

**COMMISSIONERS JOURNAL NO. 57 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JULY 30, 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. 12-751

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JULY 26, 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 July 26, 2012; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.11 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the electronic record of proceedings at the previous meeting.

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

PUBLIC COMMENT

ELECTED OFFICIAL COMMENT

RESOLUTION NO. 12-752

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0727 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR0727:

It was moved by Mr. Thompson, seconded by Mr. Stapleton to approve Then and Now Certificates, payment of warrants in batch numbers CMAPR0727, memo transfers in batch numbers MTAPR0727.

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

RESOLUTION NO. 12-753

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Administrative Services Department is requesting that Brad Euans attend a Civil Service Law and Discipline Seminar in Columbus, Ohio August 29, 2012; at the cost of \$150.00 (Fund Number 10011108).

The Administrative Services Department is requesting that Gina Fasone and Jenny Downey attend a Civil Service Law and Discipline Seminar in Columbus, Ohio August 28-29, 2012; at the cost of \$500.00 (Fund Number 10011108).

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

RESOLUTION NO. 12-754

IN THE MATTER OF CHANGING THE LOCATION OF THE MONDAY SEPTEMBER 17TH, 2012, COMMISSIONERS' SESSION TO THE DELAWARE COUNTY FAIRGROUNDS STAGE BY COLISEUM:

It was moved by Mr. Thompson, seconded by Mr. Stapleton to approve changing the location of the Monday September 17th 2012, Commissioners' Session to the Delaware County Fairgrounds Stage By Coliseum.

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

RESOLUTION NO. 12-755

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SETTING DATE, TIME AND PLACE FOR THE FINAL HEARING BY THE COMMISSIONERS FOR THE JONES #279 WATERSHED DRAINAGE PETITION:

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

Whereas, the Board of Commissioners of Delaware County on the 7th day of February, 2011, held a public hearing and determined the action is necessary, conducive to the public welfare, and the benefits derived exceed the cost incurred for the reconstruction and improvement/maintenance of The Jones #279 Watershed Drainage Maintenance Petition, and

Whereas, at that time the Delaware County Commissioners directed the Delaware County Engineer to proceed with the preparation of plans, reports, and schedules for the completion of the Drainage Maintenance Petition project, and

Whereas, the Delaware County Engineer has notified the Commissioners that the plans, reports, and schedules for the construction/maintenance of the Jones #279 Watershed Drainage Maintenance Petition Project are being finalized for their review and consideration.

Therefore be it Resolved, the Board of County Commissioners of The County of Delaware have fixed **Monday the 15th day of October, 2012, at 10:30AM** at the Commissioners Hearing Room 101 North Sandusky Street Delaware, Ohio as the time and place of the final hearing by the Commissioners on the report of the County Engineer.

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

RESOLUTION NO. 12-756

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

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

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

Now Therefore Be It Resolved that the following permits are hereby approved by The Board of Delaware County Commissioners:

Permit #	Applicant	Location	Type of Work
U12-044	Columbia Gas of Ohio	Reins Court	Install gas line
U12-045	United Telephone of Ohio	Robins Road	Place telephone cable

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

RESOLUTION NO. 12-757

IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES CONTRACT MODIFICATION #1 BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND JOBES HENDERSON & ASSOCIATES FOR THE PROJECT KNOWN AS SMOTHERS AND HARLEM ROAD ROUNDABOUT:

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

Whereas the County Engineer recommends approval of Contract Modification #1 with Jobes Henderson & Associates for Contract Modification #1 for the project known as Smothers and Harlem Road Roundabout.

Now, Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the contract with Jobes Henderson & Associates for Contract Modification #1 for Smothers and Harlem Road Roundabout as follows:

**PROFESSIONAL SERVICES CONTRACT
MODIFICATION #1
Smothers and Harlem Road Roundabout**

Section 1 – Parties to the Agreement

This Modification #1 to the Agreement dated November 1, 2010 is made and entered into this 30th day of July, 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 Jobes Henderson & Associates, 59 Grant Street, Newark, Ohio (“Consultant”). This Modification #1 is made pursuant to Section 10 of the Agreement, of which this Modification #1 shall be made a part.

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Section 2 – Contract Administrator

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

Section 3 – Scope of Services (Work)

Consultant agrees to furnish, unto the County, professional engineering services for the project known as Smothers and Harlem Road Roundabout Improvements, including those services listed in the Scope of Services agreed upon by the County and Consultant and the Price Proposal for Modification #1 dated June 20, 2012, by this reference hereby made part of this Agreement. Consultant further agrees to perform the Work promptly and in a skillfully competent manner under the direction of the Administrator and in accordance with generally accepted professional engineering standards.

Section 4 – Compensation

Compensation for Work performed under this Modification #1 shall be based on a lump sum fee not to exceed Thirty three thousand two hundred ninety seven Dollars (\$33,297) as detailed in June 20, 2012 cost proposal submittal. Compensation for those tasks listed in the Price Proposal shall constitute full payment for all labor, equipment and materials required to complete those tasks.

The new total contract amount is therefore \$199,166 (\$165,869 [November 1, 2010] + \$33,297 [Modification #1])

Section 5 – Payment

Compensation shall be paid based no more than once monthly and shall be based on the Consultant's cost to date in accordance with the Consultant's Price Proposal, determined by the Consultant and approved by the Administrator. Invoices shall be submitted to the Administrator by the Consultant on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. Consultant shall not commence any "If Authorized" task until written authorization for such work is provided by the County. The County may request additional documentation to substantiate said invoices and the Consultant shall promptly submit documentation as needed to substantiate said invoices. Invoices are due and payable within 30 days of receipt.

Section 6 – Completion of Work, Delays and Extensions

All Work associated with this Agreement shall be completed by the Consultant in a timely manner. In the event that unforeseen and unavoidable delays prevent the timely completion of the Work provided under this Agreement, the Consultant may make a written request for time extension, and the Administrator may grant such an extension provided that all other terms of the Agreement are adhered to.

Section 7 – Insurance

7.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.

7.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.

7.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.

7.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.

7.5 Additional Insureds: The County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 7.1 and 7.2. Consultant shall require all of its subcontractors to provide like endorsements.

7.6 Proof of Insurance: Prior to the commencement of any work under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement and properly executed endorsements listing the additional insured required by Subsection 7.5. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Consultant will replace certificates for any insurance expiring prior to completion of work under this Agreement.

Section 8 – Indemnification

The Consultant shall indemnify and hold free and harmless the County and its employees from any and all

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damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Consultant, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

Section 9 – Suspension or Termination of Agreement

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

Section 10 – Change in Scope of Work

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

Section 11 – Ownership of Engineering Documents

Upon completion or termination of the Agreement, the Consultant shall provide copies, if requested, to the County of all documents or electronic files produced under this Agreement. Provided Consultant has been paid, the County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed surveys, calculations, reports, schematics, drawings and any other tangible written or electronic work produced in accordance with the Agreement. This section does not require unauthorized duplication of copyrighted materials.

Section 12 – Change of Key Consultant Staff

The Consultant shall immediately notify the County, in writing, of any change to key Consultant staff or subconsultants assigned to the Work as contemplated at the time of executing this Agreement.

Section 13 – Miscellaneous Terms & Conditions

13.1 Prohibited Interests: Consultant agrees that no agent, officer, or employee of the County during his/her tenure or for one year there after shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Consultant further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.

13.2 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.

13.3 Entire Agreement: This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Consultant, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.

13.4 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.

13.5 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

13.6 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.

13.7 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

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the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.

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

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

13.10 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

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

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

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

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

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

RESOLUTION NO. 12-758

IN THE MATTER OF AWARDING A BID AND APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND DOUBLE Z CONSTRUCTION COMPANY FOR THE PROJECT KNOWN AS DEL-CR72-5.94 CHESHIRE ROAD & 3B’S & K ROAD INTERSECTION IMPROVEMENT:

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

**DEL-CR72-5.94 Cheshire Road & 3B’s & K Road Intersection Improvements
Bid Opening of June 5, 2012**

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

Whereas, also available are two copies of the Contract with Double Z for your approval. All necessary documentation for this approval has been received (Certification/Affidavit in Compliance with O.R.C. Section 3517.13, Terrorist Exclusion List, etc.), and

Whereas, the County Engineer recommends approval of the Contract between the Delaware County Commissioners and Double Z Construction Company for the project known as DEL-CR72-5.94 Cheshire Road and 3B’s & K Road Intersection Improvements:

CONTRACT

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THIS AGREEMENT is made this 30th day of July, 2012 by and between **Double Z Construction Company, 2550 Harrison Road, Columbus, Ohio 43204**, hereinafter called the "Contractor" and the Delaware County Commissioners, hereinafter called the "Owner".

The Contractor and the Owner for the considerations stated herein mutually agree as follows:

ARTICLE 1. Statement of Work

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services, and perform and complete all work required for the construction of the improvements embraced in the project named "**DEL-CR72-5.94 CHESHIRE ROAD & 3B'S & K ROAD INTERSECTION IMPROVEMENTS**", and required supplemental work for the project all in strict accordance with the Contract Documents.

ARTICLE 2. The Contract Price

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed *One Million Three Hundred Seventy-One Thousand Ninety-Four Dollars and Ninety-Two Cents (\$1,371,094.92)*, subject to additions and deductions as provided in the Contract Documents.

ARTICLE 3. Contract

The executed Contract Documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation to Bid
- d. Instructions to Bidders
- e. Signed copy of bid
- f. Work Specifications (including all plans, drawings, etc.)
- g. Specifications – General Provisions
- h. Federal and State Requirements

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed in two original copies on the day and year first above written.

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the contract between The Delaware County Commissioners and Double Z Construction Company for the project known as DEL-CR72-5.94 Cheshire Road & 3B's & K Road Intersection Improvements.

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

RESOLUTION NO. 12-759

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

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

WHEREAS, Delaware County has personal property not needed for public use, obsolete, or unfit for the use for which it was acquired; and

WHEREAS, Ohio Revised Code Section 307.12 (E) allows, by resolution adopted each calendar year, the sale of such property by internet auction; and

WHEREAS, the Delaware County Board of Commissioners passed Resolution 12-79 on January 23, 2012, declaring its intent to sell such property by internet auction; and

WHEREAS, Delaware County has personal property not needed for public use, obsolete, or unfit for the use for which it was acquired; and

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WHEREAS, certain of such property may require a signature to transfer such property from the county to a buyer; and

WHEREAS, certain of such property may receive no bids during the internet auction and can be declared to be of no value;

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

<u>Item/Asset Type</u>	<u>Manufacturer/Model</u>	<u>Serial Number/Asset Number</u>
CAR	FORD, 2003 CVPI 4.6L	2FAHP71W33X186607
CAR	FORD, 1999 CVPI 4.6L	2FAFP71W8XX224877
VAN	FORD, 1996 E250	1FTFE24H1THA81846
GARDEN TRACTOR	KUBOTA G2000	11248
SHEDS	2-WOOD GARDEN SHEDS	N/A
BUILDING MATERIALS	10' GARAGE DOOR	N/A

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

RESOLUTION NO. 12-760

IN THE MATTER OF APPROVING AN AGREEMENT WITH THE OHIO ATTORNEY GENERAL'S OFFICE FOR THE MOVING OHIO FORWARD DEMOLITION PROGRAM:

It was moved by Mr. Thompson, seconded by Mr. Stapleton to accept the grant:

WHEREAS, on June 28, 2012, the Board adopted Resolution 12-641, authorizing Delaware County to apply for the Ohio Attorney General's Moving Ohio Forward Demolition Program; and

WHEREAS, on July 11, 2012, the Ohio Attorney General's Office notified Delaware County via letter that said application was approved, pending agreement review, signing and return; and

WHEREAS, up to \$500,000 is available for the demolition of Delaware County blighted residential properties;

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

Section 1. The Board hereby approves the Ohio Attorney General's Office Moving Ohio Forward Demolition Agreement and authorizes the President of the Board to execute the Agreement.

Section 2. That this resolution shall take effect and be in force immediately after passage.

**Ohio Attorney General's Office
Moving Ohio Forward Demolition Program
Agreement**

Lead Entity Organization: Delaware County Board of Commissioners

Obligated Amount: Five Hundred Thousand and 00/100 Dollars (\$500,000.00)

Award Period: Commencement Date - August 1, 2012 End Date - December 31, 2013

The parties hereto agree as follows:

I. Funding Purpose and Recapture of Funds. This Agreement is made and entered into by and between the Ohio Attorney General's Office ("AGO") and the Delaware County Board of Commissioners ("Lead Entity") to obligate and disburse funds in the amount, of \$500,000.00 ("Demolition Funds") during the Award Period for residential demolition activities in accordance with the Lead Entity's Application as approved by the AGO, which is incorporated by reference as if fully rewritten herein. This Agreement may only be modified with the prior written approval of the AGO. All modifications to this Agreement shall be in writing and signed by both parties to this Agreement. Any change from the residential demolition activities set forth in the Lead Entity's approved Application without a modification to this Agreement will be grounds for recapture of the funds by the AGO.

(a) The Demolition Funds Purpose. Demolition Funds may be used for the sole and express purpose of undertaking and completing residential demolition projects ("Projects") as described in the Scope of Work attached hereto as Exhibit A. Lead Entity shall undertake and complete each Project as described in the Scope of Work. Other terms and conditions under which the contractor(s), including certified professionals, will complete the Scope of Work are as set forth in Lead Entity's approved Application. Such terms and conditions are

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incorporated in this Agreement by reference and are a material part of this Agreement.

(b) Availability of Match Funds. If the Obligated Amount set forth above exceeds \$500,000.00, Lead Entity represents and warrants to the AGO that Lead Entity has obtained or has a binding commitment for matching funds from another financing source. These matching funds will be available no later than the date Lead Entity submits its first reimbursement/disbursement request report, as described below in paragraph 111(b).

II. Completion of Projects Demolition Funds shall not be released until: (a) Lead Entity completes all demolition activity for a residential Project; (b) Lead Entity submits to the AGO a reimbursement report signed and certified by Lead Entity or Subrecipient, as identified in Lead entity's application, that all demolition activities as required were, in fact, completed; and, (c) Lead Entity completes (or causes to be completed) each Other act required to be performed pursuant to the Moving Ohio Forward Demolition Program Guidelines, which are incorporated herein by reference, and submits all information required in Attachment B of the Reimbursement/Disbursement Request Manual, which is incorporated herein by reference. In the event the AGO shall approve any submission by Lead Entity, the AGO will use good faith efforts to evaluate promptly any such submissions and provide Lead Entity written notice of any deficiencies within thirty (30) days of the AGO's receipt of the submission for which approval is required. For any matching fund requirement, the sources and uses of such funds will be set forth in Lead Entity's submissions.

III. Payment of Demolition Funds.

(a) Payment Information. Lead Entity shall have on file a Payment Information Form, attached hereto as Exhibit B. This Form shall be returned with the executed copy of this Agreement. Failure to complete the Form and return it with this Agreement will result in a delay of the first payment.

(b) Request for Payment. Lead Entity shall submit to the AGO for review and approval reimbursement/disbursement reports detailing Project expenditures which have then been incurred by Lead Entity. All expenses to be paid or reimbursed with Demolition Funds shall be supported by contracts, invoices, vouchers, paid receipts and other documentation as appropriate to evidence the costs incurred by Lead Entity for each demolition Project. The AGO may request, and Lead Entity shall submit to the AGO, such additional documentation as may be necessary or useful to substantiate a payment request. In the event of a complete or partial denial of a payment request, the AGO shall notify Lead Entity in writing, including a statement of specific reasons for such denial, and Lead Entity shall have an opportunity to re-submit the request for payment with additional information responsive to the reason for denial. The AGO shall use reasonable efforts to issue a notice of denial, in whole or in part, and/or initiate a voucher for payment within thirty (30) days after receipt of a payment request from Lead Entity.

(c) Payment of Demolition Funds. AGO shall disburse the Demolition Funds approximately thirty (30) days after submission of the reimbursement/disbursement report. Lead Entity shall adhere to the procedures for payment of Demolition Funds set forth in the Reimbursement/Disbursement Request Manual.

IV. Demolition Funds Not Expended. If the Demolition Funds are not expended by Lead Entity in accordance with the terms and conditions of this Agreement or within the Award Period set forth in this Agreement, Lead Entity shall return such improperly expended or unused Demolition Funds within thirty (30) days after demand by the AGO. On determination by the AGO that Lead Entity has not performed in accordance with the terms and conditions of this Agreement and after the return of misspent or unused Demolition Funds to the AGO, this Agreement will terminate.

V. Agreement Deadlines. Lead Entity shall complete all Projects not later than the End Date set forth in this Agreement. If Lead Entity anticipates that a Project will not be completed by the End Date, Lead Entity shall request an extension of time to complete a Project at least sixty (60) days before the scheduled End Date. It will be within the sole discretion of the AGO to grant or deny such extension of time. Lead Entity acknowledges that the Award Period extends beyond the End Date for purposes of reporting by lead Entity and monitoring by the AGO of the results of the award of Demolition Funds.

VI. Securing Contractor(s).

(a) Lead Entity shall secure qualified personnel and/or contractors to complete each Project. All personnel performing work under this Agreement shall be employees of Lead Entity or under the direct supervision of the Lead Entity's subcontractors; or be performed by a Subrecipient and the Subrecipient's subcontractors. Lead Entity shall comply with all applicable laws governing the selection of subcontractors under this Agreement.

(b) Lead Entity shall bind any Subrecipients or subcontractors to the terms of this Agreement, so far as applicable to the work of the Subrecipient or subcontractor, and shall not agree to any provision which seeks to bind the AGO to terms inconsistent with, or at variance from, this Agreement.

(c) Any contracts entered into by Lead Entity with Subrecipients or subcontractors shall include anti-kickback and non-collusion clauses and property tax certifications. Subrecipients or subcontractors shall have adequate liability and property damage insurance. All Subrecipients and subcontractors shall have policies regarding drug free workplace, EEO, and be knowledgeable and understand Ohio Ethics and Conflict of Interest

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laws.

VII. Repotting.

- (a) Reimbursement/Disbursement Request Report. Lead Entity shall submit a certified report with each reimbursement/disbursement request for a completed demolition. Each report shall provide the street address, itemization of expenses claimed, any applicable matching funds, and amount requested. Attachments to the report shall include photographs, invoices, authority for demolition, environmental reports and any applicable waste shipment record. One subrecipient agreement and contractor, subcontractor or vendor agreement shall be provided per entity. No Demolition Funds shall be paid to Lead Entity until the AGO receives the items described in this paragraph.
- (b) Final Performance Report. Lead Entity shall submit a Final Performance Report to the AGO describing the use of the Demolition Funds during the Award Period, the outcome achieved from the expenditure of the Demolition Funds, and a brief narrative of the overall success of the Moving Ohio Forward Demolition Program including any known land reutilization, economic and environmental benefits. Lead Entity shall adhere to all mandatory fiscal and program administration guidelines, including audit requirements, as determined by the AGO. This report, Attachment 9 of the Application, shall be submitted to the AGO no later than December 31, 2014 and sent to the following address: MovingOhioForward@ohioattorneyGeneral.gov. Lead Entity's obligation to complete and submit the Final Performance Report shall survive the expiration of this Agreement.
- (c) Date Calculation. If the last date on which a report is due falls on a Saturday, Sunday or a legal holiday, as defined by Ohio Revised Code ("R.C.") 1. 14, then the report shall be received on the next succeeding day that is not a Saturday, Sunday or a legal holiday.
- (d) Additional Information. Lead Entity shall provide to the AGO any additional reports or information relating to the Project as the AGO may from time to time reasonably request.

VIII. Adherence to State and Federal Laws and Regulations.

- (a) General. The Lead Entity, in expending the Demolition Funds, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances. Without limiting the generality of such obligation, Lead Entity shall pay or cause to be paid all unemployment compensation, insurance premiums, workers' compensation premiums, income tax withholding, social security withholding, and any and all other taxes or payroll deductions required for all employees engaged by Lead Entity in connection with each Project. Lead Entity shall comply with all applicable environmental, zoning, planning and building laws and regulations.
- (b) Ethics. Lead Entity, by its signature on this document, certifies that it has reviewed and understands the Ohio ethics and conflict of interest laws and will take no action inconsistent with those laws, as any of them may be amended or supplemented from time to time. Lead Entity understands that failure to comply with the Ohio ethics and conflict of interest laws is in itself grounds for termination of this Agreement and the grant of funds made pursuant to this Agreement.
- (c) Conflict of Interest. Lead Entity shall immediately disclose in writing to the AGO any such person who, prior to or after the execution of this Agreement, acquires such a personal interest, whether voluntarily or involuntarily. Lead Entity shall cause any such person who, prior to or after the execution of this Agreement, acquires any personal interest, voluntarily or involuntarily, to immediately disclose such interest to the AGO in writing. Thereafter, such person shall not participate in any action affecting the work under this Agreement unless the AGO determines that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.
- (d) Non-Discrimination. Pursuant to R.C. 125.111 and the AGO's policy, Lead Entity agrees that Lead Entity and any person acting on behalf of Lead Entity shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the work under this Agreement. Lead Entity further agrees that Lead Entity and any person acting on behalf of Lead Entity shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.
- (e) Kickbacks. Lead Entity represents and warrants to the AGO that Lead Entity has not provided, attempted to provide, offered to provide, solicited, accepted, or attempted to accept any payment back from any contractor or kickback and lead Entity covenants and agrees that Lead Entity, its employees and agents shall not provide, attempt to provide, offer to provide, solicit, accept, or attempt to accept any kickbacks during the Award Period of this Agreement. Lead Entity further represents and warrants that it has not knowingly included, directly or indirectly, the amount of any kickback in the estimated cost of any Project nor will knowingly include, directly or indirectly, the amount of any kickback into any reimbursement/ disbursement request report.
- (f) Non-Assistance to Terrorist Organization. If the potential compensation to Lead Entity under this Agreement exceeds \$100,000.00, Lead Entity hereby represents and warrants to the AGO that it has not provided any material assistance, as that term is defined-in R.C. 2909.33(C), to any organization identified by, and included

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on, the United States Department of State Terrorist Exclusion List and that it has truthfully answered "no" to every question on the "Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization," available at <http://homelandsecurity.ohio.gov/dmaldma.asp>. Lead Entity further represents and warrants that it has provided or will provide such document to the AGO prior to execution of this Agreement. If these representations and warranties are found to be false, this Agreement is void ab initio and Lead Entity shall immediately repay to the AGO any funds paid under this Agreement.

(g) Public Records. Lead Entity acknowledges that this Agreement and other records in the possession or control Of the AGO regarding each project are public records under R.C. 149.43 and are open to public inspection unless a legal exemption applies.

IX. Default, Remedies and Termination.

(a) Default. Lead Entity shall be in default of this Agreement if Lead Entity fails to perform any of its obligations under this Agreement and such failure to perform continues uncured for more than thirty (30) days after written notice (a "Default Notice") from the AGO. During the thirty-day cure period, Lead Entity shall incur only those obligations or expenditures pre-approved by the AGO that are necessary to enable Lead Entity to continue its operations and achieve compliance with the terms and conditions of this Agreement.

(b) Remedies. Following a default by Lead Entity, the AGO may exercise one or more of the following remedies:

(i) Discontinue Disbursements. If the Demolition Funds have not been fully disbursed, the AGO may terminate any and all of the AGO's obligations under this Agreement, including the obligation to make further disbursements of Demolition Funds.

(ii) Demand Repayment of Demolition Funds or Liquidated Damages. Under the circumstances described in Section IV of this Agreement, the AGO may demand repayment of Demolition Funds improperly expended. Lead Entity shall not be required to repay an amount that exceeds the Demolition Funds disbursed to Lead Entity.

(iii) Other Legal Remedies. Pursue any other legal or equitable remedies the AGO may have under this Agreement or applicable law.

(c) Remedies Cumulative. No remedy provided to the AGO under this Agreement or otherwise by law or in equity is exclusive of any other available remedy. No delay or omission by AGO in exercising any right or power accruing upon any default shall impair any such right or power or be construed as a waiver, and each such right or power may be exercised from time to time as often as may be deemed by the AGO to be expedient.

(d) Effects of Termination. Within sixty (60) days after termination of this Agreement following any default, Lead Entity shall provide the AGO with a final report setting forth the total expenditure of the Demolition Funds by Lead Entity and the status of each project at the time of termination. The final report shall be signed and certified. This reporting obligation shall survive the termination of the Agreement.

X. Certification of Funds. It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all relevant statutory provisions of the Ohio Revised Code have been complied with, and until such time as all necessary funds are available.

XI. Notice. Any notice or report required or permitted to be given under this Agreement shall be deemed to have been sufficiently given for all purposes if mailed by first class delivery to the following addresses of the parties or to such other address as either party may hereafter furnish by written notice to the other party.

If to the AGO:
Ohio Attorney General's Office
Mortgage Foreclosure Unit
30 East Broad Street, 15th Floor
Columbus, Ohio 43215
FAX No.: (866) 403-3979

If to Lead Entity:
To the Point of Contact and address identified in Lead Entity's Application

XI. Indemnification. Lead Entity and the AGO each agree to be responsible for any personal injury or property damages caused solely by its negligent acts or omissions as determined by a court of competent jurisdiction or as the parties may otherwise mutually agree. In no event shall either party be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits.

XII. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by the laws of the State of Ohio as to all matters including, but not limited to, its validity, construction, effect and performance.

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(b) Forum and Venue. Lead Entity irrevocably submits to the non-exclusive jurisdiction of any federal or state court sitting in Columbus, Ohio. In any action or proceeding arising out of or proceeding may be heard and determined, in any such court, and Lead Entity irrevocably waives any objection it may now or hereafter have as to the venue of any such action or proceeding brought in such court. Nothing in this Agreement shall limit the right of the AGO to bring any action or proceedings against Lead Entity in the courts of any other jurisdiction.

(c) Entire Agreement. This Agreement, including its exhibits, attachments and documents incorporated into it by reference, constitutes the entire agreement and understanding of the parties with respect to its subject matter. Any prior written or verbal agreement, understanding or representation between the parties or any of their respective officers, agents, or employees is superseded and no such prior agreement, understanding or representation shall be deemed to affect or modify any of the terms or conditions of this Agreement.

(d) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

(e) Amendments. Either party may at any time during the Award Period of this Agreement request amendments or modifications. Requests for amendment of this Agreement shall be in writing and shall specify the requested changes and the justification for each change. The parties shall review, the request for amendment taking into consideration the statutes, policies and goals of the Project. If the parties concur on changes to the terms of this Agreement, an amendment shall be written, approved, and executed in the same manner as the Agreement.

(f) Assignment. Neither this Agreement nor any rights, duties, or obligations of Lead Entity pursuant to this Agreement shall be assigned by Lead Entity without the prior express written consent of the AGO. Any purported assignment not made in accordance with this paragraph shall be void.

XIV. Authority to Bind Parties. The person signing this document on behalf of Lead Entity is legally authorized to contractually obligate the Lead Entity. Lead Entity represents and warrants to the AGO that Lead Entity has made no false statements to the AGO or any of its employees or agents in the process of obtaining the award of Demolition Funds.

ATTACHMENT A
Scope Of Work

Scope of Work. Each Project includes residential demolition activities such as asbestos surveys, required asbestos abatement, demolition of buildings, and waste removal. Other reimbursable demolition activities include the following Demolition Hard Costs, Demolition Soft Costs, and a portion of General Administrative Costs:

General Administrative Costs (5% limit per completed demolition cost, with program totals not to exceed \$100,000)	Demolition Hard Costs (reimbursed 100% for completed demolitions)
<ul style="list-style-type: none"> • General Management and Oversight of Program • Technical Support Services • Monitoring and Evaluation • Preparation of Reimbursement/Disbursement Requests • Performance Report Preparation • Local Historic Review/Assessments (OHPO clearance is not required) • State Audit(s) • Other expenses approved on a by-case basis by the AGO 	<ul style="list-style-type: none"> • Demolition of Buildings • Removal of Asbestos • Removal of other Hazardous Materials • Clearance of Structures (poles, fences, wall, driveways, service walks, etc. • Removal of Underground Storage Tanks and Utility Services • Removal and/or Filling/Capping of Septic Systems and Wells • Clearance of Debris and Garbage • Site Restoration (grading and seeding) • Regulatory Permit and Inspection Fees • Other expenses approved on a case by-case basis by the AGO
<u>Ineligible Moving Ohio Forward Costs</u> (no reimbursement)	Demolition Soft Costs (reimbursed 100% for completed demolitions)
<ul style="list-style-type: none"> • Acquisition of Real Estate • Payment of Real Estate Taxes and Tax Delinquencies • Payment of Tax Liens and Property Assessments • Payment of Delinquent Utility Costs • Marketing of Project Site(s) • Preparation of the Moving Ohio Forward Application including the Strategic planning component • Litigation expenses • Property Maintenance 	<ul style="list-style-type: none"> • Environmental Assessments • Asbestos Surveys • Title Searches • Legal fees approved on a case-by-case basis for local governments without available legal counsel, contract preparation and review • Architectural/Engineering Fees, including cost estimates, bid specifications and job progress inspections

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	<ul style="list-style-type: none"> •Legal/Bid Advertisements • Other expenses approved on a case by-case basis by the AGO
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**ATTACHMENT B
PAYMENT INFORMATION FORM
Payment Options (choose one and complete information fields):**

- Check
- Payee Name
 - Address

- Wire Transfer
- Destination Bank Name:
 - Account Name:
 - ABA Routing Number:
 - Account Number:

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

COMMISSIONERS' COMMITTEES REPORTS

Commissioner O'Brien
-No Additional Comments

Commissioner Thompson
-On Friday Attended Community Action Organization Meeting
-On Saturday Attended The Blast From The Past Car Show In The City Of Delaware

Commissioner Stapleton
-No Additional Comments

There being no further business, the meeting adjourned.

Ken O'Brien

Dennis Stapleton

Tommy Thompson

Jennifer Walraven, Clerk to the Commissioners