 - 5725	\$32,200.00	0001
R1203548	DELAWARE COUNTY BANK & TRUST CO	JONES TIMMS INTEREST	51411131 - 5720	\$6,876.96	0002
R1203549	DELAWARE COUNTY BANK & TRUST CO	MCNAMARA PRINCIPAL	51711134 - 5725	\$4,400.00	0001
R1203549	DELAWARE COUNTY BANK & TRUST CO	MCNAMARA INTEREST	51711134 - 5720	\$1,008.00	0002
R1203549	DELAWARE COUNTY BANK & TRUST CO	SHEETS PRINCIPAL	51511132 - 5725	\$1,500.00	0003
R1203549	DELAWARE COUNTY BANK & TRUST CO	SHEETS INTEREST	51511132 - 5720	\$353.50	0004
R1203550	DELAWARE COUNTY BANK & TRUST CO	BROOKVIEW PRINCIPAL	51611133 - 5725	\$4,100.00	0001
R1203550	DELAWARE COUNTY BANK & TRUST CO	BROOKVIEW INTEREST	51611133 - 5720	\$972.60	0002

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

RESOLUTION NO. 12-350

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Commissioner's Office is requesting that Dennis Stapleton, Ken O'Brien, Tommy Thompson, Tim Hansley, Gus Comstock, Teri Morgan, Letha George attend the Annual MORPC Meeting in Columbus, Ohio April 26, 2012, at the cost of \$650.00 (Fund Number 10011101).

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

RESOLUTION NO. 12-351

IN THE MATTER OF APPROVING A MAINTENANCE SERVICE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND EATON ELECTRICAL INC. FOR THE UNINTERRUPTIBLE POWER SYSTEM FOR BOTH THE 911 CENTER AND PRIME TOWER SITE FOR BATTERY PREVENTIVE MAINTENANCE INSPECTIONS:

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

Whereas, the Public Safety Systems Administrator recommends approval of a maintenance service contract between The Delaware County Commissioners And Eaton Corporation Inc. for the Uninterruptible Power System for both 911 Center And Prime Tower Site For Battery Preventive Maintenance Inspections;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approves the maintenance service contract between The Delaware County Commissioners And Eaton Electrical Inc. for the Uninterruptible Power System for both 911 Center And Prime Tower Site For Battery Preventive Maintenance Inspections.



SERVICE AGREEMENT Proposal # 020612-2

INVOICE TO: (CUSTOMER) Company: Board of Commissioners, Delaware County, Ohio Street: 101 North Sandusky Street City: Delaware State: OH Zip 43015 Contact: Patrick Brandt PH: 740-833-2057 Fax / E-Mail: PBrandt@co.delaware.oh.us	INSTALL SITE: (CUSTOMER) Company: Board of Commissioners, Delaware County, Ohio Street: 101 North Sandusky Street City: Delaware State: OH Zip 43015 Contact: Patrick Brandt PH: 740-833-2057 Fax / E-Mail: PBrandt@co.delaware.oh.us
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PAYMENT TERM SELECTED: SINGLE YEAR MULTI-YEAR
 Start Date: 1/1/2012 End Date: 12/31/2014
 PAYMENT CYCLE: UPFRONT MULTI-YEAR ANNUAL PAYMENT ARREARS (GOVT. ONLY) MVS
 PURCHASE ORDER NUMBER: _____ Tax Exempt Certification Attached

LIST OF COVERED EQUIPMENT

Item	Product Line	Model	S/N#	Service Choice	Option	Qty	Total Price-3YR.
1	Powerware	9315 160kVA	ES094ZBA06	ProActive Service Plan PowerCare Battery PM (2 visits)	7x24	1	\$16,002
2	Powerware	Ferrups FE18kVA	FE18K25188 FE18K25189	On-Site Gold Plan Plus One (1) 5x8 UPS & Battery PMs 7x24 Corrective Maintenance	7x24	1	\$7,938
SEE ATTACHED SHEETS: Eaton Corporation Terms and Conditions, Scopes of Work to be Performed							\$23,940

Eaton Corporation terms and conditions govern this proposal and any purchase order submitted to Eaton pursuant thereto. Additional or different terms proposed by Buyer, whether in its purchase order or otherwise, shall not be binding upon Eaton Corporation and are hereby rejected unless expressly agreed to in writing by Eaton Corporation

CUSTOMER / PURCHASER

Company Name: Board of Commissioners,
 Delaware County, Ohio

Signature: _____
 Date: _____
 Printed Name: _____
 Title: _____
 Fax / E-Mail: _____

EATON COPORATION

Signature:

Date: 3-29-12
 Printed Name: DARRICK S. FINAN
 Title: Vice President, Americas Sales
 Fax / E-Mail: _____

OFFICE USE ONLY

QUOTED BY: Eaton Corporation
 Firm Name: EC Power (Eaton Corporation Representative)
 Date: 3/28/2012
 Phone Number: 614-299-6464 (x20)

Contract Number: _____
 Customer Number: _____
 Site Number: _____
 Bill To Number: _____
 Date Processed: _____

COMMENTS:
 *Important tax notice: Tax is not included in the above purchase price. In order to comply with tax regulations, sales/use tax will be added and itemized separately when you are invoiced. If you are not liable for this tax, please provide an executed tax exemption or resale certificate with this signed Agreement.

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Date: 3/28/2012
 To: Patrick Brandt
 Company: Delaware County
 From: Rick Hatcher
 Service Proposal # 020612-2

Message: I have attached our proposal for Eaton Corporation Services on your 9315-160kVA and two (2) Ferrups FE18kVA UPS systems. Pricing is under the contract GSA# GS-07F-9460G. Please review and call with any questions.

<p><u>On-Site Gold Plan Plus 7x24:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Comprehensive Coverage of the UPS <input type="checkbox"/> One (1) Annual UPS PM <input type="checkbox"/> One (1) Annual Battery PM <input type="checkbox"/> Telephone Tech Support
<p><u>PowerCare ProActive Service Plan 7x24:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> 7x24 Corrective Maintenance for one (1) year – includes Parts, Labor, and Expenses (excludes batteries) <input type="checkbox"/> 7x24 Annual Preventive Maintenance Inspection <input type="checkbox"/> Annual Power Protection Audit <input type="checkbox"/> 7x24 Remote Monitoring Service – UPS will be remotely monitored by Eaton Corporation Technicians providing early detection of system alarms and provides immediate dispatch of Customer Support Engineer. Service also includes a monthly UPS performance report. This requires system to have modem and customer supplied dedicated phone line <input type="checkbox"/> 7x24 Technical Support <input type="checkbox"/> Service Priority <input type="checkbox"/> Discounted Spare Parts and Additional Services
<p><u>PowerCare Battery Preventive Maintenance Inspection (PM) 5x8:</u></p> <p>Eaton Corporation will provide scheduled periodic maintenance of the UPS battery during the CPM. Scheduled maintenance may be performed concurrent with remedial maintenance of Power Module at Eaton Electrical, Inc.'s discretion. Battery Preventive Maintenance will include two (2) inspections per year for sealed cell battery systems in cabinets. If separately provided from Power Module remedial maintenance, Eaton Corporation will provide customer thirty (30) days notice to schedule inspection at a mutually convenient time.</p>

IMPORTANT NOTE

This service contract can be executed by either signing the attached contract
 OR
 Provide a Purchase Order and the PO MUST indicate "Per Proposal # 020612-2"

Purchase Orders should be addressed as follows

Eaton Corporation (Eaton Corporation T&C's Apply)
 C/O EC Power
 909 King Avenue, Suite 200
 Columbus, OH 43212

**EATON CORPORATION
 SERVICES AGREEMENT –TERMS AND CONDITIONS (T-0)
 (As Amended Under Sections 3, 8, 10, AND 21)**

TERMS AND CONDITIONS: The terms and conditions set forth herein, and any supplements which may be attached hereto, constitute the full and final expression of the contract for the sale of UPS services by Eaton Corporation - Power Quality Operations Americas Division, and supersedes all prior quotations, purchase orders, correspondence or communications whether written or oral between Eaton Corporation - Power Quality Operations Americas Division and the customer. Notwithstanding any contrary language in the customer's purchase order, correspondence or other form of acknowledgment, customer shall be bound by these terms and conditions when it sends a purchase order or otherwise indicates acceptance of this contract, or when it accepts delivery from Eaton Corporation Power Quality Operations Americas Division of the products or services. THE CONTRACT FOR SALE OF SERVICES IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS STATED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY CUSTOMER ARE REJECTED UNLESS EXPRESSLY AGREED TO IN WRITING BY CONTRACTOR. No contract shall exist except as herein provided.

1. DEFINITIONS: As used in this Service Agreement, the terms listed below shall have the following meanings: "Agreement" shall mean Eaton Corporation - Power Quality Operations Americas Division's Service Agreement Terms and Conditions, the Service Quote and the applicable Scope(s) of Work."

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"Battery" shall mean the electric storage portion of a UPS.

"Contractor" shall mean Eaton Corporation.

"Covered Equipment" shall mean the equipment as listed on the Service Quote.

"CPM" shall mean the Contracted Period of Maintenance,

"Customer" shall mean the purchaser of this Agreement.

"Emergency Service" shall mean all services provided on an as needed basis that is not scheduled in advance

"PCS" shall mean Pre-Contract Survey.

"On-Site" shall mean Service performed at Customer's physical location as listed on the Service Quote.

"Power Module" shall mean the electronic portion of a UPS or other power quality device.

"Scope of Work" shall mean the services, procedures, methods, exclusions and coverage as purchased by the Customer

"Service" shall mean installation, maintenance (including Preventive Maintenance), repairs, inspection, adjusting, etc. of the UPS equipment provided by Contractor to Customer.

"UPS" shall mean Uninterruptible Power Supply which is comprised of the Power Module and Batteries.

2. ELIGIBILITY: All Covered Equipment that has experienced a lapse in Service coverage with the Contractor (or factory warranty coverage) or has had no service history with Contractor within the previous ninety (90) days, is subject to a PCS inspection by Contractor prior to eligibility for any Service under this Agreement. Customer is subject to charges for a PCS inspection at Contractor's then current Time and Material Service Rate Schedule (refer to Exhibit 1-PCS and Attachment X-1). If a PCS inspection is required for eligibility, a list of the equipment requiring a PCS inspection will be provided to Customer and will be incorporated into this Agreement.

3. HOURS OF SERVICE: Contractor will provide scheduled and emergency services portal-to-portal 8:00AM to 5:00 PM Monday-Friday (alternatively described as "SXB Service") excluding all holidays observed by Contractor. The Customer may optionally purchase extended hours of scheduled and Emergency Service coverage (alternately described as 7x24 Service") which will include Emergency Service being provided at all times and on all days, including all holidays observed by Contractor, Notwithstanding anything herein or otherwise to the contrary, scheduled services are not available on Contractor's observed holidays. Contractor's observed holidays are as follows: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Post Thanksgiving Day, Christmas Eve Day and Christmas Day.

4. ON-SITE RESPONSE TIME: Following Customer's request for Service, Contractor will arrive at the location of the Covered Equipment the next business day or if optionally purchased by Customer, Contractor will arrive at the location of the Covered Equipment within eight (8), four (4) or two (2) CPM hours, provided the Covered Equipment is located within one hundred (100) miles of a Contractor service location. Response time does not include battery replacement service.

5. LABOR AND MATERIAL RATES: For any additional Service outside the Scope(s) of Work purchased for Covered Equipment under this Agreement, Customer shall be billed at Contractor's then current Time and Material Rate Schedule (refer to Attachment X-1). This excludes any flat-rate Service quoted by Contractor representative.

6. ENGINEERING CHANGES: All engineering changes deemed necessary by Contractor will be installed during scheduled Service visits during the CPM. Any engineering changes deemed optional by Contractor will be offered to Customer on an as-available, per charge basis.

7. CUSTOMER'S RESPONSIBILITY:

A. Communication and Scheduling - Customer shall contact Contractor's Customer Reliability Center (1-800-843-9433) regarding all Service and Preventative Maintenance requests and all other matters arising out of or relating to this Agreement. With respect to Preventative Maintenance purchased by Customer, it shall be Customer's responsibility to contact Contractor to schedule the Preventative Maintenance. In the event that Customer fails to schedule and/or does not permit, for any reason, Preventative Maintenance to be completed within ninety (90) days of the scheduled service date, Contractor's obligation for that Preventative Maintenance shall be considered fulfilled.

B. Movement - If Covered Equipment is moved to another location within the United States, Service coverage will continue only upon the following conditions: (i) Customer shall notify Contractor in writing at least thirty (30) days in advance of power-down of Covered Equipment; (ii) Contractor reserves the right to supervise the power-down, disconnection, rigging, packing, movement, unpacking, reinstallation and re-start of the Covered Equipment for which Customer will be charged according to Contractor's then current Time and Material Service Rate Schedule; and (iii) resumption of Service coverage under this Agreement is subject to acceptance by Contractor of Covered Equipment at the new location.

C. Safety - Customer shall, at all times during the provision of Service hereunder, have a representative present at the Service site at no cost to, and solely for, the safety of Contractor.

D. Access - Customer shall grant ready access to the Covered Equipment, subject to reasonable security requirements, so that Contractor may perform Service under this Agreement.

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8. **TERM AND TERMINATION:** Notwithstanding the foregoing, Customer or Contractor may terminate this Agreement at any time upon thirty (30) days written notice to the other, subject to Section 16 herein.

9. **END OF SERVICE LIFE ("EOSL")/BEST EFFORTS:** Contractor may designate a Power Module as "End of Service Life/Best Efforts" which shall mean that limited parts are available or Service will be provided on a best efforts basis. This designation will be indicated on the Service Quote provided to Customer for Service renewal. In the event that Contractor cannot perform or complete a covered repair, Contractor may terminate coverage subject to Section 8 herein. Customer may request a pro-rated refund for the terminated portion of this Agreement, subject to Section 16 herein. Customer acknowledges EOSLiBest Efforts designation on the Service Quote will serve as Contractor's notice of limited service support and its recommendation to replace or decommission the Power Module.

10. **INSURANCE:** During the term of this Agreement, Contractor, at its own cost and expense, shall maintain in full force and effect the following insurance with sound and reputable insurers: (1) worker's compensation insurance in accordance with the statutory requirements of the state where the Service is to be performed; (2) automobile liability insurance on all motor vehicles licensed for highway use, both owned and non-owned; and (3) commercial general liability insurance for bodily injury and property damage. A certificate of insurance shall be issued to Customer listing Customer as an additional insured on the above policies.

11. **WARRANTY:** Contractor shall perform all Service in a professional and workmanlike manner. Contractor warrants repairing or replacing defective parts or materials and correcting defective workmanship reported to Contractor and/or diagnosed by Contractor's personnel during the term of this Agreement. Contractor warrants its corrective maintenance and replacement parts to be free from defects in material and workmanship for the term of this Agreement or for a period of ninety (90) days from the completion date of the repair or replacement of parts or materials, whichever is longer. In the event the parts or materials fail to meet published specifications due to a defect in parts or materials or workmanship covered by this Warranty, Contractor, at its discretion, will repair or replace the warranted parts or materials at no cost to Customer. This Warranty shall not apply to any Power Module and/or Battery that has been: (i) subject to damage caused by accident, fire, flood, lightning, vandalism, acts of God, Customer's neglect, misuse, misapplication, incorrect connection or external damage; (ii) subject to repair or alteration by Customer (or a third party) not authorized by Contractor in writing; or (hi) moved without adherence to Section 7B herein. **THIS WARRANTY IS EXCLUSIVE EXCEPT FOR WARRANTY OF TITLE. CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, CORRECTION OF NON-CONFORMITIES IN THE MANNER AND FOR THE PERIOD OF TIME PROVIDED ABOVE SHALL CONSTITUTE CONTRACTOR'S SOLE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR FAILURE OF CONTRACTOR TO MEET ITS WARRANTY OBLIGATIONS, WHETHER CLAIMS OF CUSTOMER ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE.** Parts or materials supplied, but not manufactured by Contractor, are warranted solely by the manufacturer. Contractor's obligation under this Warranty is conditioned upon receipt of all payments due from Customer.

12. **ASSIGNMENT:** Neither party shall assign this Agreement or any of its rights and interests herein without the prior written consent of the other party. Notwithstanding anything in this Agreement or otherwise to the contrary, upon written notice to the other party, either party may assign this Agreement or any of its rights and interests herein to: (i) any parent, subsidiary, affiliated or successor corporation; or the purchaser of any of these entities; (U) any corporation to which the party has sold all or substantially all of its assets (including the purchaser of any of the party's subsidiaries); or (hi) any corporation or legal entity with which the party may merge or consolidate.

13. **SUBCONTRACTING:** Contractor reserves the right to subcontract any portion of Service provided for under this Agreement without the prior consent of Customer.

14. **INDEMNITY:** Subject to Section 15 herein, Contractor shall defend, indemnify and hold harmless Customer, its officers, employees and agents, from and against any and all claims, liabilities, damages, demands, losses, causes of action and suits, including reasonable attorney's fees incident thereto, to the extent they result directly from or out of (1) any injury to or death of any person or damage to or destruction of any property caused by the negligent acts, errors, omissions or willful misconduct of Contractor, its agents or employees, and (2) any violation of federal or state law, regulation, order, rule or of any other governmental authority having jurisdiction by Contractor, its employees or agents.

15. **LIABILITY:** Notwithstanding anything in this Agreement or otherwise to the contrary, in no event shall Contractor or Customer, or their respective officers, directors, employees or agents be liable to the other for any incidental, indirect, special or consequential damages, such as, but not limited to, delay damages, lost profits or revenue, lost data or lost opportunity damages, resulting from or in connection with any claim or cause of action, whether brought in contract or in tort, even if Contractor or Customer knew or should have known of the possibility of such damages. Under no circumstances shall the aggregate liability arising out of or in connection with this Agreement exceed the price paid hereunder for the goods and services provided.

16. **PAYMENT:** All payments are due net thirty (30) days in full from date of invoice. Customer shall be invoiced for, and shall pay for, all Service not expressly provided for by the terms hereof, such as, but not limited

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to, site calls involving no-fault found inspections where no corrective maintenance was required. If any payment is not made when due, Contractor reserves the right to refuse to provide any further Service until such payment has been received. Customer shall be liable for expenses, including reasonable attorneys' fees, associated with collection proceedings for non-payment. In the event of early termination: i) Customer will be liable for any Service rendered to the reasonable satisfaction of Customer prior to the effective date of termination; and U) Contractor, at its discretion, will provide a credit against any advance payments received as follows: a) a pro-rated amount based on the terminated portion of the fixed-price fee due Contractor; or b) an amount based on the difference between the amount paid by Customer prior to the effective date of early termination and the actual cost of Service completed (including emergency repair calls) by Contractor prior to the effective date of early termination.

17. TAX: Contractor's price is exclusive of any applicable tax. All orders will be subject to all applicable sales tax unless a current tax exemption certificate is on file with Contractor covering the state where Covered Equipment under this Agreement is located.

18. PARTS: Parts removed for replacement shall be Contractor's property. Parts used from Customer-owned spare parts kit shall be replaced by Contractor at no cost. Replacement parts shall be new or of the same quality as new.

19. FORCE MAJEURE: Contractor shall not be liable for any failure to perform, or delay in performing Service for Customer to the extent that such failure or delay results from causes beyond its reasonable control including, without any limitation, any act of God, war, revolution, riot, civil commotion, labor strike or any applicable governmental or judicial law or regulation, order or decree.

20. INFORMATION: All information of Customer shall be deemed non-confidential and Contractor will be under no duty of non-disclosure unless both parties execute a mutual non-disclosure agreement.

21. GENERAL: The terms and conditions of this Agreement cannot be modified or waived except by a writing signed by the parties hereto and waiver by Contractor or Customer of any provision hereof in any one instance shall not constitute a waiver as to any other instance. If a provision of this Agreement is invalidated for any reason, this Agreement remains binding except for such invalid provision. This Agreement shall be construed in accordance with and governed by the laws of the State of Ohio, Customer and Contractor hereby agree that all disputes arising out of this Agreement shall be submitted solely to the jurisdiction of the state and federal courts located in Delaware County, Ohio.

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

RESOLUTION NO. 12-352

IN THE MATTER OF APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND EATON ELECTRICAL INC. FOR THE PURCHASE OF BATTERIES FOR THE UNINTERRUPTIBLE POWER SYSTEM FOR THE PRIME TOWER SITE:

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

Whereas, the Public Safety Systems Administrator recommends approval of the contract with Eaton Electrical Inc. for the purchase of batteries for The Uninterruptible Power System for The Prime Tower Site;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the contract with Eaton Electrical Inc. for the purchase of batteries for The Uninterruptible Power System The Prime Tower Site.

Further Be It Resolved that the Delaware County Board of Commissioners approve the following purchase order:
R1203509 EATON REPLACEMENT 21411306 -5450 \$18,848.00 0001
ELECTRICAL INC BATTERIES PRIME SITE

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SERVICE AGREEMENT Proposal # 020612-4

INVOICE TO: (CUSTOMER)

Company: Board of Commissioners,
Delaware County, Ohio
Street: 101 North Sandusky Street
City: Delaware
State: OH Zip 43015
Contact: Patrick Brandt
PH: 740-833-2057
Fax / E-Mail: PBrandt@co.delaware.oh.us

INSTALL SITE: (CUSTOMER)

Company: Board of Commissioners,
Delaware County, Ohio
Street: 101 North Sandusky Street
City: Delaware
State: OH Zip 43015
Contact: Patrick Brandt
PH: 740-833-2057
Fax / E-Mail: PBrandt@co.delaware.oh.us

PAYMENT TERM SELECTED: SINGLE YEAR MULTI-YEAR Start Date: End Date:

PAYMENT CYCLE: UPFRONT MULTI-YEAR PREPAY ARREARS (upon Completion) M/S

PURCHASE ORDER NUMBER: Tax Exempt Certification Attached

LIST OF COVERED EQUIPMENT


Item	Product Line	Model	S/N#	Service Choice	Option	Qty	Total Price
1	Powerware	Ferrups FE18kVA	FE18K25188 FE18K25189	PowerCare Battery Update (60) 15330/2087-002		1	
2				Labor to Replace Qty (80) batteries (Mon. - Fri 8am - 5pm)	(5x8)	1	
3				Customer to dispose of batteries		1	
4				Includes freight with Lift gate		1	
SEE ATTACHED SHEETS: Eaton Corporation Terms and Conditions, Scopes of Work to be Performed							\$ 18,848.00

This Agreement, together with the terms on the attached sheets made part of this Agreement constitutes the entire Agreement between the parties and shall exclusively control the relationship of the parties, with regard to this Agreement. Printed, preprinted or other terms on the face or reverse side of Customer's Purchase Order shall not be binding.

CUSTOMER / PURCHASER

Company Name: Board of Commissioners,
Delaware County, Ohio
Signature: _____
Date: _____
Printed Name: _____
Title: _____
Fax / E-Mail: _____

EATON COPORATION

Signature: 
Date: 3-29-12
Printed Name: Darrick S. Finan
Title: Vice President, Americas Sales
Fax / E-Mail: _____

OFFICE USE ONLY

QUOTED BY: Eaton Corporation
Firm Name: Environmental Comfort, LLC (Eaton Corporation
Representative)
Date: 3/28/2012
Phone Number: 614-299-6464 (x20)

Contract Number: _____
Customer Number: _____
Site Number: _____
Bill To Number: _____
Date Processed: _____

COMMENTS:

*Important tax notice: Tax is not included in the above purchase price. In order to comply with tax regulations, sales/use tax will be added and itemized separately when you are invoiced. If you are not liable for this tax, please provide an executed tax exemption or resale certificate with this signed Agreement.

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Date: 3/28/2012
To: Patrick Brandt
Company: Delaware County
From: Rick Hatcher
Service Proposal # 020612-4

Message: I have attached an Eaton Corporation Service on your Ferrups FE18kVA UPS System. Please review and call with any questions.

PowerCare® Battery Update Service: (replacement) -- for existing Eaton Corporation® UPS System. Remove existing battery jars in existing battery cabinets, install new battery jars in existing battery cabinets. Freight and labor included.

Prices are assuming "easy access" for removal of old and installation of new

Freight is included - Pricing reflects dock-to-dock delivery. Any special delivery may require additional costs. Additional costs may be required if a dock does not exist at installation location.

All labor and materials are included

IMPORTANT NOTE

This service contract can be executed by either signing the attached contract
OR

Provide a Purchase Order and the PO MUST indicate "Per Environmental Comfort, LLC Proposal # "020612-4"

Purchase Orders should be addressed as follows:

Eaton Corporation (Eaton Corporation T&C's Apply)

C/O Environmental Comfort, LLC
909 King Avenue, Suite 200
Columbus, OH 43212

**EATON CORPORATION
SERVICES AGREEMENT –TERMS AND CONDITIONS (T-0)
(As Amended Under Sections 3, 8, 10, AND 21)**

TERMS AND CONDITIONS: The terms and conditions set forth herein, and any supplements which may be attached hereto, constitute the full and final expression of the contract for the sale of UPS services by Eaton Corporation - Power Quality Operations Americas Division, and supersedes all prior quotations, purchase orders, correspondence or communications whether written or oral between Eaton Corporation - Power Quality Operations Americas Division and the customer. Notwithstanding any contrary language in the customer's purchase order, correspondence or other form of acknowledgment, customer shall be bound by these terms and conditions when it sends a purchase order or otherwise indicates acceptance of this contract, or when it accepts delivery from Eaton Corporation - Power Quality Operations Americas Division of the products or services. THE CONTRACT FOR SALE OF SERVICES IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS STATED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY CUSTOMER ARE REJECTED UNLESS EXPRESSLY AGREED TO IN WRITING BY CONTRACTOR. No contract shall exist except as herein provided.

1. DEFINITIONS: As used in this Service Agreement, the terms listed below shall have the following meanings: "Agreement" shall mean Eaton Corporation - Power Quality Operations Americas Division's Service Agreement Terms and Conditions, the Service Quote and the applicable Scope(s) of Work."
"Battery" shall mean the electric storage portion of a UPS.
"Contractor" shall mean Eaton Corporation.
"Covered Equipment" shall mean the equipment as listed on the Service Quote.
"CPM" shall mean the Contracted Period of Maintenance.
"Customer" shall mean the purchaser of this Agreement.
"Emergency Service" shall mean all services provided on an as needed basis that is not scheduled in advance
"PCS" shall mean Pre-Contract Survey.
"On-Site" shall mean Service performed at Customer's physical location as listed on the Service Quote.
"Power Module" shall mean the electronic portion of a UPS or other power quality device.
"Scope of Work" shall mean the services, procedures, methods, exclusions and coverage as purchased by the Customer

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"Service" shall mean installation, maintenance (including Preventive Maintenance), repairs, inspection, adjusting, etc. of the UPS equipment provided by Contractor to Customer,

"UPS" shall mean Uninterruptible Power Supply which is comprised of the Power Module and Batteries.

2. **ELIGIBILITY:** All Covered Equipment that has experienced a lapse in Service coverage with the Contractor (or factory warranty coverage) or has had no service history with Contractor within the previous ninety (90) days, is subject to a PCS inspection by Contractor prior to eligibility for any Service under this Agreement. Customer is subject to charges for a PCS inspection at Contractor's then current Time and Material Service Rate Schedule (refer to Exhibit I-PCS and Attachment X-1). If a PCS inspection is required for eligibility, a list of the equipment requiring a PCS inspection will be provided to Customer and will be incorporated into this Agreement.

3. **HOURS OF SERVICE:** Contractor will provide scheduled and emergency services portal-to-portal 8:00AM to 5:00 PM Monday-Friday (alternatively described as "5X8 Service") excluding all holidays observed by Contractor. The Customer may optionally purchase extended hours of scheduled and Emergency Service coverage (alternately described as "7x24 Service") which will include Emergency Service being provided at all times and on all days, including all holidays observed by Contractor. Notwithstanding anything herein or otherwise to the contrary, scheduled services are not available on Contractor's observed holidays. Contractor's observed holidays are as follows: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Post Thanksgiving Day, Christmas Eve Day and Christmas Day.

4. **ON-SITE RESPONSE TIME:** Following Customer's request for Service, Contractor will arrive at the location of the Covered Equipment the next business day or if optionally purchased by Customer, Contractor will arrive at the location of the Covered Equipment within eight (8), four (4) or two (2) CPM hours, provided the Covered Equipment is located within one hundred (100) miles of a Contractor service location. Response time does not include battery replacement service.

5. **LABOR AND MATERIAL RATES:** For any additional Service outside the Scope(s) of Work purchased for Covered Equipment under this Agreement, Customer shall be billed at Contractor's then current Time and Material Rate Schedule (refer to Attachment X-1). This excludes any flat-rate Service quoted by Contractor representative.

6. **ENGINEERING CHANGES:** All engineering changes deemed necessary by Contractor will be installed during scheduled Service visits during the CPM. Any engineering changes deemed optional by Contractor will be offered to Customer on an as-available, per charge basis.

7. **CUSTOMER'S RESPONSIBILITY:**

A. **Communication and Scheduling** - Customer shall contact Contractor's Customer Reliability Center (1-600-843-9433) regarding all Service and Preventative Maintenance requests and all other matters arising out of or relating to this Agreement. With respect to Preventative Maintenance purchased by Customer, it shall be Customer's responsibility to contact Contractor to schedule the Preventative Maintenance. In the event that Customer fails to schedule and/or does not permit, for any reason, Preventative Maintenance to be completed within ninety (90) days of the scheduled service date, Contractor's obligation for that Preventative Maintenance shall be considered fulfilled.

B. **Movement** - If Covered Equipment is moved to another location within the United States, Service coverage will continue only upon the following conditions: (i) Customer shall notify Contractor in writing at least thirty (30) days in advance of power-down of Covered Equipment; (ii) Contractor reserves the right to supervise the power-down, disconnection, rigging, packing, movement, unpacking, reinstallation and re-start of the Covered Equipment for which Customer will be charged according to Contractor's then current Time and Material Service Rate Schedule; and (iii) resumption of Service coverage under this Agreement is subject to acceptance by Contractor of Covered Equipment at the new location.

C. **Safety** - Customer shall, at all times during the provision of Service hereunder, have a representative present at the Service site at no cost to, and solely for, the safety of Contractor.

D. **Access** - Customer shall grant ready access to the Covered Equipment, subject to reasonable security requirements, so that Contractor may perform Service under this Agreement.

8. **TERM AND TERMINATION:** Notwithstanding the foregoing, Customer or Contractor may terminate this Agreement at any time upon thirty (30) days written notice to the other, subject to Section 18 herein.

9. **END OF SERVICE LIFE ("EOSL")/BEST EFFORTS:** Contractor may designate a Power Module as End of Service Life/Best Efforts" which shall mean that limited parts are available or Service will be provided on a best efforts basis. This designation will be indicated on the Service Quote provided to Customer for Service renewal. In the event that Contractor cannot perform or complete a covered repair, Contractor may terminate coverage subject to Section 8 herein. Customer may request a pro-rated refund for the terminated portion of this Agreement, subject to Section 15 herein. Customer acknowledges EOSL/Best Efforts designation on the Service Quote will serve as Contractor's notice of limited service support and its recommendation to replace or decommission the Power Module.

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10. **INSURANCE:** During the term of this Agreement, Contractor, at its own cost and expense, shall maintain in full force and effect the following insurance with sound and reputable insurers: (1) worker's compensation insurance in accordance with the statutory requirements of the state where the Service is to be performed; (2) automobile liability insurance on all motor vehicles licensed for highway use, both owned and non-owned; and (3) commercial general liability insurance for bodily injury and property damage. A certificate of insurance shall be issued to Customer listing Customer as an additional insured on the above policies.

11. **WARRANTY:** Contractor shall perform all Service in a professional and workmanlike manner. Contractor warrants repairing or replacing defective parts or materials and correcting defective workmanship reported to Contractor and/or diagnosed by Contractor's personnel during the term of this Agreement. Contractor warrants its corrective maintenance and replacement parts to be free from defects in material and workmanship for the term of this Agreement or for a period of ninety (90) days from the completion date of the repair or replacement of parts or materials, whichever is longer. In the event the parts or materials fail to meet published specifications due to a defect in parts or materials or workmanship covered by this Warranty, Contractor, at its discretion, will repair or replace the warranted parts or materials at no cost to Customer. This Warranty shall not apply to any Power Module and/or Battery that has been: (i) subject to damage caused by accident, fire, flood, lightning, vandalism, acts of God, Customer's neglect, misuse, misapplication, incorrect connection or external damage; (H) subject to repair or alteration by Customer (or a third party) not authorized by Contractor in writing; or (Hi) moved without adherence to Section 7B herein. **THIS WARRANTY IS EXCLUSIVE EXCEPT FOR WARRANTY OF TITLE, CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CORRECTION OF NON-CONFORMITIES IN THE MANNER AND FOR THE PERIOD OF TIME PROVIDED ABOVE SHALL CONSTITUTE CONTRACTOR'S SOLE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR FAILURE OF CONTRACTOR TO MEET ITS WARRANTY OBLIGATIONS, WHETHER CLAIMS OF CUSTOMER ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE.** Parts or materials supplied, but not manufactured by Contractor, are warranted solely by the manufacturer. Contractor's obligation under this Warranty is conditioned upon receipt of all payments due from Customer.

12. **ASSIGNMENT:** Neither party shall assign this Agreement or any of its rights and interests herein without the prior written consent of the other party. Notwithstanding anything in this Agreement or otherwise to the contrary, upon written notice to the other party, either party may assign this Agreement or any of its rights and interests herein to: (i) any parent, subsidiary, affiliated or successor corporation; or the purchaser of any of these entities; (ii) any corporation to which the party has sold all or substantially all of its assets (including the purchaser of any of the party's subsidiaries); or (iii) any corporation or legal entity with which the party may merge or consolidate.

13. **SUBCONTRACTING:** Contractor reserves the right to subcontract any portion of Service provided for under this Agreement without the prior consent of Customer.

14. **INDEMNITY:** Subject to Section 15 herein, Contractor shall defend, indemnify and hold harmless Customer, its officers, employees and agents, from and against any and all claims, liabilities, damages, demands, losses, causes of action and suits, including reasonable attorney's fees incident thereto, to the extent they result directly from or out of (1) any injury to or death of any person or damage to or destruction of any property caused by the negligent acts, errors, omissions or willful misconduct of Contractor, its agents or employees, and (2) any violation of federal or state law, regulation, order, rule or of any other governmental authority having jurisdiction by Contractor, its employees or agents.

15. **LIABILITY:** Notwithstanding anything in this Agreement or otherwise to the contrary, in no event shall Contractor or Customer, or their respective officers, directors, employees or agents be liable to the other for any incidental, indirect, special or consequential damages, such as, but not limited to, delay damages, lost profits or revenue, lost data or lost opportunity damages, resulting from or in connection with any claim or cause of action, whether brought in contract or in tort, even if Contractor or Customer knew or should have known of the possibility of such damages. Under no circumstances shall the aggregate liability arising out of or in connection with this Agreement exceed the price paid hereunder for the goods and services provided.

16. **PAYMENT:** All payments are due net thirty (30) days in full from date of invoice. Customer shall be invoiced for, and shall pay for, all Service not expressly provided for by the terms hereof, such as, but not limited to, site calls involving no-fault found inspections where no corrective maintenance was required. If any payment is not made when due, Contractor reserves the right to refuse to provide any further Service until such payment has been received. Customer shall be liable for expenses, including reasonable attorneys' fees, associated with collection proceedings for non-payment. In the event of early termination: i) Customer will be liable for any Service rendered to the reasonable satisfaction of Customer prior to the effective date of termination; and H) Contractor, at its discretion, will provide a credit against any advance payments received as follows: a) a pro-rated amount based on the terminated portion of the fixed-price fee due Contractor; or b) an amount based on the difference between the amount paid by Customer prior to the effective date of early termination and the actual cost of Service completed (including emergency repair calls) by Contractor prior to the effective date of early termination.

17. **TAX:** Contractor's price is exclusive of any applicable tax. All orders will be subject to all applicable

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sales tax unless a current tax exemption certificate is on file with Contractor covering the state where Covered Equipment under this Agreement is located.

18. PARTS: Parts removed for replacement shall be Contractor's property. Parts used from Customer-owned spare parts kit shall be replaced by Contractor at no cost. Replacement parts shall be new or of the same quality as new.

19. FORCE MAJEURE: Contractor shall not be liable for any failure to perform, or delay in performing Service for Customer to the extent that such failure or delay results from causes beyond its reasonable control including, without any limitation, any act of God, war, revolution, riot, civil commotion, labor strike or any applicable governmental or judicial law or regulation, order or decree.

20. INFORMATION: All information of Customer shall be deemed non-confidential and Contractor will be under no duty of non-disclosure unless both parties execute a mutual non-disclosure agreement.

21. GENERAL: The terms and conditions of this Agreement cannot be modified or waived except by a writing signed by the parties hereto and waiver by Contractor or Customer of any provision hereof in any one instance shall not constitute a waiver as to any other instance. If a provision of this Agreement is invalidated for any reason, this Agreement remains binding except for such invalid provision. This Agreement shall be construed in accordance with and governed by the laws of the State of Ohio. Customer and Contractor hereby agree that all disputes arising out of this Agreement shall be submitted solely to the jurisdiction of the state and federal courts located in Delaware County, Ohio.

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

RESOLUTION NO. 12-353

IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND RIBWAY ENGINEERING GROUP, INC. FOR THE OLENTANGY ENVIRONMENTAL CONTROL CENTER MOTOR CONTROL UPGRADE AND REPLACEMENT PROJECT:

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 Ribway Engineering Group, Inc. for the Olentangy Environmental Control Center Motor Control Upgrade and Replacement Project.

OLENTANGY ENVIRONMENTAL CONTROL CENTER MOTOR CONTROL UPGRADE AND REPLACEMENT

Section 1 – Parties to the Agreement

This Agreement is made and entered into this 12th day of April, 2012 by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Ribway Engineering Group Inc, 300 East Broad Street Suite 500 Columbus, Ohio 43215 (“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

Contractor agrees to furnish, unto the County, Olentangy Environmental Control Center Motor Control Center Upgrade and Replacement in accordance with the Scope of Services, pages 1 through 7 of which are attached hereto as Exhibit “A” and, by this reference, hereby made a 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 for the Scope provided hereunder in accordance with Exhibit A, in a total amount not to exceed Two hundred twenty four thousand and seventy dollars and No Cents (\$224,070.00)

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 Contractor on company letterhead clearly listing the word “Invoice” with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Consultant shall promptly submit documentation as needed to substantiate said invoices. The County shall pay invoices within thirty (30) days of receipt.

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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

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

Section 8 – 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 Scope 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 thereafter 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

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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.
- 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.

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

RESOLUTION NO. 12-354

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

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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 is 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.

Quantity	Description	Model #
1	1996 Floater	3004
1	1996 Ford Pick Up 4X4	F250
1	1996 John Deere 6X4	Gator

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

RESOLUTION NO. 12-355

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

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

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).

WHEREAS, authorization of the procurement card is intended for general purchases allowable under the policy in addition to the purchases authorized within prior resolution 09-309.

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners of Delaware County, State of Ohio, authorize the use of the following procurement card to the limits indicated and for specific work related expenses designated in the Procurement Card Policy without submitting a monthly estimate of expenses and provides authorization of the procurement in addition to the purchases authorized within resolution 09-309.

Appointing Authority: Board of Commissioners
Office/Department: Administrative Services

Daily spending per card: \$24,999
Monthly spending per card: \$50,000
Single transaction limit: \$24,999
Daily number of transactions per card: 20
Monthly number of transactions per card: 100

Name on Card 1: Dawn Huston

Department Coordinator: Jennifer Downey

Authorization is for general purchases allowable under the policy in addition to the purchases authorized by the prior resolution.

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

COMMISSIONERS' COMMITTEES REPORTS

Commissioner O'Brien
-On Wednesday Attended And Participated In The Family Children's First Council Meeting; Youth Cluster Reimbursements, Summer Lunch Program At Woodward Elementary-Looking For Volunteers

COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 12, 2012

Commissioner Thompson
-New Restaurant Downtown

Commissioner Stapleton
-MORPC Meeting Later Today
-DATA Transit Urbanization Meeting Next Week

RESOLUTION NO. 12-256

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF EMPLOYMENT, COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL AND FOR PENDING OR IMMINENT LITIGATION:

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

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

RESOLUTION NO. 12-257

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 11:38AM.

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

There being no further business, the meeting adjourned.

Ken O'Brien

Dennis Stapleton

Tommy Thompson

Jennifer Walraven, Clerk to the Commissioners