

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 10, 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. 12-451**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD MAY 7, 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 May 7, 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

**PUBLIC COMMENT**

**ELECTED OFFICIAL COMMENT**

**RESOLUTION NO. 12-452**

**IN THE MATTER OF RECOGNIZING MAY AS OLDER AMERICANS MONTH:**

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

WHEREAS, Older Americans Month is observed nationally each May to celebrate the accomplishments of our older citizens and recognize the vital role they play in weaving a unique and lasting community fabric; and

WHEREAS, this year's theme for Older Americans Month in Ohio is "Never Too Old to Play" which puts a spotlight on the important role older adults play in sharing their experience, wisdom, and understanding, and passing on that knowledge to other generations in a variety of significant ways and;

WHEREAS, the senior members of our population are living longer, healthier, and more productive and active lives than ever. Delaware County is home to over 30,000 older adults. By the year 2020, one out of every five county residents will be over the age of 60.

THEREFORE, BE IT RESOLVED, that in recognition the month of May as "Older Americans Month," the Delaware County Board of Commissioners does hereby honor and congratulate local older adults for the important contributions that they have made and continue to make in Delaware County to our families, communities and society.

AND FURTHER RESOLVE that the Delaware County Board of Commissioners does recognize and congratulate local health and social service organizations who provide assistance and services for a growing number of older county residents for helping to make Delaware County a better place to live and to grow older.

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

**PRESENTATION DELAWARE COUNTY COUNCIL FOR OLDER ADULTS;**

**POPULATION GROWTH AND THE IMPLICATIONS ON OUR OLDER POPULATION**

**RESOLUTION NO. 12-453**

**IN THE MATTER OF DECLARING MAY AS BUILDING SAFETY MONTH IN DELAWARE COUNTY:**

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

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Whereas, Delaware County’s continuing efforts to address the critical issues of safety, energy efficiency and sustainability in the built environment give us confidence that our structures are safe and sound; and

Whereas, our confidence is achieved through the commitment of building officials, fire prevention officials, architects, engineers, builders, contractors, laborers and others in the construction industry—who work to ensure the safe construction of buildings; and

Whereas, building, plumbing and fire officials from many jurisdictions within Delaware County administer codes to protect individuals in the buildings where they live, learn, work, worship, play; and

Whereas, the International Codes are used by the State of Ohio in providing a basis for the Ohio Building Code, the Residential Code of Ohio, the Ohio Plumbing Code and the Ohio Fire Code; and

Whereas, Building Safety Month is sponsored by the International Code Council and International Code Council Foundation, to remind the public about the importance of the implementation of safety codes by local and state agencies.

NOW THEREFORE BE IT RESOLVED, the Delaware County Board of Commissioners does hereby designate May as Building Safety Month and we urge all county residents and those doing business in Delaware County to work with our building officials and fire officials on achieving building safety and sustainability.

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

**RESOLUTION NO. 12-454**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0509, MEMO TRANSFERS IN BATCH NUMBERS MTAPR0509:**

It was moved by Mr. Thompson, seconded by Mr. Stapleton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0509, memo transfers in batch numbers MTAPR0509 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO' Increase</b>			
Adriel School	Residential Treatment	22511607-5342	\$ 9,000.00
Atrium	JFS Personnel Program Service	22411601-5301	\$ 10,000.00
AEP	Scioto Reserve	66211907-5338	\$ 12,000.00
Delaware Motive	Facilities/Service Center	10011106-5338	\$ 10,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Desc</u>	<u>Line Account</u>	<u>Amount</u>	<u>Line</u>
R1203169	CALLOS COMPANIES, THE	COA CHORE CREW	22311611 - 5301	\$39,984.00	0001
R1203876	BEST BUY STORES LP	PAYROLL			
		COMPUTERS FOR IL	22511607 - 5348	\$6,000.00	0001
		YOUTH			
R1203936	STEPHEN CAMPBELL & ASSOC INC	MAINTENANCE	21411306 - 5325	\$12,600.00	0001
		AGREEMENT ON			
		RECORDER			
R1203942	HD SUPPLY WATERWORKS LTD	PIPES AND FITTINGS	66611903 - 5410	\$11,000.00	0001
		FOR NON POT			
		UPGRADE PROJECT			
R1203995	DELAWARE AREA CAREER CENTER	ONE STOP	22311611 - 5348	\$8,538.50	0001
		REIMBURSEMENT			
R1203995	DELAWARE AREA CAREER CENTER	ONE STOP	22311611 - 5348	\$31,273.00	0002
		REIMBURSEMENT			
R1204024	OLIVER WYMAN CONSULTING	WORKERS' COMP SELF	61311923 - 5370	\$8,000.00	0001
		INSURANCE RESERVE			
		VERIFICATION			

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

**RESOLUTION NO. 12-455**

**IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:**

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

The Commissioners’ Office is requesting a \$7.95 amendment to the previously approved travel request for the Annual MORPC Meeting. (Fund Number 10011101).

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The Auditor's Office is requesting that Dedra Hall attend a Department of Labor Training in Cincinnati, Ohio June 8, 2012 and Year End Training November 4, 2012 in Columbus, Ohio; at the cost of \$797.10 (Auditor's General).

Environmental Services is requesting that Matt Lambert, Blake Jordan, David Finney, Eric Kletrovetz, and Tiffany Jenkins attend the County Sanitary Engineers Association of Ohio Summer Conference in Columbus, Ohio on June 11 and 12, 2012; at a total cost of \$250.00 from org key 66211902.

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

**RESOLUTION NO. 12-456**

**IN THE MATTER OF CHANGING THE STARTING TIME OF THE DELAWARE COUNTY COMMISSIONERS' SESSION FOR THURSDAY MAY 24, 2012 FROM 10:00AM TO 1:00PM:**

It was moved by Mr. Thompson, seconded by Mr. Stapleton to change the starting time of the Delaware County Commissioners' session for Thursday May 24, 2012 from 10:00am to 1:00pm.

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

**RESOLUTION NO. 12-457**

**IN THE MATTER OF GIVING INFORMED CONSENT AND WAIVING A CONFLICT OF INTEREST REGARDING NEGOTIATIONS OF AN AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND THE DELAWARE BOARD OF DEVELOPMENTAL DISABILITIES:**

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

WHEREAS, pursuant to Ohio Revised Code Section 309.09, the Delaware County Prosecuting Attorney is charged, by herself or acting through her assistants (collectively "Prosecutor"), with acting as legal advisor to both the Delaware County Board of Commissioners and the Delaware County Board of Developmental Disabilities (individually "Client" and collectively "Clients"); and

WHEREAS, at times, the Prosecutor is faced with a situation which places her in the position of potentially acting as legal advisor to more than one Client at the same time on the same case, matter, or issue (collectively "Issue"), which may give rise to a conflict of interest; and

WHEREAS, the Board of Commissioners and Board of Developmental Disabilities are currently negotiating an agreement regarding use of the Board of Developmental Disabilities' facility and connection of the facility to the County's fiber optic network; and

WHEREAS, the Prosecutor has determined that a conflict of interest exists or is likely to arise during the negotiations; and

WHEREAS, the Prosecutor has determined that she will be able to provide competent and diligent representation to each Client, that the representation is not prohibited by law, and that the representation will not involve the assertion of a claim by one Client against the other Client; and

WHEREAS, in order for the Prosecutor to continue representation of both Clients, each Client must give informed consent, confirmed in writing;

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

Section 1. The Board recognizes the existence of the conflict of interest inherent in the present situation and acknowledges that the above described conflict of interest has been fully explained. The Board fully understands the conflict of interest, and all questions that the Board may have about the conflict of interest have been fully answered by the Prosecutor to the Board's satisfaction. By giving informed consent and waiving the conflict of interest the Board acknowledges and understands that the Prosecutor will simultaneously act as legal advisor to the Board and the above named other Client. The Board recognizes and understands that this Informed Consent and Waiver may be immediately withdrawn by the Board at any time by giving written notice to the Prosecutor signed by the Board stating that this Informed Consent and Waiver is withdrawn;

Section 2. The Board hereby gives informed consent and waives any conflict of interest regarding the Prosecutor's representation of both Clients in the negotiations of an agreement, as described herein, with the Delaware County Board of Developmental Disabilities.

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

**RESOLUTION NO. 12-458**

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**IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN GLOBAL TEL\*LINK CORPORATION AND THE DELAWARE COUNTY BOARD OF COMMISSIONERS ON BEHALF OF THE DELAWARE COUNTY SHERIFF'S OFFICE FOR INMATE TELEPHONE SERVICE:**

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

Whereas, the Sheriff and Sheriff's Office Staff recommend approval of the agreement with Global Tel\*Link Corporation For Inmate Telephone Service;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the agreement with Global Tel\*Link Corporation And The Delaware County Sheriff's Office For Inmate Telephone Service.

**INMATE TELEPHONE SERVICE AGREEMENT**

This Inmate Telephone Service Agreement ("Agreement") is made by and between Global Tel\*Link Corporation, having its principal place of business at 2609 Cameron Street, Mobile, Alabama 36607 ("Company") and the Delaware County Board of Commissioners on behalf of the Delaware County Sheriff's Office, with an address at 844 US HWY 42N, Delaware, OH 43015 ("Premise Provider").

**1. Term.** This Agreement shall be in effect for five (5) years, commencing from May 12, 2012 through May 11, 2017. Commission calculations shall begin as of the first day of the term.

**2. Equipment.** This Agreement applies to the installation, management, operation and maintenance of inmate telephones, enclosures, and related equipment furnished by the Company as listed on Exhibit A at the time of execution of the Agreement or during the term of this Agreement, whether existing, newly installed or renovated, located at: Delaware County Sheriff's Office Jail, 844 US HWY 42N, Delaware, OH 43015 (Facility) and all other facilities under the control of Premise Provider.

The term "Equipment" is defined herein as the inmate telephone set(s) and related equipment, including but not limited to guard posts, concrete pads, mast poles, and site preparation. Where guard posts, concrete pads, enclosures, pedestals, bumper pads, or other property of the Company are installed upon the premises owned or controlled by Premise Provider or any of its agencies or affiliates, such property shall remain in all respects that of the Company. The Company reserves the right to remove or relocate equipment which is subjected to recurring vandalism or insufficient traffic and/or revenue to warrant the continuation of service. The Company shall not exercise such a right of removal or relocation unreasonably. The Company will notify the Premise Provider in writing of its intention to remove or relocate prior to such action. Upon removal of equipment by the Company, the Company shall restore said premise to its original condition, ordinary wear and tear excepted. However, the Company shall not be liable for holes placed in walls, pillars, or floors or other conditions on the premises which resulted from the proper installation of equipment described herein. The Premise Provider may not make alterations or attachments to the Equipment provided under this agreement, unless otherwise mutually agreed upon by all parties.

**3. Services.** At no cost to the Premise Provider, the Company shall provide all management services necessary to implement this Agreement; and shall be responsible for furnishing, installing, repairing and servicing the Equipment; the establishment (if and to the extent required by the Company) and compliance with all tariffs and all rules, regulations, orders and policies of federal and state regulatory authorities applicable to the payphone and automated operator services provided by the Company; the establishment and maintenance of all billing and payment arrangements with the local and interexchange carriers; the processing of all telephone call records; the performance (alone or through others) of all validation, billing, outclearing and collection services; and the handling of all billing and other inquiries, fraud control, and all other services essential to the performance of the Company's obligations under this Agreement. The Company reserves the right to control unbillables, bad debt and fraud.

**4. Compensation.** Remuneration shall be fifty-five percent (55%) of the gross revenue billed or prepaid for all phones covered by this Agreement. Gross Revenue shall mean all revenue generated by every completed call that is accepted by an end user and billed via a local exchange carrier or prepaid to Company. Gross revenue on which monthly commission will be paid does not include: (i) taxes and tax-related surcharges; (ii) credits; (iii) account transaction fees; and (iv) any amount Company collects for, or pays to, third parties, including but not limited to payments in support of statutory or regulatory programs mandated by governmental or quasi-governmental authorities, such as the Federal Universal Service Fee, and any costs incurred by Company in connection with such programs. Payments shall be paid monthly. All commission payments shall be considered final and binding upon the Premise Provider unless written objection is received by the Company in accordance with Section 10 within sixty (60) days of receipt of commission payment by the Premise Provider.

Additional compensation to the County shall be in the form of an Annual Calling Card Bonus. The bonus shall consist of ten-thousand dollars (\$10,000.00) worth of calling cards delivered at the start of the term of the Agreement, and then ten-thousand dollars (\$10,000.00) worth of calling cards delivered on each anniversary date of the Agreement. No commission shall be paid on calls made with the free calling cards. The cards shall be mailed to the Jail, to the attention of Julie McKenzie, 844 US Rte 42N, Delaware, OH 43015.

Further compensation shall be two-thousand, five-hundred and twenty-five dollars (\$2,525.00) paid on behalf of the

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County for the annual DSS Maintenance payment, during the term of the Agreement. The invoice for the DSS Maintenance shall be paid directly by Company on behalf of the County.

Commission payments will be delivered to the address listed in this Section, which may be changed by Premise Provider from time to time upon notice to Company in accordance with terms of the notice provision of this Agreement.

Delaware County Sheriff's Office  
149 N. Sandusky St.  
Delaware, OH 43015  
Attn: Delaware County Sheriff

**5. Rates.** The telephone rate structure and surcharge rates shall not exceed the maximum rates as authorized by the state's telecommunication regulatory authority and the Federal Communications Commission (FCC). Any rate changes mandated by the state/local regulatory authority and/or the FCC which adversely affect this Agreement shall entitle the Company to, at its option, renegotiate or cancel this Agreement in accordance with Paragraph 18 below.

**6. Records & Confidentiality.** The Company shall maintain records sufficient to permit proper determination of funds due the Premise Provider. Such records shall be made available to the Premise Provider for review upon request.

From the date this Agreement is signed by both parties until three (3) years after the expiration or earlier termination of the Agreement, the parties shall, subject to the Ohio Public Records Act, keep confidential the terms of this Agreement and of the response of Company to any request for proposal that led to this Agreement. Each party shall, subject to the Ohio Public Records Act, also keep confidential any information it learns about the other's business or operations during its performance under this Agreement. The parties may make disclosures to employees, shareholders, agents, attorneys and accountants (collectively, "Agents") as required to perform their obligations hereunder, provided, however, that the parties shall cause all Agents to honor the provisions of this Section. The parties may also make disclosures as required by law as long as, before any disclosure, the party subject to the disclosure requirement promptly notifies the other party of the requirement and allows the other party the opportunity to oppose the disclosure. Neither party will be obligated to keep confidential the other's information to the extent it was known to that party prior to the date of this Agreement without any obligation or request for confidentiality, is or becomes publicly known through no wrongful act of the party, is rightfully received from a third party who has no confidentiality obligation with respect to the information, or is developed independently by the party (and this can be verified).

The revenue payment and reporting cycle will be a maximum of 45 days following the end of the previous month. Both summary and detail reports will be provided. The original reports and payment will be mailed directly to the Premise Provider. The following information will be provided for each location by telephone number:

- Total Calls
- Total minutes of use
- Type of call
- Total usage revenue

**7. Further Assurances.** During the term of this Agreement, including any renewal period(s), Premise Provider agrees to:

- (a) Reasonably protect the Equipment against willful abuse and promptly report any damage, service failure or hazardous conditions to the Company.
- (b) Provide, at its expense, necessary power and power source, and provide suitable space, accessible to the users.
- (c) Permit reasonable access to its respective facilities without charge or prejudice to Company employees or representatives, patrons, or consignees.
- (d) Premise Provider represents and warrants that it has legal authority to enter into this Agreement and to make all decisions concerning the providing of space and the installation and use of the Equipment at the Facility; and agrees that during the term of this Agreement, including any renewal period(s), the Company shall have the exclusive right to provide inmate and/or payphone service at the Facility provided, however, that the Company may choose not to exercise this exclusive right.
- (e) During the term of this agreement, Premise Provider agrees it will not allow other pay telephones or inmate telephones to either remain or be installed at the facility's property. This is to include any additional inmate telephones required to facilitate Premise Provider's expansion at its present or future location(s) during the term of this Agreement and any extensions of this Agreement.
- (f) Stipulate that Company has no responsibility to advise Premise Provider with respect to any law, regulation, or guideline that may govern or control telephone call recordation or monitoring by Premise Provider, or

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compliance therewith. Premise Provider has its own legal counsel to advise it concerning any and all such law, regulation, or guideline, and compliance therewith, and makes its own determination on when and how to use the inmate call monitoring and recording capabilities supplied through this Agreement. Company disclaims any responsibility to provide, and in fact has not provided, Premise Provider any legal advice concerning such applicable law, regulation, or guideline, or compliance therewith.

Premise Provider agrees to be solely responsible for compliance with any such law, regulation or guideline.

- (g) Acknowledge that all call detail records (CDRs) and call recordings contained in the inmate telephone system equipment provided by Company to Premise Provider are the exclusive property of the Premise Provider for the term of this Agreement and any resulting extensions of this Agreement; provided, however, that Company shall have the right to use the CDRs and recordings to respond to legal requests, to provide the services under this Agreement, and for other lawful business purposes.

8. **Title.** Title to Equipment hereunder shall be and at all times remain in the Company.

9. **Relocation.** Equipment shall not be disconnected or moved by Premise Provider from the location in which it is installed. By agreement of all parties, installed Equipment may be relocated by the Company.

10. **Notices.** Any notice, demand, request, approval or other communication (a “notice”) which, under the terms of this Agreement or by law, must or may be given by either party, must be in writing, and must be given by personally delivering or mailing the same by registered or certified mail, return receipt requested, to the respective parties as follows:

<b>To Company:</b>	<b>To Premise Provider:</b>
<b>Global Tel*Link Corporation</b>	<b>Delaware County Jail</b>
12021 Sunset Hills Road	149 North Sandusky Street
Suite 100	Delaware, OH 43015
Reston, Virginia 20190	
Phone: (703) 955-3915	Phone: 740-833-2840
Fax: (703) 435-0980	Fax: 740-833-2859
<b>ATTN: Legal Department</b>	<b>ATTN: Delaware County Sheriff</b>

11. **Governing Law.** The construction, interpretation and performance of this agreement and all transactions under it shall be governed by the domestic laws of the State of Ohio.

12. **Indemnification & Consequential Damages.** Company shall indemnify Premise Provider from any loss, cost, damage, expense, or liability arising out of the performance of this Agreement and caused, in whole or in part, by the acts or omissions, negligence or fault, of the indemnifying party, except to the extent such loss, cost, damage, expense, or liability arises from the acts of omissions, negligence or fault of the other party; provided, however, that the Company shall not be liable for interruption of telephone service from any cause.

Neither party hereunder shall be liable to the other for any consequential or indirect loss, including but not limited to loss of profits, telephone or business interruption, howsoever caused and even if due to the negligence, breach of contract or other fault of the respective parties. Company’s liability under this Contract shall in no event exceed the total Contract value or \$500,000, whichever is lesser.

13. **Risk of Loss.** The Company and its insurers, if any, shall relieve Premise Provider of all risks of loss or damage to the Equipment during the periods of transportation, installation and operation of the Equipment. However, Premise Provider shall be responsible for loss or damage to Equipment in its possession caused by fault or negligence of Premise Provider or its employees.

14. **Default.** In the event any party shall be in breach or default of any terms, conditions, or covenants of this agreement and such breach or default shall continue for a period of thirty (30) days after the giving of written notice thereof to any party by the other, then in addition to all other rights and remedies of law or equity or otherwise, the offended party shall have the right to cancel this agreement without charge of liability.

15. **Assignment.** This agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns, including any new administration or head of Premise Provider; provided, however, that neither party shall assign this Agreement or any interest herein without the other’s prior written consent, except that the Company shall have the right to assign this Agreement or any interest herein at any time to any parent, successor, subsidiary, or affiliate of the Company without the consent of the Premise Provider.

16. **Independent Contractor.** The Company acknowledges that it is an independent contractor and that nothing contained in this Agreement or the relationship of the parties is intended to or shall create a partnership or joint venture or agency relationship of any kind between the parties. This agreement shall not be constructed as a contract

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of agency or employment. Company shall be solely responsible and liable for compliance with all laws, rules and regulations and payment of all wages, unemployment, social security and other payroll taxes relating to Company's employees including contribution from such persons, when required by law.

**17. Solicitation.** The Premise Provider acknowledges that no officer or employee of the Company has been employed, induced, or directed by Premise Provider to solicit or secure this agreement with the Company upon agreement, offer, understanding, or implication involving any form of remuneration whatsoever. Premise Provider agrees, in the event of an allegation of substance (the determination of which will be solely made by the Company) that there has been a violation hereof, Premise Provider will cooperate in every reasonable manner with the Company in establishing whether the allegation is true. Notwithstanding any provisions of this agreement to the contrary, if a violation of this provision is found to have occurred and is deemed material by the Company, the Company may terminate this agreement.

**18. Force Majeure.** Neither party to this Agreement shall be responsible or liable to the other for delays or inability to act or perform their obligations under this contract due to circumstances, events or acts of others beyond their reasonable control, including, but not limited to, acts of God, fire, flood, storm, hurricane, tornado, theft of equipment, or changes in regulatory rules or regulations affecting the ability of either party to reasonably carry out its obligations under this Agreement. It is agreed and understood that this Agreement will be subject to termination by either party upon sixty (60) days notice to the other should there be imposed upon Premise Provider or Company any rule or regulation by any state, federal or local regulatory agency which would substantially adversely affect the operation of the equipment or service provided hereunder.

**19. Dispute Resolution.** Premise Provider and Company agree that any disputes or claims arising under this Agreement shall be resolved through alternative dispute resolution means in the following manner:

- (a) Initially, the parties shall engage in non-binding mediation. Mediation shall be held in Columbus, Ohio, USA or such other site as is mutually agreed to by the parties. The mediator shall be jointly appointed by the parties and shall have expertise in commercial dispute resolution.
- (b) In the event the dispute or claim is not satisfactorily resolved through mediation within ninety (90) days of notice of such claim or dispute by a party, the parties agree to submit such dispute or claim to binding arbitration. Arbitration shall be held in Columbus, Ohio, USA or such other site as is mutually agreed to by the parties. If Premise Provider is a foreign (non-US) corporation and delivery of the goods under this agreement is to a foreign (non-US) destination, then the commercial arbitration rules of the International Chamber of Commerce shall apply. In all other instances the commercial arbitration rules of the American Arbitration Association shall apply. Any judgment, decision or award by the arbitrators shall be final and binding on the parties and may be enforced in any court having jurisdiction over a party against whom any such judgment, decision or award is to be enforced. The parties specifically and knowingly waive any rights under State or Federal constitutions or statutes which grant a party the right to trial by jury for any claims that might arise under this agreement or which purports to give a party the right to appeal an arbitrator's judgment, decision or award.
- (c) The parties shall bear their own costs and expenses (including attorney's fees) for any mediation or arbitration, unless otherwise directed by the mediator or arbitrator.

**20. Survival.** Upon the expiration or earlier termination of the term of this Agreement, the parties shall have no further obligations to each other, except as specifically provided in a written agreement, duly executed by the parties. Notwithstanding the foregoing, Sections 7(f), 8, 9, 11, and 12 shall survive the expiration or earlier termination of this Agreement, and neither party will be released from any liability arising from any breach or violation by that party of the terms of this Agreement prior to the expiration or termination.

**21. Entire Agreement.** This Agreement constitutes the entire agreement between the Premise Provider and the Company and supersedes all other agreements between the parties pertaining to the subject matter hereof.

**22. Amendment.** No course of dealing between the parties, their employees, agents or representatives, shall vary any of the terms hereof. This Agreement may be modified, amended, or supplemented only by a written agreement executed by the parties.

**23. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original, and all of which shall be one and the same contract.

**24. Severability.** If any term, 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 any other respects, continue to be effective and to be complied with.

**25. Findings for Recovery.** Company certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

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**26. Non-Discrimination/Equal Opportunity.**

- (a) Company 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.
- (b) Company 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.
- (c) Company 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.
- (d) Company certifies that it complies with all applicable laws regarding Non-Discrimination/Equal Opportunity and will not discriminate.

**27. DMA Form Statement:**

Company 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, Company 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 compliance of such certificate and “No” being the response to all questions in the Declaration portion of the certificate. Such certificate is attached to this Agreement and by this reference made a part of this Agreement.

**Exhibit A**

**Facility Name and Address:**

Delaware County Sheriff’s Office Jail  
844 US HWY 42N  
Delaware, OH 43015

**Actual on-site equipment:**

The installation of software and/or hardware on Company provided Equipment is not approved. System conditions can change and become unstable with the addition of software other than that installed by the Company. The Company does not warranty, troubleshoot, or maintain any system that contains software installed by a third party. The Company assumes no liability for any data stored on the Equipment which is not directly related to the Services provided under this Agreement.

Company also does not furnish, maintain or provide consumables for peripheral equipment associated with the Inmate Telephone System. Consumables consist of items such as printer paper, cassette tapes, compact disks, etc.

**List of On Site Equipment**

- One (1) Lazerphone XML Inmate Telephone Platform
- Thirty-Four (34) Inmate Phones
- Thirty-Six (36) channels
- One-Hundred Eighty (180) Days Recording Storage
- Three (3) Desktop Workstations
- Two (2) VPN Licenses
- One (1) TDD
- One (1) Public Payphone

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

**RESOLUTION NO. 12-459**

**IN THE MATTER OF CERTIFYING TO THE COUNTY AUDITOR SANITARY SEWER CAPACITY CHARGES FOR 6809 TUSSIC STREET ROAD, WESTERVILLE, OHIO:**

It was moved by Mr. Thompson, seconded by Mr. Stapleton to certify the Sanitary Sewer Capacity Charges as follows:

Whereas, 6809 Tussic Street Road, Westerville, Ohio has requested to make tap connections to the Delaware County sewer system; and

Whereas, 6809 Tussic Street Road, Westerville, Ohio has requested to pro-rate charges over a 10 year period, and



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Whereas, the Sanitary Engineer recommends approval of the connection and the 10 year pro-rated charge;

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

**6809 Tussic Street Road, Westerville, Ohio**

In the amount of \$6,320.00 with \$2,376.32 finance charge (pro-rated over a 10 year period) making total of \$8,696.32 for placement on tax duplicate. Bi-annual payment being \$434.82.

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

**RESOLUTION NO. 12-460**

**IN THE MATTER OF SETTING THE DATE AND TIME FOR PUBLIC HEARING #2 FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) APPLICATIONS FOR FORMULA 2012 GRANT:**

It was moved by Mr. Thompson, seconded by Mr. Stapleton to approve setting the date and time for Public Hearing #2 to consider the Community Development Block Grant (CDBG) applications for 2012:

WHEREAS, the Board of Commissioners, County of Delaware, State of Ohio needs to set a second public hearing to consider the CDBG applications for 2012.

NOW THEREFORE, PURSUANT TO THE FOREGOING, BE IT HEREBY RESOLVED by the Board of Commissioners, County of Delaware, State of Ohio as follows:

A Public Hearing #2 to consider the CDBG applications for the Formula 2012 grant will be held on **Monday, June 11, 2012, at 10:00 am** in the Delaware County Commissioners Hearing Room located at 101 North Sandusky Street in Delaware, Ohio.

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

**RESOLUTION NO. 12-461**

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

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

The Director Emergency Medical Services recommends terminating the employment of Courtney Neill-Green as a Paramedic with the EMS Department; Ms. Neill-Green decided not to accept a job offer from Delaware County.

Therefore Be It Resolved, that the Board of Commissioners terminate the employment of Courtney Neill-Green as a Paramedic with the EMS Department.

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

**COMMISSIONERS' COMMITTEES REPORTS**

**Commissioner O'Brien**  
**-Attended the Family Children's First Council Meeting**

**Commissioner Thompson**  
**-Farmer's Market**

**Commissioner Stapleton**  
**-No Additional Comments**

**RESOLUTION NO. 12-462**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF (to be determined):**

It was moved by Mr. Thompson, seconded by Mr. Stapleton to adjourn into Executive Session at 10:57AM.

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

**RESOLUTION NO. 12-463**

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**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 11:55AM.

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

There being no further business, the meeting adjourned.

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Ken O'Brien

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Dennis Stapleton

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Tommy Thompson

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Jennifer Walraven, Clerk to the Commissioners