

COMMISSIONERS JOURNAL NO. 59 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD MAY 13, 2013

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

Present:  
Ken O'Brien, President  
Dennis Stapleton, Vice President  
Gary Merrell, Commissioner

10:30 AM Special Session For Hearing, for Joint Board of Board of Delaware and Union County Commissioners, for Drainage Petition Filed By The City Of Columbus Department Of Public Utilities  
  
2:00 PM Viewing For Consideration Of The Barrington Estates Section 1, 2, And 3 Subdivision Drainage Petition

RESOLUTION NO. 13-501

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD MAY 13, 2013:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on May 13, 2013; 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. Merrell Aye Mr. Stapleton Aye Mr. O'Brien Aye

PUBLIC COMMENT

ELECTED OFFICIAL COMMENT

RESOLUTION NO. 13-502

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0510 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR0510:

It was moved by Mr. Merrell, seconded by Mr. Stapleton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0510, memo transfers in batch numbers MTAPR0510 and Purchase Orders as listed below:

PR Number	Vendor Name	Line Description	Line Account	Line Amount
<b>EMS – MATERIAL AND SUPPLIES</b>				
R1303982	EVOLUTION AG LLC	PARTS FOR 2013 KUBOTA	10011303-5228	\$12,117.98
<b>SANITARY ENGINEER – SERVICES AND CHARGES</b>				
R1303904	FEECORP INC	PIPELINE ASSESSMENT	66211901-5305	\$5,400.00

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

RESOLUTION NO. 13-503

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The EMS Department is requesting that Vernon Keith Gordon attend an Advanced Stroke Life Support Instructor training at the OSU Wexner Medical Center on May 18, 2013 at no cost.

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

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**RESOLUTION NO. 13-504****IN THE MATTER OF ACCEPTING THE TREASURER'S REPORT FOR THE MONTH OF APRIL 2013:**

It was moved by Mr. Merrell, seconded by Mr. Stapleton to accept the Treasurer's Report for the month of April 2013.

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

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

**RESOLUTION NO. 13-505****IN THE MATTER OF ACCEPTING AND APPROVING THE DELAWARE COUNTY SHERIFF'S OFFICE TRANSPORT REPORT FOR THE MONTH OF APRIL 2013:**

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

WHEREAS, section 325.07 of the Revised Code requires the County Sheriff to submit monthly expense reports to the Board of County Commissioners; and

WHEREAS, the Delaware County Sheriff has submitted a monthly report for April 2013;

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

Section 1. The Board hereby accepts and approves the Delaware County Sheriff's Office Transport Report for the month of April 2013.

Section 2. The Board hereby allows the expenses contained in the monthly report.

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

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

**RESOLUTION NO. 13-506****IN THE MATTER OF AWARDING A BID AND APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND RIETSCHLIN CONSTRUCTION, INC. FOR THE PROJECT KNOWN AS DEL-CR190-071, DAVID ROAD BRIDGES:**

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

**DEL-CR190-071, DAVID ROAD BRIDGES  
Bid Opening of April 30, 2013**

Whereas, as the result of the above referenced bid opening, The Engineer recommends that a bid award be made to Rietschlin Construction, Inc., 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 Rietschlin Construction for your approval. All necessary documentation for this approval has been received (Certification/Affidavit in Compliance with O.R.C. Section 3517.13, etc.), and

Whereas, the County Engineer recommends approval of the Contract between the Delaware County Commissioners and Rietschlin Construction, Inc. for the project known as DEL-CR190-071, David Road Bridges:

**CONTRACT**

THIS AGREEMENT is made this 13<sup>th</sup> day of May, 2013 by and between **Rietschlin Construction, Inc., 4240 Baker Road, Crestline, Ohio 44827**, 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

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construction of the improvements embraced in the project named “**DEL-CR190-0.71, David Road Bridges**”, 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 **Five Hundred Thirty-Seven Thousand One Hundred Twenty-Nine Dollars and Fifty Cents (\$537,129.50)**, 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.

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

**RESOLUTION NO. 13-507**

**IN THE MATTER OF AWARDING A BID AND APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND THE SHELLY COMPANY FOR THE 2013 DEL-COUNTY ROAD IMPROVEMENT PROGRAM, RESURFACING VARIOUS COUNTY AND TOWNSHIP ROADS:**

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

2013 DEL-County Road Improvement Program, Resurfacing Various County and Township Roads  
Bid Opening of April 30, 2013

Whereas, as the result of the above referenced bid opening, The Engineer recommends that a bid award be made to The Shelly 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 The Shelly Company for your approval. All necessary documentation for this approval has been received (Certification/Affidavit in Compliance with O.R.C. Section 3517.13, etc.), and

Whereas, the County Engineer recommends approval of the Contract between the Delaware County Commissioners and The Shelly Company for the 2013 DEL-County Road Improvement Program, Resurfacing Various County and Township Roads;

**CONTRACT**

THIS AGREEMENT is made this 13<sup>th</sup> day of May, 2013 by and between The Shelly Company, 80 Park Drive, P.O. Box 266, Thornville, Ohio 43076, 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 “**2013 DEL-COUNTY ROAD IMPROVEMENT PROGRAM, Resurfacing Various County and Township Roads**”, and required supplemental work for the project all in strict accordance with the Contract Documents.

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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 Two Million Nine Hundred Thirty-Six Thousand Two Hundred Sixty-Six Dollars and Forty-Nine Cents (\$2,936,266.49), 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.

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the contract between The Delaware County Commissioners and The Shelly Company for the 2013 DEL-County Road Improvement Program, Resurfacing Various County and Township Roads.

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

**RESOLUTION NO. 13-508**

**IN THE MATTER OF APPROVING APPLICATION FOR UTILITY CONSTRUCTION AND MAINTENANCE PERMIT:**

It was moved by Mr. Stapleton, seconded by Mr. Merrell to approve the following work permit:

Whereas Del-Co Water Company requests permission to perform work within the right-of-way of Three B's & K Road as outlined in Exhibit A, which is available for your review. This work has been reviewed and approved by the Delaware County Engineer.

Now Therefore Be It Resolved, that the permit for Del-Co Water is hereby approved by The Board of Delaware County Commissioners.

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**EXHIBIT A**

**TO APPLICATION FOR UTILITY CONSTRUCTION AND MAINTENANCE PERMIT  
DATED \_\_\_\_\_ BY DEL-CO WATER COMPANY, INC.**

Del-Co Water Company, Inc. ("Del-Co") makes this Application regarding several of its water lines as set out below:

**I Lines Never Within Previously Granted Easements**

The water lines described in this section have never been within a private easement granted to Del-Co but may have been the subject of one or more previous Right-of-Way permits. Del-Co shall have a guaranteed right to access and maintain these lines.

**(A) Three B's and K Road**

(1) 6 inch WM – Station 105+60 to Station 109+70 (LT)

**(B) Cheshire Road**

(1) 8 inch WM – Station 10+75 to Station 16+17 (RT)

(2) 4 inch WM – Station 16+63 to Station 17+22 (RT)

(3) 6 inch WM – Station 16+60 to Station 17+20 (RT)

**II Lines Subject to Previously Granted Easements to Del-Co**

Each of the water lines described in this section have been the subject of a previously granted easement from a private property owner to Del-Co. Each of the lines within a previously granted easement was outside the road Right-of-Way at the time of granting of the easement to Del-Co. Some of the lines remain within the original easement area, which easement area is now or will become located, as a result of the Three B's and K/Cheshire Roads intersection improvement project, within the road Right-of-Way. Some of the lines have been relocated from their original easement area to a new location within the road Right-of-Way.

**(A) Guaranteed rights to access and maintain the water lines described below:**

**(1) Three B's and K Road**

(a) 16 inch WM – Station 102+05 to Station 105+87 (RT)

**(2) Cheshire Road**

(a) 4 inch WM – Station 17+45 to Station 21+36 (RT)

**(B) In addition to the right to access and maintain the lines described above that are subject to previously granted easements, the Board of County Commissioners agrees that, with respect to any Del-Co lines subject to a previously granted easement from a private property owner to Del-Co, but which are now in the Right-of-Way due to the County's taking or granting of additional road Right-of-Way:**

(1) The BCC will include relocating such a line due to future road improvements or other uses of the right-of-way inconsistent with the continued presence of the Del-Co waterlines within the previously granted easements as part of the project that makes relocating the Del-Co line(s) necessary or appropriate, without cost to Del-Co; and

(2) The BCC will reimburse Del-Co for any additional cost or expense of maintaining or repairing such lines due to changes to the surface above the lines, including but not limited to the presence of pavement of any sort or a change in the grade elevation,

provided such changes are the direct result of an improvement undertaken by the BCC or an improvement undertaken pursuant to a license, permit, or other consent issued by the BCC.

**III Relinquished Rights of Access**

**(A) Del-Co will relinquish rights to access the following lines as the replacements for the following lines become operational:**

**(1) Three B's and K Road**

(a) 6 inch WM – Station 100+50 to Station 105+57 (LT)

(b) 6 inch WM – Station 109+70 to Station 111+50 (LT)

**(2) Cheshire Road**

(a) 4 inch WM – Station 10+70 to Station 16+63 (RT)

(b) 8 inch WM – Station 16+17 to Station 16+63 (RT)

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

**RESOLUTION NO. 13-509**

**IN THE MATTER OF APPROVING A MASTER UTILITY CONSTRUCTION AND MAINTENANCE AGREEMENT WITH DEL-CO WATER COMPANY:**

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

WHEREAS, due to the growing population of Delaware County, the Board of County Commissioners (the "Board") will continue to acquire and appropriate property for the purpose of widening and extending county roads; and

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WHEREAS, the acquisitions and appropriations frequently impact Del-Co Water Company's property rights; and

WHEREAS, in light of past cooperation between the Board and Del-Co Water, the parties share an interest in certain administrative efficiencies that could be achieved by memorializing and documenting certain policies and preferences of the parties, thereby promoting a more efficient coordination and exchange of information to the mutual benefit of both roadway users and Del-Co customers; and

WHEREAS, the County Engineer recommends approval of the Master Utility Construction and Maintenance Agreement with Del-Co Water to accomplish the aforesaid efficiencies;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the following Master Utility Construction and Maintenance Agreement with the Del-Co Water Company, Inc.:

**Master Utility Construction and Maintenance Agreement**

This master utility construction and maintenance agreement ("Agreement") is made by and between the Board of Commissioners of Delaware County ("County") and Del-Co Water Company, Inc. ("Del-Co") effective as May 13, 2013.

**Background Recitals**

- A. The parties agree and acknowledge that the growing population of Delaware County can and will continue to lead to multiple condemnations and appropriations by the County for the purpose of widening and extending county roads ("County Condemnations").
- B. County Condemnations frequently impact Del-Co's property rights as documented in recorded easements/right-of-ways.
- C. In light of past co-operation between the County and Del-Co, the parties share an interest in certain administrative efficiencies that could be achieved by memorializing and documenting certain policies and preferences of the parties and thereby promote a more efficient coordination and exchange of information for design, plan development and construction, to the mutual benefit of both roadway users and Del-Co customers.
- D. To facilitate these administrative efficiencies, the County, in the exercising of its appropriation and condemnation rights, acknowledges Del-Co's constitutional rights in Del-Co's easements/right-of-ways, as well Del-Co's statutory rights under ORC Chapter 163, including, by way of example rather than limitation, Del-Co's rights to: receive notice of intent to acquire and purchase offer from the County (ORC § 163.04); arbitration/mediation (ORC § 163.051); depositing of the value of the easement/right-of-way being taken with the court by the County (ORC § 163.06); and appraisal and valuation of the easement/right-of-way being taken (ORC § 163.09).

**NOW THEREFORE**, in consideration of the covenants and conditions herein contained, including the Background Recitals stated above, the parties mutually agree as follows:

1. **Scope:** The parties agree and acknowledge this Agreement applies only to those County Condemnations that involve widening and/or extending County and Township road right-of-ways and the resultant taking of Del-Co's right-of-ways/easements. In addition, the parties agree and acknowledge that the term County Condemnation shall apply in instances of the threat of condemnation, that is, the County will make all commercially reasonable efforts to notify Del-Co by copying Del-Co on notices of intent to acquire and purchase sent by the County to any property owners, in advance of the County naming Del-Co in any condemnation complaint.
2. **Condemnations and Proceedings:**
  - a. In consideration of the County reimbursing Del-Co's relocation costs, as provided for further below, in County Condemnations, for so long as this Agreement is in effect between the County and Del-Co, Del-Co hereby waives its statutory rights enumerated here (and only as enumerated here) under:
    - i. ORC § 163.04;
    - ii. ORC § 163.051;
    - iii. ORC § 163.06; and
    - iv. ORC § 163.09

Further, Del-Co agrees that if named in any County Condemnation action that it will not assert any of the above enumerated statutory rights as defenses or claims, or file a mandamus action.

- b. For any County Condemnation involving the taking of a Del-Co right-of-way/ easement on a property on which Del-Co has a pre-existing water user agreement, Del-Co will, depending on

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site conditions and engineering recommendations, in the County Condemnation action or in a separate action:

- i. Claim or cross-claim against the defendant property owner(s) for a new easement/right-of-way for its relocated waterline and appurtenances, and/or
  - ii. Relocate its waterline and appurtenances into the County's road right-of-way.
- c. For any County Condemnation in which Del-Co has a right-of-way/easement on the property subject to the County Condemnation, but does not have a pre-existing water user agreement for the property, Del-Co will, depending on site conditions and engineer's recommendations:
- i. Reach an agreement with the property owner(s) for a new right-of-way/easement for its relocated waterline and appurtenances,
  - ii. Relocate into the County's road right-of-way, and/or
  - iii. In cases in which Del-Co cannot reach agreement with the property owner(s), condemn and obtain a private easement/right-of-way.
- d. The parties agree and acknowledge that the alternatives listed above are in Del-Co's order of preference, provided, however, that the final location for a Del-Co line to be re-located shall always be in Del-Co's sole and absolute discretion.

**3. Relocation into the County's Road Right-of-Way:** County and Del-Co agree that with respect to any County Condemnation that:

- a. To the extent Del-Co determines that joint usage for both highway and utility purposes is the most efficient, the parties agree to complete all work according to applicable local, state and federal laws and regulations.
- b. To take all commercially reasonable steps to avoid placing any in-ground utilities between any Del-Co facility and the final grading above ground.
- c. That any relocated Del-Co facilities shall have a minimum distance of:
  - i. Ten feet (10.0') to either side from any sanitary sewer or storm sewer.
  - ii. Five feet (5.0') to either side from all other utilities.
- d. Del-Co shall be responsible for the design and adjustment of its facilities within the road right-of-way.
- e. Del-Co may choose to exercise a variety of bidding and contract options without any effect on the County's obligations to reimburse Del-Co as provided under this Agreement or any specific relocation agreement entered into pursuant to this Agreement.
- f. After the County has notified Del-Co of a County Condemnation, the parties shall document each individual relocation with:
  - i. An **Application for Utility Construction Permit**, in substantially the same form as attached hereto as **Exhibit A** or as may be modified in the future by the County;
  - ii. The Attachment to Utility Construction Permit, in substantially the same form as attached hereto as Exhibit B; Del-Co's plans, specifications, and estimated costs;
  - iii. Del-Co's Schedule of Work and Estimated Date of Completion; and
  - iv. Del-Co's final actual costs.
- g. Del-Co will, by written notice, advise the County of the scheduled beginning and completion dates of any adjustment, removal and/or relocation of its facilities. The County may approve or deny the work schedule based on it being reasonable and proper with consideration given to any scheduled work to be performed on the Condemnation project and/or inconvenience caused to the public by such work. In the event that the County denies approval of the submitted work schedule, the County and Del-Co agree to cooperate in good faith to reschedule the work to dates acceptable to both parties, and, thereafter, Del—Co will perform such work diligently, and conclude such work by the stated completion date.
- h. Del-Co's obligations to timely perform pursuant to this Agreement and any specific relocation agreement entered into pursuant to this Agreement are and shall be subject to and shall be extended by delays caused by events outside Del-Co's control, including an event of Force Majeure, such as a strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, flood, fire or other act of God, sabotage, or other events, interference by the State of Ohio, U.S. government or any other party, or any other event in which Del-Co has exercised all commercially reasonable due care in the prevention thereof so that the causes or other events are beyond the control and without the fault or negligence of Del-Co.

**4. County Reimbursement of Del-Co:** County and Del-Co agree that with respect to any County Condemnation that:

- a. The County will reimburse Del-Co for all "soft" and "hard" costs of a County Condemnation, including, by way of example rather than limitation: engineering; legal; materials; drainage, erosion

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and soil control; excavation; finish grading; testing; and payments to property owners for replacement easements. Reasonable facility enhancements may be included at Del-Co’s option.

- b. The County will, upon satisfactory completion of the relocation of the Del-Co facilities, and within thirty (30) calendar days of the receipt of a final billing prepared by Del-Co, pay Del-Co in full.
- c. When requested in writing by Del-Co, the County will make intermediate payments at not less than monthly intervals to Del-Co when properly invoiced by Del-Co. Intermediate payments shall not be considered final payment for any listed items.
- d. Del-Co agrees to submit bills for work pursuant to this Agreement and any specific relocation agreement entered into pursuant to this Agreement not later than ninety (90) days after completion of the work.

5. **Miscellaneous:**

- a. This Agreement shall remain in effect until January 15, 2014, and thereafter, shall be automatically renewed annually for successive one-year periods, provided, however, that either party may terminate this Agreement at any time for any reason after giving ninety (90) days written notice to the other party.
- b. This Agreement constitutes the full agreement and understanding between the parties as to County Condemnations, and any prior discussions or understandings as to the items herein are hereby merged into this Agreement. This Agreement may not be modified or amended except in writing.
- c. Except as expressly provided herein, neither the County nor Del-Co waive or relinquish any right that they may have under the law.
- d. The parties to this Agreement represent and warrant to each other that each of them, along with the signatories signing on behalf of the party represented, have the authority to enter into this Agreement.

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

**RESOLUTION NO. 13-510**

**IN THE MATTER OF APPROVING THE TOWER SITE LICENSE AGREEMENT BETWEEN THE COUNTY OF DELAWARE AND AGILE NETWORK BUILDERS:**

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

Whereas, the Acting 911 Communications Director and the Public Safety Systems Administrator recommends approval of a Tower Site License Agreement Between the County of Delaware And Agile Network Builders

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approves the Tower Site License Agreement Between the County of Delaware And Agile Network Builders

**Tower Site License Agreement  
Between  
County of Delaware  
And  
Agile Network Builders**

This License (the “License”) is made by and between County of Delaware, having an office located at 101 North Sandusky Street, Delaware, Ohio 43015 (the “Lessor”), and Agile Network Builders, having an office located at 213 Market Avenue, North Suite 310, Canton, Ohio 44702 (the “Licensee”).

WITNESSETH:

In consideration of the terms, covenants and conditions set forth herein below, the parties hereto agree as follows:

I. **DEMISE AND USE OF THE PREMISES**

1.1 Lessor hereby grants to Licensee a license to install, construct, operate and maintain a Wireless Broadband Communications System (“System”)located on the Premises described in Exhibit A attached hereto and incorporated herein by reference (the “Sites”), together with associated communications and supporting equipment and necessary utility service connections and lines to the Premises subject to reasonable safety requirements and in accordance with all applicable Lessors’ policies subject to both parties acquiring necessary third party approvals and permits.

1.2 Lessor shall also permit Licensee to occupy space in the building located on the Premises and Site



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subject to compliance with all Lessors' policies and if space permits. This space will be used for rack space and utility services and other equipment necessary to operate the System. Licensee shall be authorized to connect to the Lessor's existing generator and utility services subject to both parties acquiring necessary third party approvals and permits.

1.3 Lessor shall, at its expense, provide Licensee unrestricted access to the Premises and Site. Such access shall be 24 hours per day, 7 days per week, however, no installation and/or maintenance by Licensee that could interfere with Lessor's operations will be permitted. Lessor shall give Licensee a key to any lock or fence that protects the Premises and Site. This site is equipped with door intrusion detection which is monitored by Motorola Network Monitoring Center and the Delaware County 911. Due to the building being monitored the Licensee will contact the Delaware County 911 Center at 740.833.2176 prior to entering the building.

**II. INITIAL TERM**

2.1 The term of this License shall commence on the date on which it is fully executed by all parties hereto (the "Commencement Date") and shall expire on (5 Year Term) (the "Initial Term").

**III. ANNUAL LICENSE FEE**

3.1 Licensee shall pay to Lessor a monthly fee of \$400.00 or an Annual Fee of \$4,800.00 or provide 5Mbps Agile Network connectivity for up to two locations for the use of each Site listed in Exhibit A. This fee includes the cost of all utilities, including electricity to the Site. Licensee shall remit the monthly fee to Lessor by the 10th of each month or its annual license fee payment on or before June 15th of each year. If this License commences after June of any given year and Licensee elects to pay an annual fee, Licensee shall pay a prorated license fee due for the period from the Commencement Date to the end of the following June.

3.2 All payments are payable to and shall be sent to Delaware County Commissioners. If Licensee does not occupy the Site on the Commencement Date for any reason which is not the fault of Licensee, Licensee's obligation to pay the license fee reserved hereunder shall commence as of the date that the Site is occupied by Licensee for the purposes set forth in Section I.

3.3 Prior to each renewal, the parties will review the annual license fee and the utility costs for the prior two years. Unless otherwise agreed between the parties, Licensee agrees to an increase of 3% per renewal to cover any increase in utility costs beginning with Fiscal Year

**IV. RENEWAL TERMS**

4.1 Provided that Licensee is not then in default of any of its material obligations hereunder and as otherwise set forth in Paragraph 3.3 above, Licensee shall have the option to renew this License for up to three successive and continuous terms of five years each (the "Renewal Terms") upon the same price, terms and conditions as are set forth herein.

4.2 Each of the aforesaid renewal options may be exercised by Licensee by giving written notice to Lessor not less than thirty (30) days prior to the expiration of the then current term of this License. Any reference herein to the "term of this License" shall include the Renewal Terms.

4.3 Not less than ninety (90) days prior to the end of the last remaining renewal term, the parties will evaluate the need for the License and determine whether to extend renewal options.

**VI. WASTE/RETURN OF PREMISES**

6.1 Licensee shall not commit or suffer any waste on the Premises or Site. Upon the expiration of this License or upon the earlier termination hereof, Licensee shall surrender possession of the Premises and Site in substantially as good a condition as the same existed at the Commencement Date, except for:

- .1) damage from fire or natural elements not caused by Licensee;
- .2) circumstances beyond the control of Licensee; and
- .3) reasonable use and normal wear and tear, depreciation and decay;

6.2 Provided, however, if Licensee desires to remove its improvements, then Licensee may remove such improvements and such items and shall repair all damage caused in the course of any such removal(s).

**VII. QUIET ENJOYMENT**

7.1 Lessor represents and warrants that it is in lawful possession of the Premises and has full authority to license the Premises to Licensee. Lessor will use good faith efforts to resolve any interference with Licensee's signal. In the event of any interference to Licensee's signal which Lessor cannot resolve, Licensee may terminate this License upon written notice to Lessor. Licensee will immediately correct any interference that it causes to Lessor's signal or any tenant or other licensee on the tower. If Licensee is unable to correct such interference, Lessor may terminate this License upon ninety (90) days written notice to Licensee.

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7.2 Lessor shall not permit the installation of any equipment or structure that interferes with Licensee's intended communications on or from the Premises or Site. Lessor shall, at its expense, immediately resolve any interference with Licensee's use of the Premises or Site. If such interference continues after notice is provided as set forth in Paragraph 18.1.1 herein and the expiration of the applicable cure period, then Licensee shall have the right:

- .1) to cure the interference at Lessor's expense;
- .2) to terminate this License, remove Licensee's equipment.

**VIII. ASSIGNMENT TO OTHER AGENCIES**

8.1 At any time during the term of this License, Lessor shall have the right, at its sole option, to assign its rights hereunder to another agency or agencies under the same terms, covenants and conditions as herein specified.

**IX. LESSOR'S COMPLIANCE WITH LAWS**

9.1 At the time the Premises or Site are "ready for use" by Licensee, Lessor shall ensure that the Premises and Site are in compliance (where applicable) with all laws, ordinances, orders, rules, regulations and requirements of all federal, state and local governments, departments, commissions, boards and offices.

**X. LESSOR'S DUTIES/SERVICES**

10.1 Lessor shall, at its expense, perform/provide the following duties/services in regard to the entire Premises:

- .1) Pay before any fine, penalty, interest or costs may be added thereto, all taxes, excises, levies, license and permit fees and other assessments, and water and sewer rents, rates and charges which may be assessed, levied, confirmed, imposed upon or become due and payable out of or in respect of the Premises.
- .2) Provide Licensee unrestricted ingress and egress to the Premises as set forth in Paragraph 1.3. Licensee shall use best efforts to safeguard any codes or keys given to it for such access.

**XI. INSPECTION**

11.1 Licensee shall permit Lessor or its agent(s) to enter into the Premises or Site to examine any equipment at any time.

**XII. LICENSEE'S DUTIES**

12.1 Licensee shall perform/provide the following duties:

- .1) Comply with any applicable laws, ordinances, orders, rules, regulations and requirements of all federal, state or local governments relating to Licensee's use and occupancy of the Premises or Site.
- .2) Pay for all telephone furnished to the Premises or Site on behalf of Licensee.
- .3) Pay all fees, permits, and licenses directly related to Licensee's equipment and operation of the same.

**XIII. LICENSEE'S ALTERATIONS/REPLACEMENT**

13.1 Licensee shall have the right to repair, replace, reconstruct and remove any of the improvements set forth in Section 1 at any time during the term of this License as long as such improvements do not interfere with any Lessor equipment or that of other licensees.

13.2 Licensee will install, operate and maintain its equipment, at its sole cost and expense, in accordance with applicable federal, state and local laws and regulations.

13.3 Licensee's equipment will remain the property of Licensee and the exclusive ownership by Licensee is acknowledged by Lessor. At the expiration or other termination of this License, Licensee may remove the Equipment. Licensee will also repair at least equal to existing conditions, at its sole cost and expense, any and all damage to Lessor's property occasioned by such removal.

13.4 To the best of its ability, Licensee will not use or occupy or permit the Lessor's Premises and Site to be used or occupied in any manner which may cause structural injury to or interfere with the structural integrity of the Lessor's Premises and Site or any part thereof.

**XIV. EMINENT DOMAIN**

14.1 If the any of the Premises listed in Exhibit A are taken in any appropriation proceedings or by any right of

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eminent domain, this License shall terminate for said premises only from the time when possession of the Premises is taken for another public use. Such taking shall not operate as, or be deemed, an eviction of Licensee or a breach of Lessors' covenant of quiet enjoyment.

**XV. DISPOSAL OF PREMISES**

15.1 Should during the term of this License, the Premise be sold, conveyed, transferred or otherwise dispose, Lessor shall immediately notify Licensee of such transfer of ownership and shall provide copies of the recorded deed or other instrument transferring title, together with the new owner(s) name(s), address(es), telephone and facsimile number(s), business entity title(s), social security number(s) and/or federal tax identification number(s).

**XVI. ASSIGNMENT/SUBLETTING**

16.1 Licensee may be permitted to assign this License, with the express written approval of Lessor. Said approval shall not be unreasonably withheld.

16.2 Lessor may assign this License to: (1) any related entity as long as the assignee shall be responsible jointly and severally with Lessor for the performance of all terms and conditions of this License. Lessor shall give Licensee written notice of any such assignment.

**XVII. NOTICES**

17.1 All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to the terms of this License shall be in writing and shall be deemed to have been properly given when sent via Federal Express or other reputable overnight delivery service or sent by certified mail:

.1) With respect to, addressed to:  
Delaware County 911 Center  
10 Court Street  
Delaware, Ohio 43015  
740.833.2160

.2) With respect to Licensee, addressed to:

Agile Network Builders  
213 Market Avenue North, Suite 310  
Canton, Ohio 44702  
888-494-0549

17.2 Lessor and Licensee each have the right, from time-to-time, to specify as its address for purposes of this License any other address in the United States of America upon giving notice thereof to the other party hereto as provided herein.

17.3 As a courtesy, a copy of any such instrument may be sent to the other party via facsimile. Such faxed copies shall not be a substitute or replacement for the instrument to be delivered or sent pursuant to Paragraph 17.1 above. The failure to fax a courtesy copy to the other party shall not affect the validity of any instrument issued pursuant to Paragraph 17.1.

**XVIII. SEPARABILITY**

18.1 If any provision of this License, or the application thereof to any situation or circumstance, shall be invalid or unenforceable, the remainder of this License or the application of such provision to situations or circumstances other than those as to which it is invalid or unenforceable, shall not be affected; and each remaining provision of this License shall be valid and enforceable to the fullest extent permitted by applicable law.

**XIX. DEFAULTS**

19.1 By Licensee. In the event that:

.1) Licensee shall fail to pay the monthly fee or any portion thereof, or any of the other charges required by this License, when the same shall become due and payable and the same shall remain unpaid for a period of sixty (60) days after written notice thereof from Lessor; or

.2) Licensee shall be in material default of any other terms or provisions of this License and shall so remain for a period of sixty (60) days after Lessor, by written notice, has informed Licensee of such default (however, if such default cannot reasonably be cured within such sixty (60) day period, then Licensee shall not be deemed in default so long as it promptly commences to cure the same within said sixty (60) day period and diligently pursues

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such curing thereafter; then Lessor may, at its option, give a notice of election to terminate this License upon the date specified in such notice of termination, which date shall not be less than one (1) year after the date of such notice, and upon the date specified in said notice of termination the term of this License and the estate created hereby shall expire and terminate as fully and completely and with the same effect as if such date were the date herein fixed for the expiration of the term of this License.

.3) Upon termination of this License by reason of the happening of any event of default specified above, Lessor shall have the immediate right to re-enter and repossess the Premises by due process of law, and Licensee shall pay to Lessor the unpaid fee owed at the time of such termination. Notwithstanding Lessor' election under 19.1.2, Lessor shall nonetheless be entitled to pursue any and all rights it may have at law or in equity.

19.2 By Lessor. In the event that:

.1) Lessor shall be in material default of any terms or provisions of this License and shall so remain for a period of sixty (60) days (unless this License specifies a lesser time frame) after Licensee has given notice to Lessor of such default (however, if such default cannot reasonably be cured within the applicable time period, then Lessor shall not be deemed in default so long as it promptly commences to cure the same within the applicable time period and diligently pursues such curing thereafter), then:

.2) Licensee may terminate this License by giving not less than ten (10) days' notice to Lessor; or

.3) Licensee may cure the default (or have the default cured by others) and deduct the cost thereof from any unpaid fee. Notwithstanding Licensee's election under 19.2.2 or 19.2.3, Licensee shall nonetheless be entitled to pursue any and all rights it may have at law or in equity.

**XX. USE OF COMMON AREAS**

20.1 Lessor hereby grants to Licensee and its agents, servants, employees and business invitees during the term of this License, a non-exclusive right to use all parking, driveway and walking areas (the "Common Areas") which may, from time-to-time, be part of or appurtenant to the Premises, together with rights of ingress and egress to and from the Premises at such places as are now or may thereafter be designated by Lessor. Lessor acknowledges that no fee shall be charged to Licensee for the use of the Common Areas.

**XXI. INDEMNIFICATION AND INSURANCE**

21.1 To the fullest extent permitted by law, Licensee shall indemnify and hold harmless Lessor and the County of Delaware, its agents, representatives, and employees, in both individual and official capacities (individually "Indemnified Party"; collectively "Indemnified Parties"), from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses (including, but not limited to, the fees and charges of attorneys), direct, indirect, or consequential, of any nature, kind or description, which arise out of, are caused by, or result from the actions of Licensee, its agent, employees, or contractors, but only to the extent caused by any negligent acts, errors or omissions of the Licensee, anyone directly or indirectly employed by the Licensee, or anyone for whose acts the Licensee is legally liable, regardless of whether the claim, damage, loss, or expense is caused in part by an Indemnified Party.

21.2 Except when a modification is requested in writing by the Licensee and approved in writing by Lessor, the Licensee shall carry, and maintain at the Licensee's cost, with companies authorized to do business in Ohio, all necessary liability insurance during the term of this Agreement.

**XXII. FORCE MAJEURE**

22.1 In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, failure of power, riots, insurrection, war or other reason not the fault of the party delayed in performing work or doing acts required under the terms of this License, then performance of such acts shall be excused for the period of the delay and the period for the performance of any such acts shall be extended for a period equivalent to the period of such delay.

**XXIII. FORUM DESIGNATION**

23.1 Any action or proceeding against any of the parties hereto relating in any way to this License or the subject matter hereof shall be brought and enforced exclusively in Delaware County, Ohio, and the parties hereto irrevocably consent to the exclusive jurisdiction of such courts in respect of any such action or proceeding.

**XXIV. ESTOPPEL CERTIFICATES**

24.1 Licensee agrees, from time-to-time, not later than thirty (30) days following notice from Lessor to execute, acknowledge and deliver to Lessor in a form prepared by Licensee a statement certifying to the effect that this License is unmodified and in full force and effect (or if there have been modifications, that this License is in full force and effect as modified) and the date to which any fees or any other sums due hereunder have been paid.

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It is intended that said statement may be relied upon by any prospective purchaser or mortgagee of the Premises.

XXV. WAIVER

25.1 No waiver by either party of a breach of any term, condition, provision, covenant or obligation of this License shall be construed to be a waiver of any future breach of the same or other term, condition, provision, covenant or obligation hereof. No receipt of money by Lessor from Licensee or others after the giving of any notice of default, or after the termination of this License, or after the commencement of any suit, shall reinstate, continue or extend the term of this License, or affect any such notice, demand or suit. The rights and remedies hereby created are cumulative and the use of one remedy shall not be taken to exclude or waive the right to the use of another.

XXVII: COMPLIANCE WITH LAWS

27.1 Licensee, in the execution of duties and obligations under this Agreement, agrees to comply with all Lessor Policies, all applicable federal, state and local laws, rules, regulations and ordinances.

XXIII. SURVIVAL

28.1 The representations, warranties, covenants, and agreements of the parties contained in this License shall survive the expiration or termination of the term of this License and shall be and continue in effect notwithstanding the fact that Licensee may waive compliance with any of the other provisions of this License.

XXIX. GOVERNING LAW

29.1 This License, and any addendum hereto, shall be governed by, construed, enforced and interpreted in accordance with the laws of the state of Ohio, without giving effect to any conflicts or choice of laws principles which otherwise might be applicable.

XXX. HEADINGS

30.1 The headings to the various articles and exhibits to this License have been inserted for reference only and shall not to any extent have the effect of modifying, amending or changing the express terms, provisions and conditions of this License.

XXXI. MULTIPLE COUNTERPARTS

31.1 This License may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

XXXII. ENTIRE AGREEMENT

32.1 This License and attached exhibits constitute the entire agreement between the parties and supersedes all prior or contemporaneous negotiations or agreements, whether oral or written, relating to the subject matter hereof. Any amendment or change in this License shall not be valid unless made in writing and signed by both parties.

XXXIII. AUTHORITY TO SIGN

33.1 Any person executing this agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her director or Association to execute this agreement on such authority's behalf.

**EXHIBIT "A"**  
**Property**  
**Delaware County Prime Site**  
**1251 US 23 North**  
**Delaware, Ohio, 43015**

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

**RESOLUTION NO. 13-511**

**IN THE MATTER OF APPROVING THE PURCHASE OF EQUIPMENT FOR DELAWARE COUNTY EMERGENCY MEDICAL SERVICES:**

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

WHEREAS, the Delaware County Board of Commissioners (the "Board") has before it a request from Delaware County Emergency Medical Services to purchase Physio-Control LifePak monitors/defibrillators and additional equipment ancillary thereto (the "Equipment"); and

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WHEREAS, the Board participates in the State of Ohio's cooperative purchasing program (the "Program"); and

WHEREAS, the Equipment is available for purchase via the Program; and

WHEREAS, pursuant to section 307.12(G) of the Revised Code, if the Board finds, by resolution, that the county has personal property that is not needed, or is unfit for public use, the Board may offer to sell the property to a firm from which the Board proposes to purchase new property and have the selling price credited to the firm against the purchase price of the new property; and

WHEREAS, Physio-Control, Inc., is offering a trade-in value for existing Delaware County monitors for a credit on the purchase price of the Equipment; and

WHEREAS, the Interim Chief/Director of Emergency Medical Services recommends approval of the purchase;

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

Section 1. The Board hereby finds and determines that the County has defibrillators/monitors that are not needed, obsolete, or unfit for public use and authorizes the sale of said equipment to Physio-Control, Inc., as a credit against the purchase of Equipment approved herein.

Section 2. The Board hereby approves the purchase of the Equipment from Physio-Control, Inc., an authorized vendor under the Program, at a total price of \$278,887.75.

Section 3. The Board hereby declares that the purchase of the Equipment shall be in accordance with the contract and terms and conditions of Schedule # 800252, Index # STS652 of the Program, which are, by this reference, fully incorporated herein and of which the purchase order approved herein shall be made a part.

Section 4. The Board hereby approves a purchase order for a total of \$278,887.75 to Physio-Control, Inc., from Fund Number 41711436 .

Section 5. This Resolution shall take immediate effect upon passage.

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Physio-Control, Inc.  
 11811 Willows Road NE  
 P.O. Box 97023  
 Redmond, WA 98073-9723 U.S.A  
 www.physio-control.com  
 tel 800.442.1142  
 fax 800.732.0956

To: Mike Schuling  
 Delaware County EMS  
 10 Court St  
 DELAWARE, OH 43015  
 Phone: (740) 833-2193  
 mschuling@delcoems.org

Quote#: 1-235182670  
 Rev#: 4  
 Quote Date: 04/23/2013  
 Sales Consultant: Linda Gleaves  
 800-442-1142 x 72587  
 Redmond, WA  
 FOB:  
 Terms: All quotes subject to credit approval and the following terms & conditions

State of OH #800252  
 Contract: None

Exp Date: 06/28/2013

Line	Catalog # / Description	Qty	Price	Unit Disc	Trade-In	Unit Price	Ext Total
1	99577-001218 - LP15 v2 MONITOR/DEFIB, CPR, Pace, to 360j, SPO2/CO, 12L GL, NIBP, CO2, Trend, BT, TMP INCLUDED AT NO CHARGE: 2 PAIR QUIK-COMBO ELECTRODES PER UNIT - 11996-000091, TEST LOAD - 21330-001365, N-SERVICE DVD - 21330-001486 (one per order), SERVICE MANUAL CD- 21300-008084 (one per order) and ShipKit- (RC Cable) 41577-000109 INCLUDED. HARD PADDLES, BATTERIES, CARRYING CASE NOT INCLUDED.	11	\$34,545.00	\$8,636.25	\$6,000.00	\$19,908.75	\$218,996.25
2	99425-000025 - LIFEPAK 1000 Advanced w/ ECG Display, Manual Override - 5 Year Warranty Included at No Charge: 41425-000034-ShipKit 11425-000007-Carrying Case 11425-000012-Strap for Carrying Case 11141-000156-Battery 11996-000017-QUIK-COMBO REDI-PAK electrodes (2 pair per unit) 11111-000016-3 Wire Monitoring Cable 11425-000001-Accessory Pouch 11100-000001-LIFEPATCH ECG ELECTRODES (3 per package) 26500-003457-Operating Instructions	5	\$3,195.00	\$798.75	\$0.00	\$2,396.25	\$11,981.25
3	11577-000004 - STATION BATTERY CHARGER AC OPERATION FOR STATIONARY APPLICATIONS, FOR USE WITH THE LI-ION 5.7 AMP BATTERY. INCLUDES AC POWER CORD, MOUNTING BRACKET AND OPERATING INSTRUCTIONS	10	\$1,585.00	\$396.25	\$0.00	\$1,188.75	\$11,887.50
4	21330-001176 - LI-ION BATTERY 5.7 AMP HOUR CAPACITY RECHARGEABLE LITHIUM-ION, WITH FUEL GAUGE	33	\$400.00	\$100.00	\$0.00	\$300.00	\$9,900.00
5	11101-000017 - Infant/Child Reduced Energy Deibrillation Electrode Starter Kit	4	\$150.00	\$37.50	\$0.00	\$112.50	\$450.00
6	11171-000049 - RAINBOW DCI ADT REUSABLE SENSOR, REF 2696 RAINBOW DCI ADT REUSABLE SENSOR, REF 2696	11	\$773.00	\$193.25	\$0.00	\$579.75	\$6,377.25

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Quote#: 1-235182670  
Rev#: 4  
Quote Date: 04/23/2013

Quote Products (continued)

Line	Catalog # / Description	Qty	Price	Unit Disc	Trade-In	Unit Price	Ext Total
7	11996-000340 - RAINBOW R20,PED DISP SENSORS,10/BOX,REF 2222	3	\$725.00	\$181.25	\$0.00	\$543.75	\$1,631.25
8	11996-000081 - Filterline Set Adult/Pediatric - includes airway adapter Box of 25, Includes airway adapter. FilterLine for short-term intubated patients (24 hours typical).	2	\$280.00	\$70.00	\$0.00	\$210.00	\$420.00
9	11996-000162 - MICROSTREAM SMART CAPNOLINE PLUS ADULT/INTERMEDIATE, BOX OF 25 MICROSTREAM SMART CAPNOLINE PLUS ADULT/INTERMEDIATE, BOX OF 25	2	\$315.00	\$78.75	\$0.00	\$236.25	\$472.50
10	11160-000003 - NIBP CUFF- REUSEABLE,CHILD	11	\$22.00	\$5.50	\$0.00	\$16.50	\$181.50
11	11160-000007 - NIBP CUFF- REUSEABLE,LARGE ADULT	11	\$30.00	\$7.50	\$0.00	\$22.50	\$247.50
12	11996-000359 - Temperature Sensor, Skin Probe, High Dielectric, Disp ( package of 20)	2	\$139.00	\$34.75	\$0.00	\$104.25	\$208.50
13	11577-000002 - LIFEPAK 15 Basic Carry Case w/ right & left pouches Includes shoulder strap 11577-000001	11	\$268.00	\$67.00	\$0.00	\$201.00	\$2,211.00
14	11220-000028 - Top Pouch Storage for sensors and electrodes. Insert in place of standard paddles.	11	\$48.00	\$12.00	\$0.00	\$36.00	\$396.00
15	11260-000039 - LP15 Rear Pouch for carrying case	11	\$69.00	\$17.25	\$0.00	\$51.75	\$569.25
16	MC999-001005-1 - POS - 1 YEAR . On-site repair and one inspection per year. Price per unit.	11	\$1,033.00	\$0.00	\$0.00	\$1,033.00	\$11,363.00
17	RF999-001006 - POS LP1000 1 On-Site Inspection with 1Lithium Battery Replacement, 1 year	5	\$319.00	\$0.00	\$0.00	\$319.00	\$1,595.00
18	50999-000117 - ZONE TRAVEL CHARGE: ZONE 1	1	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

SUB TOTAL	\$278,887.75
ESTIMATED TAX	\$0.00
ESTIMATED SHIPPING & HANDLING	\$0.00
<b>GRAND TOTAL</b>	<b>\$278,887.75</b>

Trade-in Detail			
Product	Qty	Unit Value	Total Value
<b>Pricing Summary Totals</b>			
List Price:			\$455,531.00
Trade-ins:			- \$66,000.00
Cash Discounts:			- \$110,643.25

<b>GRAND TOTAL FOR THIS QUOTE</b>	<b>\$278,887.75</b>
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**TERMS OF SALE****General Terms**

Physio-Control, Inc.'s acceptance of the Buyer's order is expressly conditioned on product availability and the Buyer's assent to the terms set forth in this document and its attachments. Physio-Control, Inc. agrees to furnish the goods and services ordered by the Buyer only on these terms, and the Buyer's acceptance of any portion of the goods and services covered by this document shall confirm their acceptance by the Buyer. These terms constitute the complete agreement between the parties and they shall govern any conflicting or ambiguous terms on the Buyer's purchase order or on other documents submitted to Physio-Control, Inc. by the Buyer. These terms may only be revised or amended by a written agreement signed by an authorized representative of both parties.

**Pricing**

Unless otherwise indicated in this document, prices of goods and services covered by this document shall be Physio-Control, Inc. standard prices in effect at the time of delivery. Prices do not include freight insurance, freight forwarding fees, taxes, duties, import or export permit fees, or any other similar charge of any kind applicable to the goods and services covered by this document. Sales or use taxes on domestic (USA) deliveries will be invoiced in addition to the price of the goods and services covered by this document unless Physio-Control, Inc. receives a copy of a valid an exemption certificate prior to delivery. Please forward your tax exemption certificate to the Physio-Control, Inc. Tax Department P.O. Box 97006, Redmond, Washington 98073-9706.

**Payment**

Unless otherwise indicated in this document or otherwise confirmed by Physio-Control, Inc. in writing, payment for goods and services supplied by Physio-Control, Inc. shall be subject to the following terms:

- Domestic (USA) Sales - Upon approval of credit by Physio-Control, Inc., 100% of invoice due thirty (30) days after invoice date.
- International Sales - Sight draft or acceptable (confirmed) irrevocable letter of credit.

Physio-Control, Inc. may change the terms of payment at any time prior to delivery by providing written notice to the Buyer.

**Delivery**

Unless otherwise indicated in this document, delivery shall be FOB Physio-Control, Inc. point of shipment and title and risk of loss shall pass to the Buyer at that point. Partial deliveries may be made and partial invoices shall be permitted and shall become due in accordance with the payment terms. In the absence of shipping instructions from the Buyer, Physio-Control, Inc. will obtain transportation on the Buyer's behalf and for the Buyer's account.

**Delays**

Delivery dates are approximate. Physio-Control, Inc. will not be liable for any loss or damage of any kind due to delays in delivery or non-delivery resulting from any cause beyond its reasonable control, including but not limited to, acts of God, labor disputes, the requirements of any governmental authority, war, civil unrest, terrorist acts, delays in manufacture, obtaining any required license or permit, and Physio-Control, Inc. inability to obtain goods from its usual sources. Any such delay shall not be considered a breach of Physio-Control, Inc. and the Buyer's agreement and the delivery dates shall be extended for the length of such delay.

**Inspections and Returns**

Claims by the Buyer for damage to or shortages of goods delivered shall be made within thirty (30) days after shipment by providing Physio-Control, Inc. with written notice of any deficiency. Payment is not contingent upon immediate correction of any deficiencies and Physio-Control, Inc. prior approval is required before the return of any goods to Physio-Control, Inc. Physio-Control, Inc. reserves the right to charge a 15% restocking fee for returns. The Physio-Control Returned Product Policy is located at [http://www.physio-control.com/uploadedFiles/support/ReturnPolicy\\_3308529\\_A.pdf](http://www.physio-control.com/uploadedFiles/support/ReturnPolicy_3308529_A.pdf).

**Service Terms**

All device service will be governed by the Physio-Control, Inc. Technical Services Support Agreement which is available from your sales representative or <http://www.physio-control.com/uploadedFiles/products/service-plans/TechnicalServiceAgreement.pdf>. All devices that are not under Physio-Control Limited Warranty or a current Technical Service Support Agreement must be inspected and repaired (if necessary) to meet original specifications at then-current list prices prior to being covered under a Technical Service Support Agreement. If Buyer is ordering service, Buyer affirms reading and accepts the terms of the Technical Service Support Agreement.

**Warranty**

Physio-Control, Inc. warrants its products in accordance with the terms of the standard Physio-Control, Inc. product warranty applicable to the product to be supplied. Physio-Control, Inc. warrants services and replacement parts provided in performing such services against defects in accordance with the terms of the Physio-Control, Inc. service warranty set forth in the Technical Service Support Agreement. The remedies provided under such warranties shall be the Buyer's sole and exclusive remedies. Physio-Control, Inc. makes no other warranties, express or implied, including, without limitation, NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IN NO EVENT SHALL PHYSIO-CONTROL, INC. BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR OTHER DAMAGES.

**Patent & Indemnity**

Upon receipt of prompt notice from the Buyer and with the Buyer's authority and assistance, Physio-Control, Inc. agrees to defend, indemnify and hold the Buyer harmless against any claim that the Physio-Control, Inc. products covered by this document directly infringe any United States of America patent.

**Miscellaneous**

a) The Buyer agrees that products purchased hereunder will not be reshipped or resold to any persons or places prohibited by the laws of the United States of America. b) Through the purchase of Physio-Control, Inc. products, the Buyer does not acquire any interest in any tooling, drawings, design information, computer programming, patents or copyrighted or confidential information related to said products, and the Buyer expressly agrees not to reverse engineer or decompile such products or related software and information. c) The rights and obligations of Physio-Control, Inc. and the Buyer related to the purchase and sale of products and services described in this document shall be governed by the laws of the State of Washington, United States of America. All costs and expenses incurred by the prevailing party related to enforcement of its rights under this document, including reasonable attorneys fees, shall be reimbursed by the other party.

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

**RESOLUTION NO. 13-512**

**IN THE MATTER OF APPROVING A SUBORDINATION AGREEMENT WITH PATHWAYS FINANCIAL CREDIT UNION FOR THE REFINANCING OF A COMMUNITY DEVELOPMENT BLOCK GRANT 2006 FUNDED HOMEOWNER REHABILITATION:**

It was moved by Mr. Stapleton, seconded by Mr. Merrell to authorize the president to sign the agreement:

WHEREAS, the Delaware County Economic Development Office filed a Second Mortgage lien on November 6, 2006, and a supplement on August 7, 2007, with the Delaware County Recorder's Office for \$41,727.62 to secure the county's investment in the homeowner -occupied rehabilitation of 7782 State Route 203, Prospect; and

WHEREAS, the investment is a forgivable loan that declines at 10% per year after the second year of the rehabilitation to a maximum forgiveness of 80%; the remaining 20%, or \$8345, is payable to Delaware County if the property is sold, vacated, transferred, or sold or transferred as part of an estate; and

WHEREAS, Pathways Financial Credit Union, the refinancing agency, requests a subordination to their refinancing loan; and

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WHEREAS, the refinancing loan is for \$75,907; the December 2012 appraised value determined by Holycross Appraisal Services, Powell, is \$130,000; the Delaware County Auditor's Market Value is \$108,400; and

WHEREAS, the current value of Delaware County's loan is: investment in 2006 plus 2 years equals 2008; 2013 minus 2008 equals 5 years or fifty percent of \$41, 727.62 forgiven or \$20,863.81 remaining on the loan; and

WHEREAS, Delaware County's current outstanding \$20,864 loan is protected by \$33,230 in remaining equity:

Appraised Value of Home:	\$130,000
Outstanding DC loan	\$20,863
Equals	\$109,137
Subordination to	\$75,907
Equals	\$33,230; and

WHEREAS, the Economic Development Director and Assistant Prosecuting Attorney reviewed the Subordination Agreement and recommend approval.

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

Section 1. The Board hereby approves the subordination agreement.

Section 2. The Economic Development Director is hereby directed to forward the agreement to the title agency and ensure the subordination agreement is properly recorded.

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

**RESOLUTION NO. 13-513**

**IN THE MATTER OF AWARDING THE BIDS FOR BID PACKAGE 1 – HVAC (STANDARD PLUMBING & HEATING CO., INC.) AND BID PACKAGE 2 – ELECTRICAL (VAUGHN INDUSTRIES, LLC) FOR THE AIR CONDITIONING FOR DELAWARE COUNTY COURTHOUSE RE-BID, DELAWARE, OHIO:**

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

WHEREAS, Delaware County received bids for the project known as Air Conditioning for Delaware County Courthouse Re-Bid on May 7, 2013. And;

WHEREAS, after carefully reviewing the bids received, the bid submitted in the following chart has been determined to be the lowest and best bid.

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners of Delaware County, State of Ohio, accept and award the following bids submitted for the Air Conditioning for Delaware County Courthouse Re-Bid, Delaware, Ohio.

Description	Company Recommended	Amount of Contract Award
Bid Package 1 – HVAC	Standard Plumbing & Heating Co., Inc.	\$134,732.00
Bid Package 2 – Electrical	Vaughn Industries, LLC	\$24,000.00

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

**RESOLUTION NO. 13-514**

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

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

The Director of Job and Family Services recommends accepting the resignation of Darryl T. Hill from the JFS Department; effective May 31, 2013;

Therefore Be It Resolved that the Delaware County Board of Commissioners accept the resignation of Darryl T. Hill from the JFS Department; effective May 31, 2013.

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

**RESOLUTION NO 13-515**

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**IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS FOR THE VICTIMS OF CRIME AND STATE VICTIMS ASSISTANCE GRANT (VOCA/SVAA) FOR VICTIM SERVICES:**

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

**Supplemental Appropriations**

23612302-5305 VOCA SVAA/Training and Staff Development \$ 300.00

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

**RESOLUTION NO. 13-516**

**IN THE MATTER OF APPROVING TRANSFER OF FUNDS:**

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

**Transfer of Funds**

<b>From</b>	<b>To</b>	
10011102-5801	50111117-4601	
Commissioners General/Transfers	Bond Retirement/Interfund Revenue	\$ 3,339,437.50
66611903-5801	50111117-4601	
URF OECC/Transfers	Bond Retirement/Interfund Revenue	\$ 708,975.00

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

**RESOLUTION NO. 13-517**

**IN THE MATTER OF APPROVING A PAYMENT TO THE DELAWARE COUNTY AGRICULTURAL SOCIETY:**

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

WHEREAS, in September 2008, the Delaware County Fairgrounds sustained damage to buildings as a result of the remnants of Hurricane Ike; and

WHEREAS, the Delaware County Board of Commissioners (the "Board") cooperated with the Delaware County Agricultural Society in making the necessary repairs, including the filing of an insurance claim and the application of insurance proceeds thereto; and

WHEREAS, in 2009, during the course of the repairs to the fairground buildings, additional damage not related to the storm was identified in one or more buildings; and

WHEREAS, the Delaware County Agricultural Society approved a change order with Design Build Solutions, Inc., to repair the additional damage; and

WHEREAS, the amount of the change order, \$36,190.61, has remained unpaid as of the present date; and

WHEREAS, the Board may appropriate funds for county agricultural society purposes, pursuant to section 1711.15 of the Revised Code; and

WHEREAS, as a precondition for considering the provision of any support for capital projects, the Board desires that the Delaware County Agricultural Society pay the outstanding change order out of the amount already allocated;

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

Section 1. The Board hereby approves the payment of \$36,190.61 to the Delaware County Agricultural Society, for the sole and exclusive purpose of paying the Change Order dated September 30, 2009, with Design Build Solutions, Inc.

Section 2. The Board hereby declares that the amount paid pursuant to Section 1 of this Resolution shall be considered a deduction of any amount previously allocated for Delaware County Agricultural Society purposes within the 2013 appropriation measure.

Section 3. This Resolution shall take effect immediately upon adoption.

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

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COMMISSIONERS' COMMITTEES REPORTS

Commissioner Merrell  
-No Reports Today

Commissioner Stapleton  
-Email From CCAO On A Board of Elections Concern; Statutory Amendment Under Review On The Number Of Voting Machines A County Should Have.  
-Bed Tax Issues

Commissioner O'Brien  
-Attend A Family Children's First Council Meeting; By-Laws and Service Plan Changes

RECESS UNTIL 2:00PM;  
IN THE FIELD AT THE CORNER OF DUNAWAY LANE AND SPRING RUN DRIVE

RECONVENE  
2:00PM Viewing For Consideration Of The Barrington Estates Section 1, 2, And 3 Subdivision Drainage Petition

IN THE FIELD:  
2:00PM VIEWING FOR CONSIDERATION OF THE BARRINGTON ESTATES SECTION 1, 2, AND 3 SUBDIVISION DRAINAGE PETITION

On Monday May 13<sup>th</sup>, 2013, at 2:00PM, near the corner of Dunaway Lane and Spring Run Drive, The Delaware County Commissioners viewed the watershed area with staff members from the Delaware County Engineer's Office and the Delaware County Soil and Water Conservation District.

Commissioners Present: Ken O'Brien, President; Dennis Stapleton, Vice President and Gary Merrell, Commissioner

On February 20, 2013, a petition signed by The Barrington Estates Civic Association and Others was filed with the Board of County Commissioners to: 1. To replace, repair or alter the existing improvements as required and to maintain these improvements per engineer plan. 2. In Delaware County, Genoa Township, in Barrington Estates Section 1, 2, and 3 generally following the existing course and terrain of the improvement in this Subdivision.

In the field at the Viewing, The Commissioners:  
-Looked At the outlet/Basin, near the corner of Dunaway Lane and Spring Run Drive, slow to drain  
-Projects since 1998 are automatically placed on County Drainage Maintenance Program  
-currently no major issues are known to exist;  
-if approved the storm water infrastructure will be placed on the County Drainage Maintenance Program  
-if approved money pooled only for this project; assessments placed on build-able lots  
-At this time, the "old pond" is not believed to be part of the drainage, pre dates the subdivision  
-the infrastructure in this area would have been reviewed and approved by the County Engineer at the time of planning, but predates maintenance program.

The following is a PDF copy of the Commissioners' Office sign-in sheet of the people present at the viewing who chose to sign the sign-in sheet.

Sign-in Sheet  
May 13, 2013  
2:00 pm Barrington Estates  
Viewing  
Drainage petition

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	Name	Address
1)	Walraven	Board Clerk
2)	Gary Merrell	Commissioner
3)	SCOTT STEPHENS	S.W.C.D.
4)	Jeremy Miller	6722 Spring Knoll
5)	Dennis Stapleton	Commissioner
6)	Ken O'Brien	101 N. Dandelion
7)	TIM MACKIN	2015 Canyon Ln.
8)	MARK HERMAN	8082 Dunning Ln
9)	Mary Mrs. Marty Cannon	8287 Reston Ct
	Gary Merrell	6883 Spring Knoll
10)	Mary Fedak	4841 Appony Run
	Paul N. Krum	"
11)	TIM TO	8054 Chateau Lane
12)	TOM HAIN	8625 Spring Knoll
	Glen Williams	2073 Canyon Ln
	Herbert J. ...	4345 Castle Rd
	JACK GAMB	4727 ...
		8202 Reston Ct

continued page 2.

	NAME	Address
	Christina Brulino	8053 ...
	Brett Bergeford	DCED 50 Channing Street 47015
	ROBERT ROBINSON	8139 CHATEAU LN
	Harry Starling	S.W.C.D.
	Peggy Wilson	6723 ...

There being no further business, the meeting adjourned.

**NOTE:**

**10:30AM Special Session For Joint Board Of Board Of Delaware And Union County Commissioners, For Drainage Petition Filed By The City Of Columbus Department Of Public Utilities**

\_\_\_\_\_  
Gary Merrell

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Ken O'Brien

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Dennis Stapleton