

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

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

**Present:**  
**Dennis Stapleton, President**  
**Tommy Thompson, Commissioner**

**Absent:**  
**Ken O'Brien, Vice President**

**RESOLUTION NO. 12-511**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD MAY 21, 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 21, 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 Absent

**PUBLIC COMMENT**

**ELECTED OFFICIAL COMMENT**

**RESOLUTION NO. 12-512**

**IN THE MATTER OF APPROVING A RESOLUTION FROM THE DELAWARE COUNTY BOARD OF COMMISSIONERS TO SUPPORT THE DESIGNATION OF DELAWARE COUNTY AS A PURPLE HEART COUNTY:**

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

WHEREAS, The Delaware County Board of Commissioners is supportive of all the veterans living in Delaware County; and

WHEREAS, the designation "Purple Heart" pays tribute to the 1.7 million veterans who have received the Purple Heart medal, our nation's highest military medal in recognition of their wounds received in combat; and

WHEREAS, the declaration will help remind us all of the American troops who bravely serve overseas; and

WHEREAS, we will also be reminded of the sacrifices of previous generations of Americans who risked or gave their lives for the freedom we all enjoy today; and

WHEREAS, we believe the designation of "Purple Heart" and this year's Memorial Day ceremonies can help county officials connect with the 11,051 veterans throughout our county; and

WHEREAS, it is Delaware County's hope that this declaration will remind our community to honor and appreciate veterans and inspire other wounded veterans to come forward to receive Purple Heart recognition; and

WHEREAS, there are only three other Purple Heart Counties, Licking County in Ohio, and Shasta and Kern Counties in California;

NOW THEREFORE, be it resolved that the Delaware County Board of Commissioners proudly declares Delaware County as the fourth "Purple Heart County" in the United States.

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

**RAISING OF SPECIAL FLAG AT THE COUNTY COURTHOUSE**  
**-Robert Burr; From The Ohio Chapter 148 Commander Of The Military Order Of Purple Heart Department Presented The Flag With Fellow Members Paul Jumper, David Monska And John Van Bibber**

COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012

- Dave Maggard, Veteran And Facilities Department Employee Participated In The Raising Of The Flag
- Brian Galligher, Navy Reservist And EMA Director Assist In Raising Of Presented Flag
- Katherine Lee Colburn Armed Forces Council Presented The Rainbow Wishes Declaration

**RESOLUTION NO. 12-513**

**IN THE MATTER OF PROCLAIMING MAY 30, 2012 AS WORLD MULTIPLE SCLEROSIS DAY:**

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

Whereas, Multiple Sclerosis is an unpredictable, chronic, and often disabling disease that randomly attacks the central nervous system, and

Whereas, Multiple Sclerosis affects the lives of approximately 400,000 people in the United States and more than two million people around the world; and

Whereas, Multiple Sclerosis symptoms are unpredictable. Symptoms vary from person to person and from time to time in the same person. Multiple Sclerosis can cause blurred vision, loss of balance, poor coordination, slurred speech, tremors, numbness, extreme fatigue, problems with memory and concentration, paralysis, blindness and more, and

Whereas, the cause is unknown and anyone may develop Multiple Sclerosis, and

Whereas, Multiple Sclerosis cannot be cured but there are FDA-approved medications that have been shown to "modify" or slow down the underlying course of MS. In addition, many therapeutic and technological advances are helping people manage symptoms. Advances in treating and understanding MS are made every year, and progress in research to find a cure is very encouraging; and

Whereas, the aims of world Multiple Sclerosis day are to raise awareness and mobilize the global movement, and

Whereas, World Multiple Sclerosis Day was launched on 27 May 2009 with over 200 events in 67 countries and it's an opportunity to raise awareness about MS and to strengthen the network of people living with MS across the world.

NOW THEREFORE, be it resolved, that the County Commissioners of Delaware County, Ohio, hereby proclaim **May 30, 2012 as World MULTIPLE SCLEROSIS Day.**

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

**RESOLUTION NO. 12-514**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0523, MEMO TRANSFERS IN BATCH NUMBERS MTAPR0523 AND PROCUREMENT CARD PAYMENTS IN BATCH NUMBER PCAPR0523:**

It was moved by Mr. Thompson, seconded by Mr. Stapleton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0523, memo transfers in batch numbers MTAPR0523, Procurement Card Payments in batch number PCAPR0523 and Purchase Orders as listed below:

Vendor	Description	Account	Amount
<b>PO Increases</b>			
Willies Crane	Crane to repair Clarifier	66211904-5328 (line 2)	\$ 3,000.00
Loeb Electric	OECC parts	66211903-5201 (line 1)	\$ 4,500.00
Loeb Electric	Scioto Hills parts	66211910-5201 (line 6)	\$ 500.00
Westech	Gearmoter OECC	66211903-5201	\$ 8,226.00
Feecorp INC	Sand Filters Alum Creek	66611904-5410	\$ 8,000.00
Delaware Cab	Job and Family Client	22411601-5355	\$ 15,000.00
Adriel	Residential Treatment	22511607-5342	\$ 23,254.00
Maryhaven	Residential Treatment	22511607-5342	\$ 4,000.00
Maryhaven (amend)	Residential Treatment	22511607-5342	\$ 8,200.00
Health Department	Help Me Grow	70161602-5348	\$ 35,000.00
Health Department	Help Me Grow	70161606-5348	\$ 10,000.00
Health Department	Help Me Grow	70161606-5348	\$ 20,000.00

  

PR Number	Vendor Name	Line Desc	Account	Amount	Line
R1203981	HEALTH DEPARTMENT	OHIO CHILDRENS TRUST FUND HELP ME GROW	22811609 - 5301	\$8,002.00	0001

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

R1204094	CHILDRENS HOSPITAL MEDICAL CENTER	RESIDENTIAL TREATMENT	22511607 - 5342	\$86,130.0 0	0001
R1204154	CARBON ENTERPRISES INC	PART OF AN OVERALL REPAIR AT ALUM CREEK	66611904 - 5410	\$9,952.50	0001
R1204167	EMSAR MEDICAL REPAIR INC	SEMI ANNUAL COT REPAIR MAINTENANCE	10011303 - 5328	\$6,500.00	0001
R1204175	SANDUSKY COUNTY JFS	COLLABOR8 RENEWAL MAINTENANCE	22411601 - 5320	\$6,131.44	0001
R1204241	CRESCENT ELECTRIC SUPPLY COMPANY	RECYCLING OF BULBS LAMPS AND BALLAST	66211903 - 5380	\$3080	0001
R1204241	CRESCENT ELECTRIC SUPPLY COMPANY	RECYCLING OF BULBS LAMPS AND BALLAST	66211904 - 5380	\$3430.00	0002
R1204241	CRESCENT ELECTRIC SUPPLY COMPANY	RECYCLING OF BULBS LAMPS AND BALLAST	66211906 - 5380	\$140.00	0003
R1204241	CRESCENT ELECTRIC SUPPLY COMPANY	RECYCLING OF BULBS LAMPS AND BALLAST	66211907 - 5380	\$350.00	0004

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

**RESOLUTION NO. 12-515**

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

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

Environmental Services is requesting that Bill Johnson and Greg Miller attend a Wood Wall Bracing Seminar in Reynoldsburg, Ohio on June 13, 2012 at a total cost of \$65 from org key 10011301.

The Economic Development Department is requesting a \$150.00 amendment to the previously approved travel request for Dottie Brown to attend a Consolidated 2013 Planning Training. (Fund Number 21011113).

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

**RESOLUTION NO. 12-516**

**IN THE MATTER OF ACCEPTING THE TREASURER’S REPORT FOR THE MONTH OF APRIL 2012:**

It was moved by Mr. Thompson, seconded by Mr. Stapleton to accept the Treasurer’s Report for the month of April 2012.

(Copy available for review at the Commissioners’ Office until no longer of administrative value.)

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

**RESOLUTION NO. 12-517**

**IN THE MATTER OF AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE OHIO DEPARTMENT OF YOUTH SERVICES FOR THE 2012-2013 YOUTH SERVICES SUBSIDY GRANT:**

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

Grant # ODYS SFY 12-13  
Source: Ohio Department of Youth Services

Grant Period: 7-1-12 thru 6-30-13

Grant Request: Youth Services	\$245,357.00
RECLAIM	\$369,443.58
Local Match:	<u>0.00</u>
Total	\$614,800.58

This grant provides funding for staff in the probation, sex offender, community service, intake, and family preservations departments of Juvenile Court.

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

---

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

**RESOLUTION NO. 12-518**

**IN THE MATTER OF ACCEPTING THE 2012 COMMUNITY DEVELOPMENT GRANT AND APPROVING THE AGREEMENT BETWEEN THE DIRECTOR OF THE OHIO DEPARTMENT OF NATURAL RESOURCES, THROUGH THE CHIEF OF THE DIVISION OF RECYCLING & LITTER PREVENTION, AND DELAWARE COUNTY FOR A YEAR ROUND RECYCLING PROGRAM AT THE DELAWARE COUNTY FAIR GROUNDS A 2012:**

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

**2012 Community Development Grant Agreement  
Ohio Department of Natural Resources - Division of Recycling & Litter Prevention**

This Agreement is made and entered into by and between the Director of the Ohio Department of Natural Resources, through the Chief of the Division of Recycling & Litter Prevention, hereinafter referred to as the Department, and Delaware County, hereinafter referred to as the Grantee.

WITNESSETH THAT:

WHEREAS the Grantee, as authorized under Ohio Revised Code (ORC) Chapter 1502, has applied to the Department for program funding to implement a 2012 Community Development Grant, hereinafter referred to as the 2012 CDG; and

WHEREAS the Grantee agrees to perform in compliance with the terms, promises, conditions, and assurances as outlined in the Grantee's 2012 CDG Managers Manual and the 2012 CDG Application, a copy of which is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein; and

WHEREAS the 2012 CDG funds in the amount of \$20,000.00 have been encumbered. Obligations of the State of Ohio are subject to the provisions of ORC Section 126.07.

NOW THEREFORE, in consideration of the mutual covenants by and between the parties hereto, the parties agree as follows:

I. The Department hereby awards to the Grantee a grant not to exceed \$20,000.00, for the purpose of implementing a Community Development project detailed in the Grantee's application. Costs incurred by the Grantee for items that are not part of the approved budget, or costs in excess of amounts specified in the approved budget, will not be reimbursed by the Department. Any grant-related expenditures made prior to the effective date of the grant agreement will not be reimbursed. The Grantee agrees to maintain and expend the required match, detailed in the Grantee's application.

II. The Department shall pay to the Grantee, subject to cash availability, fifty percent (50%) of its total grant award, to be used for project costs according to the Grantee's approved application. A final payment of fifty percent (50%) of the grant award will be withheld to reconcile the grant account at the end of the grant period or the closeout of the grant.

III. The Grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability as defined in the Americans with Disabilities Act (ADA). The Grantee shall take affirmative action to ensure that employees are treated during employment, without regard to their race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability, as defined in the ADA. Such action shall include, but is not limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, including apprenticeship.

IV. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Department setting forth the provisions of this nondiscrimination clause. Furthermore, the Grantee agrees to comply with all pertinent provisions of ORC Section 125.111 and the Drug Free Workplace Act.

V. The Grantee shall, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability, as defined in the ADA.

VI. The Grantee shall comply with the State Equal Employment Opportunity guidelines, and any direction as set forth by officials or agencies of the State or Federal Government that seek to eliminate unlawful employment discrimination, and with all other State and Federal efforts to assure equal employment practices under this Agreement. Before and during performance, the Grantee shall promptly comply with all requests and direction

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

---

from the State of Ohio or any of its officials and agencies.

VII. Upon the Grantee's noncompliance with the nondiscrimination clauses of this Agreement, this Agreement may be canceled, terminated or suspended in whole or in part, and the Grantee may be ineligible for further state contracts and such other sanctions may be imposed and remedies instituted as otherwise provided by the law.

VIII. The Grantee certifies that neither the Grantee nor its employees are public employees of the Department under federal and state law for tax, Workers' Compensation, and retirement deduction purposes and that the Grantee has Workers' Compensation Coverage.

IX. The Grantee shall carry out and administer the project according to all applicable federal, state, and local laws and regulations, and the terms of this Agreement, as outlined in the Department's 2012 CDG Application and Manager's Manual,

X. The Department shall at any reasonable time have the right of access to and the right to audit all books and records, financial or otherwise, pertinent to the administration and operation of this project. The Grantee shall keep said books and records in a common file to facilitate audits and inspections. In the event of a special audit, the Grantee will be responsible for the actual cost of the audit. Said costs shall be determined by the State of Ohio.

XI. The Grantee by signature on this document, certifies that it: (1) has reviewed and understands the Ohio ethics and conflict of interest laws as found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (2) will take no action inconsistent with those laws. The Grantee understands that failure to comply with Ohio's ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

XII. The Grantee affirms that, as applicable to it, no party listed in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees.

XIII. The Grantee affirmatively represents and warrants to Department that it is not subject to a finding for recovery under ORC 9.24 or that it has taken appropriate remedial steps required under ORC 9.24 or otherwise qualifies under that section. The Grantee agrees that if this representation or warranty is deemed to be false, the Agreement shall be void ab initio as between the parties to this Agreement, and any funds paid by Department hereunder immediately shall be repaid to Department, or an action for recovery immediately may be commenced by Department for recovery of said funds.

XIV. If required to do so pursuant to ORC Section 2909.33, the Grantee hereby represents and warrants that the Grantee: (1) has not provided material assistance to an organization listed on the Terrorist Exclusion List of the State Department of the United States; (2) has obtained a current copy of the Terrorist Exclusion List; and, (3) truthfully has answered "No" to every question on the Ohio Department of Public Safety's form "Declaration Regarding Material Assistance/Nonassistance to a Terrorist Organization." If this representation is deemed false, this Agreement is void ab initio and the Grantee immediately shall repay to the State any and all funds paid under this Agreement. Information and forms concerning the Declaration may be found at: [www.homelandsecurity.ohio.gov/dmaldma\\_general\\_info.asp](http://www.homelandsecurity.ohio.gov/dmaldma_general_info.asp)

XV. Implementation of the approved 2012 CDG project as outlined in the Grantee's 2012 CDG Approved Application and this Agreement, shall not commence until the Agreement is signed by all parties or July 1, 2012, whichever is later. The Department shall not be responsible for any costs incurred by the Grantee prior to the effective date of this Agreement.

XVI. This Agreement shall remain in effect until June 30, 2013. The Department reserves the right at any time after execution of this Agreement, to terminate, revise, or extend the grant in whole or in part, upon written notification to the Grantee. In the event of such termination, the Grantee will be paid for approved expenditures incurred and for any noncancellable obligations properly incurred by the Grantee prior to termination.

XVII. The Grantee reserves the right, at any time after execution of this Agreement, to terminate the program, in whole or in part, upon written notification to the Department. In the event of such termination, the Grantee shall not incur any new obligations and shall make a good faith effort to cancel as many outstanding obligations as possible.

XVIII. All unspent funds and unallowed expenditures shall be returned to the Department within forty-five (45) days of receiving notification of any termination. Any payment not received within forty-five days of the due date may be turned over to the Attorney General for collection as a delinquent claim, and the Grantee agrees to pay the Department all costs the Department incurs for delinquent collections by the Attorney General's office.

XIX. The Provider affirms to have read and understands Executive Order 2011-12K issued by Ohio Governor John R. Kasich and signed and completed the Standard Affirmation and Disclosure Form (Exhibit B) and shall abide by those requirements in the performance of this Agreement and perform no services required under this Agreement outside of the United States. The Executive Order is provided as an attachment (Exhibit C) and also is

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

available at the following website: <http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/EO%202011-12K.pdf>

The Provider also affirms, understands, and agrees to immediately notify the State of any change or shift in the location(s) of services performed by the Provider or its subcontractors under this Agreement, and no services shall be changed or shifted to a location(s) that are outside of the United States.

If the Provider or any of its subcontractors perform services under this Agreement outside of the United States, the performance of such services shall be treated as a material breach of the Agreement. The State is not obligated to pay and shall not pay for such services. If Provider or any of its subcontractors perform any such services, Provider shall immediately return to the State all funds paid for those services. The State may also recover from the Provider all costs associated with any corrective action the State may undertake, including but not limited to an audit or a risk analysis, as a result of the Provider performing services outside the United States.

The State may, at any time after the breach, terminate the Agreement, upon written notice to the Provider. The State may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Agreement and costs associated with the acquisition of substitute services from a third party.

If the State determines that actual and direct damages are uncertain or difficult to ascertain, the State in its sole discretion may recover a payment of liquidated damages in the amount of [insert percent here] of the value of the Contract.

The State, in its sole discretion, may provide written notice to Provider of a breach and permit the Provider to cure the breach. Such cure period shall be no longer than 21 calendar days. During the cure period, the State may buy substitute services from a third party and recover from the Provider any costs associated with acquiring those substitute services.

Notwithstanding the State permitting a period of time to cure the breach or the Provider's cure of the breach, the State does not waive any of its rights and remedies provided the State in this Agreement, including but not limited to recovery of funds paid for services the Provider performed outside of the United States, costs associated with corrective action, or liquidated damages. Executive Order 2011-12K does not apply to situations in which the Director of the Department of Administrative Services, or the Director's designee, shall determine that it is an emergency or that it is necessary for the State to waive some or all of the requirements of EO 2011-12K. The Director shall establish standards by which Executive Agencies may request a waiver of some or all of the requirements of EO 2011-12K and by which such requests will be evaluated and may be granted.

The Provider will not assign any of its rights nor delegate any of its duties and responsibilities under this Agreement without prior written consent of the State. Any assignment or delegation not consented to may be deemed void by the State.

FURTHER BE IT RESOLVED, that the Board of Commissioners approve the renaming of an organizational key and supplemental appropriations and an advance of Funds as follows:

**Rename Org Key**

**22111504**

**2012 COMMUNITY DEVELOP GRANT**

**Supplemental Appropriation**

22111504-5201	2012 Community Develop Grant/General Supplies	9,676.00
22111504-5301	2012 Community Develop Grant/Professional Services	6,588.00
22111504-5450	2012 Community Develop Grant/Machinery & Equip	13,736.00

**Advance of Funds**

<b>From</b>	<b>To</b>	
10011102	22111504	10,000.00

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

**RESOLUTION NO. 12-519**

**IN THE MATTER OF AUTHORIZING AN AGREEMENT BETWEEN POGGEMEYER DESIGN GROUP AND THE DELAWARE COUNTY COMMISSIONERS FOR THE PROVISION OF CDBG FORMULA 2012 FAIR HOUSING CONSULTING SERVICES, CONTINGENT THAT DELAWARE COUNTY RECEIVES THE CDBG FORMULA 2012 FUNDS FROM OHIO DEPARTMENT OF DEVELOPMENT:**

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

WHEREAS, the Ohio Department of Development provides financial assistance to local governments under the

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

---

Community Development Block Grant (CDBG) Formula Program; and

WHEREAS, participation in the CDBG program requires that efforts be made to affirmatively further fair housing locally; and

WHEREAS, Delaware County is applying for Six Thousand Dollars (\$6,000) through the FY' 12 CDBG Formula Program for Fair Housing activities;

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

Section 1. The Board of Commissioners approves an Agreement for Fair Housing Consulting Services with Poggemeyer Design Group in an amount not to exceed Six Thousand Dollars (\$6,000), contingent on Delaware County receiving approval of the Formula 2012 Grant from the Ohio Department of Development.

Section 2. This Resolution shall take effect and be in force immediately after the Ohio Department of Development awards the Formula 2012 Grant to Delaware County.

**FAIR HOUSING  
AGREEMENT**

This Agreement is made and entered into this 24<sup>th</sup> day of May, 2012, by and between the Delaware County Board of Commissioners, 101 North Sandusky Street, Delaware, Ohio 43015 (the "County"), and Poggemeyer Design Group, Inc., 1168 North Main Street, Bowling Green, Ohio 43402 ("PDG").

**GENERAL INFORMATION:**

The purpose of this Agreement is to outline the responsibilities of the County and PDG in complying with the Fair Housing requirements in conjunction with the Delaware County FY 2012 CDBG Formula Program in a timely and professional manner as follows:

Basic services provided under this Agreement will consist of the following major items:

Fair Housing Program – Specified costs associated with the community compliance with the Fair Housing Requirements as outlined in the CDBG Formula Allocation Program Grant Agreement between the community and the Ohio Department of Development (ODOD), to include:

- A. Coordination and preparation of appropriate documentation and performance of the required training sessions in areas where FY 12 CDBG Funds will be allocated.
- B. Coordination and preparation of appropriate documentation and performance of ten (10) outreach activities.
- C. Preparation of annual fair housing analysis update.
- D. Assistance with fair housing complaint referral, processing, and coordination efforts with the appropriate regional office of the Ohio Civil Rights Commission as needed. PDG will be subcontracting this activity to the Ohio Regional Development Corporation (ORDC) that will enable Delaware County to remain in the local fair housing consortium.
- E. Preparation of final report of fair housing efforts for grant year suitable for State Monitoring.

The fee for providing these basic services is a lump sum fee not to exceed \$6,000.00 including reimbursable expenses.

**FAIR HOUSING COMPLAINT INTAKE AND REFERRAL:**

Complaints that are received that are not fair housing complaints will be referred to the appropriate person or office. If the complaint could be a potential fair housing complaint, the Fair Housing Coordinator will inform the complainant of his/her rights to fair housing, of remedies that are available, offer written literature, offer an appointment to discuss the complaint and to help a complainant file a written complaint or offer to mail a complaint form to them to complete the form themselves. If the complainant prefers to deal directly with the Ohio Civil Rights Commission (OCRC), the Fair Housing Coordinator will offer the address and telephone number of the regional Ohio Civil Rights Office. If a complainant requires a "face to face" meeting with a staff person, PDG will meet them in Delaware County at a convenient place and an acceptable and reasonable time for all parties concerned. PDG will receive and log all complaints and handle all necessary paper work.

**TRAINING:**

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

---

Seminars will be conducted to fulfill all Fair Housing requirements for your individual program. Each seminar will generally follow PDG's "Fair Housing Seminar Format", and will be tailored for Delaware County's audience.

**OUTREACH:**

At a minimum, the number of copies of current Fair Housing brochures identified in the fair housing program will be distributed in places that will benefit the target area as specified in the program. Additional copies, as requested by agencies, will be provided at no additional charge. PDG literature identifies the telephone number for the speech/hearing impaired. It also identifies a local contact number. PDG will take whatever reasonable measures are needed to meet guidelines.

**REPORTS:**

A fair housing report will be issued for Delaware County at the end of the grant period. The reports will contain information on the number of meetings, number of complaints and their outcomes (if known or available), number of brochures and posters distributed and the locations, and general information on the progress of the activities. All required forms will be maintained within the records and made available as needed, as they relate to the Fair Housing Program. All pertaining State and Federal guidelines will be followed.

**TIME OF PERFORMANCE**

The services of the PDG coincide with the grant period of September 1, 2012 until August 31, 2013.

**COST AND METHOD OF PAYMENT**

The cost including all overhead, travel and other expenses will be \$6,000. PDG will invoice for work completed according to an agreed upon schedule.

**REIMBURSABLE EXPENSES**

Reimbursable Expenses are included in the compensation fee for basic and additional services and are the actual expenses incurred by PDG or PDG's independent professional associates or consultants, directly or indirectly, in connection with the Project. These include expenses for transportation; obtaining bids or proposals from Contractor(s); toll telephone calls; reproduction of reports, Drawing, Specifications,

**TERMINATION**

The obligation to provide further services under this Agreement may be terminated by either party (upon seven day's written notice) in the event of substantial failure by the other party to perform in accordance with the terms hereof, through no fault of the terminating party. In the event of any termination, PDG will be paid in full for all services rendered to the date of termination and all Reimbursable Expenses, provided the total compensation under this Agreement shall not exceed \$6000.00.

**SUCCESSORS AND ASSIGNS**

The County and PDG are each hereby bound as are the partners, successors, executors, administrators and legal representatives of PDG in respect to any covenants, agreement and obligations of this Agreement. Nothing contained in this Agreement shall prevent PDG from employing such independent professional associates and consultants as PDG may deem appropriate to assist in the performance of services hereunder.

**LIMITATION OF LIABILITY CLAUSE**

PDG's liability to the County for any cause or combination of causes is, in the aggregate, limited to an amount no greater than the total compensation earned under this Agreement

**GENERAL CONDITIONS**

- A) **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.
- B) **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.



**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

---

- C) Findings for Recovery: PDG certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- D) Indemnity: PDG agrees to indemnify and hold harmless Delaware County, its officers, agents and employees from any and all losses, claims, damages, lawsuits, costs, judgments, expenses or any other liabilities which 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, caused in whole or part by the negligent act or omission of PDG, any subcontractor, any person directly or indirectly employed by any of them or any person for whose acts any of them may be liable.

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

**RESOLUTION NO. 12-520**

**IN THE MATTER OF INSTITUTING A MORATORIUM ON THE DELAWARE COUNTY POLICY FOR PAYMENT OF CAPACITY FEES FOR NEW SEWERS INSTALLED BY DEVELOPERS:**

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

WHEREAS, on September 22, 1980 (Commissioners Journal No. 30, Delaware County, p.259), the Delaware County Board of Commissioners (the "Board") adopted an official policy for the payment of capacity fees for new sewers installed by developers (the "Policy"); and

WHEREAS, the Policy requires developers to deposit with Delaware County an amount equal to fifty percent (50%) of the capacity (tap) fees proposed to service a proposed development; and

WHEREAS, on May 16, 1994, the Board adopted Resolution No. 94-336, which modified the Policy, stating that "New Residential Subdivisions which connect to the Central Sewer System shall pay fifty percent (50%) of the Capacity Fee for each platted lot in the Subdivision prior to platting"; and

WHEREAS, in order to promote continued residential development in Delaware County, the Board wishes to institute a moratorium on the Policy for a limited period of time;

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

Section 1. The Board hereby institutes a moratorium on the Policy, effective on June 1, 2012 through May 31, 2015. During this moratorium period, one hundred percent (100%) of the capacity (tap) fee will be payable at the time application is made to connect to the Delaware County central sewer system.

Section 2. The moratorium instituted in Section 1 hereof shall only apply to subdivider agreements that are initially requested on or after the effective date of the moratorium and approved by the Board during the moratorium period.

Section 3. The Board expressly reserves the right to revisit, modify, or terminate the moratorium prior to the expiration date stated in Section 1 hereof, and no person or entity shall be deemed to have a vested right in the benefit of the moratorium prior to the Board's final approval of a subdivider agreement.

Section 4. The Board hereby declares that all provisions stated in the 1980 and 1994 resolutions referenced herein shall continue in full force and effect, unless expressly made subject to the moratorium instituted by this Resolution.

Section 5. Upon the expiration of the moratorium, the Board hereby declares that the Policy shall resume without need for any further action by the Board.

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

**RESOLUTION NO. 12-521**

**IN THE MATTER OF APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND XYLEM WATER SOLUTIONS USA, INC. FOR THE OLENTANGY ENVIRONMENTAL CONTROL CENTER FLYGT MECHANICAL MIXER SERVICE CONTRACT:**

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;

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

---

Now Therefore Be It Resolved that that Delaware County Board of Commissioners approve the following Agreement with Xylem Water Solutions USA, Inc. for the Olentangy Environmental Control Center (OECC) Flygt Mechanical Mixer Service Contract.

**OLENTANGY ENVIRONMENTAL CONTROL CENTER  
FLYGT MECHANICAL MIXER SERVICE CONTRACT**

**Section 1 – Parties to the Agreement**

This Agreement is made and entered into this 24th day of May, 2012 by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Xylem Water Solutions USA, Inc. 1615 State Route 131 Milford, Ohio 45150 (“Contractor”).

**Section 2 – Contract Administrator**

The Delaware County Board of Commissioners hereby designates the Delaware County Sanitary Engineer as Administrator and agent of the Board for Work performed in accordance with this Agreement. The Administrator shall have general supervision of the Work and authority to order commencement or suspension thereof.

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

Contractor agrees to furnish, unto the County, the service of removing thirty-three mixers (11 per train) in two separate visits from the south plant aeration basins and perform a standard twenty point inspection. Seventeen mixers shall be serviced during the first visit and sixteen mixers shall be serviced during the second visit. The Contractor shall provide two technicians and shall take one week to complete the assigned tasks during each visit. The visits shall not be more than six months apart. 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**

*Inspection within the Scope of Services (Work)*

The Contractor agrees that invoices for the Scope of Services in Section 3 of this agreement shall be supplied to the Division of Environmental Services within ten (10) calendar days after the completion of the work. The County shall not be responsible for expenses attributable to the errors or neglect of the Contractor. The value of this agreement shall not exceed \$23,520.00 in billable services to the County. In the event that the Contractor exceeds this value, the Contractor will be liable for all charges over and above the contract limit as stipulated herein.

*Requests for Additional Work and Parts outside the Scope of Services (Work)*

The County and Contractor acknowledge that additional labor and parts may be required outside the Scope of Services in order to replace equipment parts on the mechanical mixers. Upon completion of the inspection, any and all requests for Additional Work and Parts shall be made by the Contractor by submitting a quotation to the County within ten (10) calendar days. The County agrees that equipment parts required for repair of the mechanical mixers outside the scope shall be provided by the Contractor, the cost of which shall be presented to the County by submitted quotation prior to commencing any Additional Work. The County shall approve in writing any requests for Additional Work and Parts prior to commencement. The County agrees to compensate the Additional Work at an hourly rate of \$127.00. Billable services to the County for Additional Work and Parts outside the Scope of Services (Work) shall not equal or exceed \$25,000.00 during the term of this initial agreement.

The Contractor agrees that invoices for Additional Work and parts shall be supplied to the Division of Environmental Services within ten (10) calendar days after the completion of the Additional Work. The County shall not be responsible for expenses attributable to the errors or neglect of the Contractor.

**Section 5 – Payment**

Compensation shall be paid upon completion of service performed from each visit, and shall be based on invoices in accordance with the Scope. Compensation for Additional Work and parts outside the scope shall also be paid upon completion of service performed. Invoices shall be submitted to the Administrator by the Contractor on company letterhead clearly listing the word “Invoice” with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Contractor shall promptly submit documentation as needed to substantiate said invoices. The County shall pay invoices within thirty (30) days of receipt.

**Section 6 – Term**

This Agreement shall be in effect upon execution until December 31<sup>st</sup>, 2012.

**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

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

---

coverage shall be required to be provided by all subcontractors, if any.

- 7.3 **Workers' Compensation Coverage:** Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.4 **Additional Insureds:** The County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 7.1 and 7.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 7.5 **Proof of Insurance:** Prior to the commencement of any work under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement and properly executed endorsements listing the additional insured as required in Subsection 7.4. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Agreement.

**Section 8 – Liability and Warranties**

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

Notwithstanding any other provision to the contrary, and to the fullest extent permitted by law, the Contractor shall indemnify and hold free and harmless the County and its employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

**Section 9 – Suspension or Termination of Agreement**

The County may suspend or terminate this Agreement at any time for the convenience of the County, at which time the County shall provide written notice to the Contractor ordering termination of Work. The Contractor shall immediately suspend or terminate Work, as ordered by the County. In the case of Termination, the Contractor shall submit a final invoice within sixty (60) days of receiving Notice of Termination for Work completed up to the date of termination. The County is not liable for payment for work performed after the date of termination.

**Section 10 – Change in Scope of Work**

In the event that significant changes to the Scope of Services as defined in Section 3 are required during performance of the Work, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall be approved by both parties in writing.

**Section 11 – Miscellaneous Terms & Conditions**

- 11.1 **Prohibited Interests:** Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year 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 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

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

---

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.

- 11.9 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder.

Furthermore, Be It Resolved that the Board of County Commissioners approve a purchase order with Xylem Water Solutions USA, Inc. in the amount of \$23,520.00 from org key 66211903-5325.

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

**RESOLUTION NO. 12-522**

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

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

The Director of The Child Support Enforcement Agency recommends Wendy Shannon, current CSEA employee, for the Case Manager III/ Administrative Hearing Officer position with the Child Support Enforcement Agency; effective June 18, 2012;

Therefore Be It Resolved, that the Board of Commissioners approve Wendy Shannon for the Case Manager III/ Administrative Hearing Officer position with the Child Support Enforcement Agency; effective June 18, 2012.

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

**RESOLUTION NO. 12-523**

**IN THE MATTER OF APPROVING A CONSULTING SERVICES CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND THE FIRM OF OLIVER WYMAN ACTUARIAL CONSULTING, INC. FOR ACTUARIAL ANALYSIS OF DELAWARE COUNTY’S SELF-INSURED WORKERS’ COMPENSATION PROGRAM:**

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

Whereas, the Delaware County Director of Administrative Services recommends the following consulting services

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

---

contract;

Therefore Be It Resolved, That The Board Of Commissioners approve a consulting services contract with the firm of Oliver Wyman Actuarial Consulting, Inc. for actuarial analysis of Delaware County's self-insured workers' compensation program.

**CONSULTING SERVICES CONTRACT**

**ACTUARIAL ANALYSIS OF DELAWARE COUNTY'S  
SELF-INSURED WORKERS' COMPENSATION PROGRAM**

**Section 1 – Parties to the Agreement**

This Agreement is made and entered into this 24<sup>th</sup> day of May, 2012, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 ("County"), and the firm of Oliver Wyman Actuarial Consulting, Inc., 325 John H. McConnell Boulevard, Suite 350, Columbus, Ohio 43215 ("Consultant").

**Section 2 – Contract Administrator**

The Delaware County Board of Commissioners hereby designates the Delaware County Director of Administrative Services as Administrator and agent of the County for Work performed in accordance with this Agreement. The Administrator shall have general supervision of the Work and authority to order commencement or suspension thereof.

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

Consultant agrees to furnish, unto the County, an actuarial analysis of the County's self-insured workers' compensation program in accordance with the Consultant's Proposal, dated April 3, 2012 (the "Work"), which is attached hereto as Exhibit A and, by this reference, fully incorporated herein. The analysis shall be conducted in accordance with section 4123.353 of the Revised Code, and the final written report shall be prepared and signed by a member of the American Academy of Actuaries.

The accuracy and usefulness of Consultant's advice depends in large measure on the data clients supply. In agreeing to engage Consultant to provide the Work, the County agrees to provide accurate and complete data relating to the Work. Consultant will use all information and data supplied by the County without having independently verified the same and assumes no responsibility for the accuracy or completeness of such information or data. The County agrees that if any data or information supplied to Consultant is incomplete, inaccurate, not up-to-date or not provided when needed, or if adequate access to appropriate individuals is not provided, then Consultant will not be responsible for liability or delays arising therefrom and shall be entitled to charge the County in respect of the work actually carried out to correct the deficiency.

**Section 4 – Compensation**

Compensation for Work performed under this Agreement shall be in accordance with the Proposal in a total amount not to exceed Eight Thousand Dollars and No Cents (\$8,000.00).

**Section 5 – Payment**

Compensation shall be paid based on invoices, which shall be submitted to the Administrator by the Consultant on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Consultant shall promptly submit documentation as needed to substantiate said invoices. The County shall pay invoices within thirty (30) days of receipt.

**Section 6 – Term**

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

**Section 7 – 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 thirty (30) days advanced written notice to the Consultant ordering termination of Work. The Consultant shall immediately suspend or terminate Work, as ordered by the County. In the case of Termination, the Consultant shall submit a final invoice within sixty (60) days of receiving Notice of Termination for Work completed up to the date of termination. Upon termination for any reason, Consultant is entitled to payment for all Work properly performed and all expenses properly incurred, in each case up to the effective date of termination. The County is not liable for payment for work performed after the date of termination.

**Section 8 – Ownership of Documents; Use of Reports**

Upon completion or termination of the Agreement, the Consultant shall provide a final written report as described in Section 3 of this Agreement. Consultant shall also provide copies, if requested, to the County of all documents or electronic files produced under this Agreement. The County shall have ownership, free from any copyright restriction, of said documents and any other tangible written or electronic work produced in accordance with the Agreement. Notwithstanding anything to the contrary herein, Consultant retains all rights in the intellectual capital developed and possessed by Consultant prior to or acquired by Consultant during the performance of the Work. Such intellectual property will not be deemed "works made for hire" and Consultant will not be restricted in any way with respect to its use. For purposes of this section, Consultant's intellectual capital is understood to include, without limitation, its

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

---

methodologies, ideas, know how, models, tools, skills, knowledge and experience, and any graphic or digitized representations of any of these. This section does not require provision or unauthorized duplication of Consultant's proprietary documents or information.

Reports and advice furnished by Consultant to the County may include advice and recommendations; however, all decisions in connection with the implementation of such advice and recommendations shall be made solely by the County and shall be the County's sole responsibility. In situations where the Work involve a financial examination or a rate filing review, reports and advice furnished by Consultant to the County are designed and intended solely for the County's internal use, provided that the County may distribute a copy of the final version of Consultant's reports to (i) the company that is the subject of the examination or whose rate filing is the subject of Consultant's review, or (ii) any third party properly requesting such information through a channel established by the County or pursuant to applicable freedom of information laws, provided that in the case of freedom of information law requests, the County shall first inform Consultant of such request in writing so that Consultant may, in its reasonable discretion, contest such request. The County also agrees not to refer to Consultant or attribute any information to Consultant in the press, for advertising or promotional purposes, or for the purpose of informing or influencing any other party, including the investment community, without Consultant's prior written consent. Similarly, Consultant will not refer to the County in the press, for advertising or promotional purposes, without the County's prior written consent, provided that Consultant may include the County's name and/or logo in a list of representative clients of Consultant for general client marketing and employee recruiting purposes.

**Section 9 – Miscellaneous Terms & Conditions**

- 9.1 **Prohibited Interests:** Consultant agrees that no agent, officer, or employee of the County during his/her tenure or for one year there after shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Consultant further agrees that it will not employ in any manner a current County employee who was involved with the Work for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 9.2 **Entire Agreement:** This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Consultant, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.
- 9.3 **Governing Law; Jury Waiver:** 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. Each party, on behalf of itself and its affiliates, to the fullest extent permitted by law, knowingly, voluntarily, and intentionally waives its right to a trial by jury in any action or other legal proceeding arising out of or relating to this Agreement or the Work. The foregoing waiver applies to any action or legal proceeding, whether sounding in contract, tort or otherwise. Each party, on behalf of itself and its affiliates, also agrees not to include any employee, officer or director of the other party or its affiliates as a party in any such action or proceeding.
- 9.4 **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.
- 9.5 **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.
- 9.6 **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.
- 9.7 **Findings for Recovery:** Consultant certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.
- 9.8 **Homeland Security:** Consultant certifies that it does not provide material assistance to any organization on the United States Department of State Terrorist Exclusion list. Pursuant to R.C. § 2909.33, Consultant agrees to make such certification by completing the declaration of material assistance/nonassistance described in R.C. § 2909.33(A) and understands that this Agreement is contingent upon full completion of such certificate and "No" being the response to all questions in the Declaration portion of the certificate. Such certification is attached to this Agreement and by this reference made a part of this Agreement.
- 9.9 **Non-Discrimination/Equal Opportunity:** Consultant hereby certifies that, in the hiring of employees for the

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012**

---

performance of work under this Agreement or any subcontract, that neither it nor any subconsultant, 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.

Consultant further certifies that neither it nor any subconsultant, or person acting on behalf of it or any subconsultant, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

Consultant certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.

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

9.10 Limitation of Liability: Neither party will be liable to the other in connection with this Agreement or any matter relating to this Agreement for any indirect, special, punitive, consequential or incidental damages, including loss of profits. Consultant’s liability (whether based on any action or claim in contract, tort or otherwise) to the County arising out of or relating to the Work will not exceed one times (1x) the aggregate professional fees paid by the County to Consultant for the Work, excluding any claim for willful misconduct, fraud or infringement of third-party intellectual property rights by Consultant and any claim for personal injury or death arising out of the negligence or willful misconduct of Consultant. This Section shall apply to the fullest extent permitted by applicable law.

9.11 Dispute Resolution: If any dispute between the County and Consultant arises out of any matter governed by this Agreement, the parties will first attempt in good faith to reach a settlement through negotiation by their appointed representatives.

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

**RESOLUTION NO. 12-524**

**IN THE MATTER OF APPROVING TRANSFER OF FUNDS FOR THE SHERIFF’S OFFICE ROAD AND BRIDGE FUND:**

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

**Transfer of Funds**

<b>From</b>	<b>To</b>		
10011102-5801	28831313-4601		
Commissioners General/Transfers	Road & Bridge Fines/Interfund Revenue	\$	57,000.00

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

**COMMISSIONERS’ COMMITTEES REPORTS**

**Commissioner Thompson**

- Memorial Day Weekend Thanks And Events

**Commissioner Stapleton**

- No Session Monday Due To Holiday
- Next Thursday Normal 10:00am Time
- Memorial Weekend; Thanks
- Article In Paper; Larry Jenkins, Westerville Rotary Club Event (Husband Of Environmental Services Director Tiffany Jenkins) 3000 American Flags Display For Memorial Day.
- Attend The Ohio County Elected Officials Association Meeting As The CCAO Representative
- House Bill 492; Solid Waste District Concern
- Thanks Again To All Those Who Came To Support The Designation Of Delaware County As A Purple Heart County

There being no further business, the meeting adjourned.

COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 24, 2012

---

---

Ken O'Brien

---

Dennis Stapleton

---

Tommy Thompson

---

Jennifer Walraven, Clerk to the Commissioners