

COMMISSIONERS JOURNAL NO. 59 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JULY 1, 2013

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

Present:
Dennis Stapleton, Vice President
Gary Merrell, Commissioner

Absent:
Ken O'Brien, President

RESOLUTION NO. 13-696

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JUNE 27, 2013:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on June 27, 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 Absent

PUBLIC COMMENT

ELECTED OFFICIAL COMMENT

DELAWARE COUNTY SHERIFF AND OHIO DEPARTMENT OF PUBLIC SAFETY

RESOLUTION NO. 13-697

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0628:

It was moved by Mr. Merrell, seconded by Mr. Stapleton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0628 and Purchase Orders as listed below:

PR Number	Vendor Name	Line Description	Line Account	Amount
	Job and Family – SERVICE AND CHARGES			
R1304548	DELAWARE AREA CAREER CENTER	ABLE PROGRAM	22411601-5348	\$22,020.

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

RESOLUTION NO. 13-698

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Commissioners Office is requesting that Seiji Kille attend an Advanced GAAP Accounting Seminar in Putt-in-Bay, Ohio from August 7-8, 2013 at the cost of \$671.40 (fund number 10011102).

The Adult Court Services department is requesting that Mike Hardwick attend the Thinking for a Change class in Orient, Ohio from July 15-18, 2013 at the cost of \$160.00 (fund number 25622301).

The Economic Development Department is requesting that Jenna Jackson attend an International Economic Development Council Annual Conference in Philadelphia, PA October 5-9, 2013; at the cost of \$2,613.00 (fund number 21011113).

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

RESOLUTION NO. 13-699

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IN THE MATTER OF DECLARING NECESSITY FOR IMPROVEMENTS TO WORTHINGTON ROAD AND APPROVING A CONTRACT MODIFICATION FOR PROFESSIONAL SERVICES WITH ORCHARD, HILTZ & MCCLIMENT, INC. (OHM):

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

Whereas, the Board approved a contract with Orchard, Hiltz & McCliment, Inc. (OHM) by resolution 11-590 to study necessary improvements for the Worthington Road (County Road 13) corridor from south of East Powell Road to Big Walnut Road; and,

Whereas, the County Engineer recommends that, based on the findings of the study, an Improvement consisting of widening of Worthington Road from East Powell Road (County Road 14) to Africa Road (County Road 21), including widening or replacement of the bridge over Alum Creek, is necessary to provide adequate traffic flow and safety for the public; and,

Whereas, the County Engineer has negotiated a contract modification with OHM for design of the Improvement;

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners that:

Section 1: The public convenience and welfare require improvements to Worthington Road from East Powell Road (County Road 14) to Africa Road (County Road 21) consisting of widening the road and widening or replacement of the bridge over Alum Creek, and that the Improvement known as DEL-CR13-(CR14) Worthington Road Improvements, Phase 1 be initiated for such purpose; and,

Section 2: The costs of said Improvement will be paid for from any funds appropriated for road and bridge construction and that no special levies or assessments shall be made to pay for the Improvement; and,

Section 3: The Board hereby enters into the following contract:

PROFESSIONAL SERVICES CONTRACT

Worthington Road (Powell to Africa)

Section 1 – Parties to the Agreement

This Agreement is made and entered into this 1st day of July, 2013 by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and the firm of Orchard, Hiltz & McCliment, Inc. (OHM), 600 Creekside Plaza, Gahanna, OH 43230 (“Consultant”)

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 thereof.

Section 3 – Scope of Services (Work)

Consultant agrees to furnish, unto the County, professional services in accordance with the Scope of Services and Price Proposal dated May 28, 2013, 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 accepted professional standards.

Section 4 – Compensation

Compensation for Work performed under this Agreement shall be in accordance with the Scope of Services and Price Proposal. The Fee shall be a Lump Sum not to exceed Seven Hundred Twenty Two Thousand Twenty Seven Dollars and Twenty Nine cents (**\$722,027.29**) in accordance with allowable costs and fees listed in the Consultant’s aforementioned Price Proposal. Compensation shall constitute full payment for all labor, equipment and materials required to complete the required Work.

Section 5 – Payment

Compensation shall be paid periodically, but no more than once per month, and shall be based on the calculated percentage of work performed to date in accordance with the Consultant’s Price Proposal. Invoices shall be submitted to the Administrator by the Consultant on company letterhead clearly listing the word “Invoice” with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Consultant shall promptly submit documentation as needed to substantiate said invoices. The County shall pay invoices within thirty (30) days of receipt.

Section 6 – Authorization to Proceed, Completion of Work, Delays and Extensions

The Consultant shall commence Work upon written authorization of the Administrator and shall complete the work in a timely manner. In the event that unforeseen and unavoidable delays prevent the timely completion of 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.

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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 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. 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 thereafter 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.

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- 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 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 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.

- 13.10 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. Merrell Aye Mr. O'Brien Absent Mr. Stapleton Aye

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RESOLUTION NO. 13-700

IN THE MATTER OF APPROVING A FACILITY ENCROACHMENT AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND CSX TRANSPORTATION, INC. FOR THE DELAWARE COUNTY FIBER CONTRACT:

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

Whereas, the County Auditor recommends approval of The Facility Encroachment Agreement Between The Delaware County Board Of Commissioners And CSX Transportation, Inc. For The Delaware County Fiber Contract;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the Facility Encroachment Agreement Between The Delaware County Board Of Commissioners And CSX Transportation, Inc. For The Delaware County Fiber Contract.

FACILITY ENCROACHMENT AGREEMENT

THIS AGREEMENT, made and effective as of July 1, 2013, by and between CSX TRANSPORTATION, INC, a Virginia corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Licensor," and DELAWARE COUNTY BOARD OF COMMISSIONERS, a municipal corporation, political subdivision or state agency, under the laws of the State of Ohio, whose mailing address is 10 Court St., Delaware, Ohio 43015, hereinafter called "Licensee," WITNESSETH:

WHEREAS, Licensee desires to construct (unless previously constructed and designated as existing herein), use and maintain the below described facility(ies), hereinafter called "Facilities," over, under or across property owned or controlled by Licensor, at the below described location(s):

1. One (1) twenty-four count (24) sub-grade fiber optic crossing, solely for the transmission of voice communication or other data only, via an optical waveguide, through a solid core of glass or plastic fiber material, located at or near Delaware, Delaware County, Ohio, Great Lakes Division, Columbus Line Subdivision, Valuation Station 6022+14, Milepost QEC-114.05, Latitude N40:17:58.70, Longitude W83:03:30.05; hereinafter, collectively, called the "Encroachment," as shown on print(s) labeled Exhibit "B," attached hereto and made a part hereof; other details and data pertaining to said Facilities being as indicated on Exhibit "A," also attached hereto and made a part hereof;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, terms and agreements herein contained, the parties hereto agree and covenant as follows:

1. LICENSE:

1.1 Subject to Article 17, Licensor, insofar as it has the legal right, power and authority to do so, and its present title permits, and subject to:

(A) Licensor's present and future right to occupy, possess and use its property within the area of the Encroachment for any and all purposes;

(B) All encumbrances, conditions, covenants, easements, and limitations applicable to Licensor's title to or rights in the subject property; and

(C) Compliance by Licensee and its agent or contractor ("Licensee's Contractor") with the terms and conditions herein contained; does hereby license and permit Licensee and/or its contractor (Licensee's Contractor) to construct, maintain, repair, renew, operate, use, alter or change the Facilities at the Encroachment above for the term herein stated, and to remove same upon termination in accordance with the terms and conditions set forth in this Agreement.

1.2 The term Facilities, as used herein, shall include only those structures and ancillary facilities devoted exclusively to the transmission usage above within the Encroachment, and as shown on attached Facility Application Form and plan(s).

1.3 No additional structures or other facilities shall be placed, allowed, or maintained by Licensee in, upon or on the Encroachment except upon prior separate written consent of Licensor.

2. ENCROACHMENT FEE; TERM:

2.1 Licensee shall pay Licensor a one-time nonrefundable Encroachment Fee of FIVE HUNDRED AND 00/100 U.S. DOLLARS (\$500.00) upon execution of this Agreement. Licensee agrees that the Encroachment Fee applies only to the original Licensee under this Agreement. In the event of a successor (by merger, consolidation, reorganization and/or assignment) or if the original Licensee changes its name, then Licensee shall be subject to

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payment of Licensor's current administrative and document preparation fees for the cost incurred by Licensor in preparing and maintaining this Agreement on a current basis.

2.2 However, Licensee assumes sole responsibility for, and shall pay directly (or reimburse Licensor), any additional annual taxes and/or periodic assessments levied against Licensor or Licensor's property solely on account of said Facilities or Encroachment.

2.3 This Agreement shall terminate as herein provided, but shall also terminate upon: (a) Licensee's cessation of use of the Facilities or Encroachment for the purpose(s) above; (b) removal of the Facilities; (c) subsequent mutual consent; and/or (d) failure of Licensee to complete installation within five (5) years from the effective date of this Agreement.

2.4 In further consideration for the license or right hereby granted, Licensee hereby agrees that Licensor shall not be charged or assessed, directly or indirectly, with any part of the cost of the installation of said Facilities and appurtenances, and/or maintenance thereof, or for any public works project of which said Facilities is a part.

3. CONSTRUCTION, MAINTENANCE AND REPAIRS:

3.1 Licensee shall construct, maintain, relocate, repair, renew, alter, and/or remove the Facilities, in a prudent, workmanlike manner, using quality materials and complying with any applicable standard(s) or regulation(s) of Licensor (A.R.E.M.A. Specifications), or Licensee's particular industry, National Electrical Safety Code, or any governmental or regulatory body having jurisdiction over the Encroachment.

3.2 Location and construction of Facilities shall be made strictly in accordance with design(s) and specifications furnished to and approved by Licensor and of material(s) and size(s) appropriate for the purpose(s) above recited.

3.3 All of Licensee's work, and exercise of rights hereunder, shall be undertaken at time(s) satisfactory to Licensor, and so as to eliminate or minimize any impact on or interference with the safe use and operation of Licensor's property and appurtenances thereto.

3.4 In the installation, maintenance, repair and/or removal of said Facilities, Licensee shall not use explosives of any type or perform or cause any blasting without the separate express written consent of Licensor. As a condition to such consent, a representative will be assigned by Licensor to monitor blasting, and Licensee shall reimburse Licensor for the entire cost and/or expense of furnishing said monitor.

3.5 Any repairs or maintenance to the Facilities, whether resulting from acts of Licensee, or natural or weather events, which are necessary to protect or facilitate Licensor's use of its property, shall be made by Licensee promptly, but in no event later than thirty (30) days after Licensee has notice as to the need for such repairs or maintenance.

3.6 Licensor, in order to protect or safeguard its property, rail operations, equipment and/or employees from damage or injury, may request immediate repair or renewal of the Facilities, and if the same is not performed, may make or contract to make such repairs or renewals, at the sole risk, cost and expense of Licensee.

3.7 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

3.8 All work on the Encroachment shall be conducted in accordance with Licensor's safety rules and regulations.

3.9 Licensee hereby agrees to reimburse Licensor any loss, cost or expense (including losses resulting from train delays and/or inability to meet train schedules) arising from any failure of Licensee to make repairs or conduct maintenance as required by Section 3.5 above or from improper or incomplete repairs or maintenance to the Facilities or Encroachment.

4. PERMITS, LICENSES:

4.1 Before any work hereunder is performed, or before use of the Encroachment for the contracted purpose, Licensee, at its sole cost and expense, shall obtain all necessary permit(s) (including but not limited to zoning, building, construction, health, safety or environmental matters), letter(s) or certificate(s) of approval. Licensee expressly agrees and warrants that it shall conform and limit its activities to the terms of such permit(s), approval(s) and authorization(s), and shall comply with all applicable ordinances, rules, regulations, requirements and laws of any governmental authority (State, Federal or Local) having jurisdiction over Licensee's activities, including the location, contact, excavation and protection regulations of the Occupational Safety and Health Act (OSHA) (29 CFR 1926.651(b)), et al., and State "One Call" - "Call Before You Dig" requirements.

4.2 Licensee assumes sole responsibility for failure to obtain such permit(s) or approval(s), for any violations thereof, or for costs or expenses of compliance or remedy.

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5. MARKING AND SUPPORT:

5.1 With respect to any subsurface installation or maintenance upon Licensor's property, Licensee, at its sole cost and expense, shall:

(A) support track(s) and roadbed in a manner satisfactory to Licensor;

(B) backfill with satisfactory material and thoroughly tamp all trenches to prevent settling of surface of land and roadbed of Licensor; and

(C) either remove any surplus earth or material from Licensor's property or cause said surplus earth or material to be placed and distributed at location(s) and in such manner Licensor may approve.

5.2 After construction or maintenance of the Facilities, Licensee shall:

(A) Restore any track(s), roadbed and other disturbed property; and

(B) Erect, maintain and periodically verify the accuracy of aboveground markers, in a form approved by Licensor, indicating the location, depth and ownership of any underground Facilities or related facilities.

5.3 Licensee shall be solely responsible for any subsidence or failure of lateral or subjacent support in the Encroachment area for a period of three (3) years after completion of installation.

6. TRACK CHANGES:

6.1 In the event that rail operations and/or track maintenance result in changes in grade or alignment of, additions to, or relocation of track(s) or other facilities, or in the event future use of Licensor's rail corridor or property necessitate any change of location, height or depth in the Facilities or Encroachment, Licensee, at its sole cost and expense and within thirty (30) days after notice in writing from Licensor, shall make changes in the Facilities or Encroachment to accommodate such track(s) or operations.

6.2 If Licensee fails to do so, Licensor may make or contract to make such changes at Licensee's cost.

7. FACILITY CHANGES:

7.1 Licensee shall periodically monitor and verify the depth or height of the Facilities or Encroachment in relation to the existing tracks and facilities, and shall relocate the Facilities or change the Encroachment, at Licensee's expense, should such relocation or change be necessary to comply with the minimum clearance requirements of Licensor.

7.2 If Licensee undertakes to revise, renew, relocate or change in any manner whatsoever all or any part of the Facilities (including any change in voltage or gauge of wire or any change in circumference, diameter or radius of pipe or change in materials transmitted in and through said pipe), or is required by any public agency or court order to do so, plans therefor shall be submitted to Licensor for approval before such change. After approval, the terms and conditions of this Agreement shall apply thereto.

8. INTERFERENCE WITH RAIL FACILITIES:

8.1 Although the Facilities/Encroachment herein permitted may not presently interfere with Licensor's railroad or facilities, in the event that the operation, existence or maintenance of said Facilities, in the sole judgment of Licensor, causes: (a) interference (including, but not limited to, physical or interference from an electromagnetic induction, or interference from stray or other currents) with Licensor's power lines, communication, signal or other wires, train control system, or electrical or electronic apparatus; or (b) interference in any manner, with the operation, maintenance or use of the rail corridor, track(s), structures, pole line(s), devices, other property, or any appurtenances thereto; then and in either event, Licensee, upon receipt of written notice from Licensor of any such interference, and at Licensee's sole risk, cost and expense, shall promptly make such changes in its Facilities or installation, as may be required in the reasonable judgment of the Licensor to eliminate all such interference. Upon Licensee's failure to remedy or change, Licensor may do so or contract to do so at Licensee's sole cost.

8.2 Without assuming any duty hereunder to inspect the Facilities, Licensor hereby reserves the right to inspect same and to require Licensee to undertake repairs, maintenance or adjustments to the Facilities, which Licensee hereby agrees to make promptly, at Licensee's sole cost and expense.

9. RISK AND LIABILITY:

With respect to the relative risk and liabilities of the parties, it is hereby agreed that:

9.1 Licensee, to the fullest extent permitted by State law (constitutional or statutory, as amended), hereby agrees to assume responsibility for and release Licensor, from and against any and all liability, loss, claim, suit, damage, charge or expense which Licensor may suffer, arising out of, resulting from, or in any way connected acts or omissions of

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omissions of Licensee or its employees during the construction, repair, maintenance, replacement, presence, existence, operations, use or removal of the Facilities or any structure in connection therewith, or restoration of premises of Licensor to good order or condition after removal.

9.2 During the construction of the Facilities, and to the extent Licensee's Contractor performs any repair, maintenance, replacement or removal of the Facilities, Licensee's Contractor shall hereby agree to, defend, indemnify, and hold Licensor harmless from and against any and all liability, loss, claim, suit, damage, charge or expense which Licensor may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person whomsoever (including officers, agents, employees or invitees of Licensor), and for damage to or loss of or destruction of any property whosoever, arising out of resulting from, or in any way connected with the construction, repair, maintenance, replacement, operations or removal of the Facilities or any structure in connection therewith, or restoration of premises of Licensor to good order or condition after removal, EXCEPT when proven to have been caused solely by the willful misconduct or gross negligence of Licensor. HOWEVER, to the fullest extent permitted by State law, during any period of actual construction, repair, maintenance, replacement or removal of the Facilities, wherein agents, equipment or personnel of Licensee are on the railroad rail corridor, Licensee's liability hereunder shall be absolute, irrespective of any joint, sole or contributory fault or negligence of Licensor.

9.3 To the fullest extent permitted by State law, as above, Licensee assumes all responsibility for: (a) all claims, costs and expenses, including reasonable attorneys' fees, as a consequence of any sudden or nonsudden pollution of air, water, land and/or ground water on or off the Encroachment area, arising from or in connection with the use of this Encroachment or resulting from leaking, bursting, spilling, or any escape of the material transmitted in or through the Facilities; (b) any claim or liability arising under federal or state law dealing with either such sudden or nonsudden pollution of air, water, land and/or ground water arising therefrom or the remedy thereof; and (c) any subsidence or failure of lateral or subjacent support of the tracks arising from such Facilities leakage.

9.4 Notwithstanding Section 9.1, Licensee also expressly assumes all risk of loss which in any way may result from Licensee's failure to maintain either required clearances for any overhead Facilities or the required depth and encasement for any underground Facilities.

9.5 Obligations of Licensee and Licensee's Contractor hereunder to release Licensor shall also extend to companies and other legal entities that control, are controlled by, subsidiaries of, or are affiliated with Licensor, as well as any railroad that operates over the rail corridor on which the Encroachment is located, and the officers, employees and agents of each.

9.6 If a claim is made or action is brought against Licensor, and/or its operating lessee, for which Licensee or Licensee's Contractor may be responsible hereunder, in whole or in part, Licensee shall be notified to assume the handling or defense of such claim or action; but Licensor may participate in such handling or defense.

9.7 Notwithstanding anything contained in this Agreement, the limitation of liability contained in the state statutes, as amended from time to time, shall not limit Licensor's ability to collect under the insurance policies required to be maintained under this Agreement.

10. INSURANCE:

10.1 Prior to commencement of surveys, installation or occupation of premises pursuant to this Agreement, Licensee shall procure and shall maintain during the continuance of this Agreement, at its sole cost and expense, the following policies of insurance:

(i) Statutory Worker's Compensation and Employers Liability Insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00), which must contain a waiver of subrogation against CSXT and its Affiliates;

(ii) Commercial General Liability coverage (inclusive of contractual liability) with available limits of not less than FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00), naming Licensor, and/or its designee, as additional insured and in combined single limits for bodily injury and property damage and covering the contractual liabilities assumed under this Agreement. The evidence of insurance coverage shall be endorsed to provide for thirty (30) days' notice to Licensor, or its designee, prior to cancellation or modification of any policy. Mail CGL certificate, along with agreement, to CSX Transportation, Inc., Speed Code J180, 500 Water Street, Jacksonville, FL 32202. On each successive year, send certificate to RenewalCOI@csx.com.

(iii) Business automobile liability insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00) combined single limit for bodily injury and/or property damage per occurrence;

(iv) Such other insurance as Licensor may reasonably require.

10.2 If Licensee's existing CGL policy(ies) do(es) not automatically cover Licensee's contractual liability during periods of survey, installation, maintenance and continued occupation, a specific endorsement adding such coverage shall be purchased by Licensee. If said CGL policy is written on a "claims made" basis instead of a "per occurrence" basis, Licensee shall arrange for adequate time for reporting losses. Failure to do so shall be at Licensee's sole risk.

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10.3 Licensor, or its designee, may at any time request evidence of insurance purchased by Licensee to comply with this Agreement. Failure of Licensee to comply with Licensor's request shall be considered a default by Licensee.

10.4 Securing such insurance shall not limit Licensee's liability under this Agreement, but shall be security therefor.

10.5 (A) In the event Licensee finds it necessary to perform construction or demolition operations within fifty feet (50') of any operated railroad track(s) or affecting any railroad bridge, trestle, tunnel, track(s), roadbed, overpass or underpass, Licensee shall: (a) notify Licensor; and (b) require Licensee's Contractor(s) performing such operations to procure and maintain during the period of construction or demolition operations, at no cost to Licensor, Railroad Protective Liability (RPL) Insurance, naming Licensor, and/or its designee, as Named Insured, written on the current ISO/RIMA Form (ISO Form No. CG 00 35 01 96) with limits of FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) per occurrence for bodily injury and property damage, with at least TEN MILLION AND 00/100 U.S. DOLLARS (\$10,000,000.00) aggregate limit per annual policy period, with Pollution Exclusion Amendment (ISO CG 28 31 11 85) if an older ISO Form CG 00 35 is used. The original of such RPL policy shall be sent to and approved by Licensor prior to commencement of such construction or demolition. Licensor reserves the right to demand higher limits.

(B) At Licensor's option, in lieu of purchasing RPL insurance from an insurance company (but not CGL insurance), Licensee may pay Licensor, at Licensor's current rate at time of request, the cost of adding this Encroachment, or additional construction and/or demolition activities, to Licensor's Railroad Protective Liability (RPL) Policy for the period of actual construction. This coverage is offered at Licensor's discretion and may not be available under all circumstances.

10.6 Notwithstanding the provisions of Sections 10.1 and 10.2, Licensee only, pursuant to State Statute(s), may self-insure or self-assume, in any amount(s), any contracted liability arising under this Agreement, under a funded program of self-insurance, which fund will respond to liability of Licensee imposed by and in accordance with the procedures established by law.

11. GRADE CROSSINGS; FLAGGING:

11.1 Nothing herein contained shall be construed to permit Licensee or Licensee's Contractor to move any vehicles or equipment over the track(s), except at public road crossing(s), without separate prior written approval of Licensor (CSXT Form 7422).

11.2 If Licensor deems it advisable, during any construction, maintenance, repair, renewal, alteration, change or removal of said Facilities, to place watchmen, flagmen, inspectors or supervisors for protection of operations of Licensor or others on Licensor's rail corridor at the Encroachment, and to keep persons, equipment or materials away from the track(s), Licensor shall have the right to do so at the expense of Licensee, but Licensor shall not be liable for failure to do so.

11.3 Subject to Licensor's consent and to Licensor's Railroad Operating Rules and labor agreements, Licensee may provide flagmen, watchmen, inspectors or supervisors during all times of construction, repair, maintenance, replacement or removal, at Licensee's sole risk and expense; and in such event, Licensor shall not be liable for the failure or neglect of such watchmen, flagmen, inspectors or supervisors.

12. LICENSOR'S COSTS:

12.1 Any additional or alternative costs or expenses incurred by Licensor to accommodate Licensee's continued use of Licensor's property as a result of track changes or wire changes shall also be paid by Licensee.

12.2 Licensor's expense for wages ("force account" charges) and materials for any work performed at the expense of Licensee pursuant hereto shall be paid by Licensee within thirty (30) days after receipt of Licensor's bill therefor. Licensor may, at its discretion, request an advance deposit for estimated Licensor costs and expenses.

12.3 Such expense shall include, but not be limited to, cost of railroad labor and supervision under "force account" rules, plus current applicable overhead percentages, the actual cost of materials, and insurance, freight and handling charges on all material used. Equipment rentals shall be in accordance with Licensor's applicable fixed rate. Licensor may, at its discretion, require advance deposits for estimated costs of such expenses and costs.

13. DEFAULT, BREACH, WAIVER:

13.1 The proper and complete performance of each covenant of this Agreement shall be deemed of the essence thereof, and in the event Licensee fails or refuses to fully and completely perform any of said covenants or remedy any breach within thirty (30) days after receiving written notice from Licensor to do so (or within forty-eight (48) hours in the event of notice of a railroad emergency), Licensor shall have the option of immediately revoking this Agreement and the privileges and powers hereby conferred, regardless of encroachment fee(s) having been paid in

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advance for any annual or other period. Upon such revocation, Licensee shall make removal in accordance with Article 14.

13.2 No waiver by Licensor of its rights as to any breach of covenant or condition herein contained shall be construed as a permanent waiver of such covenant or condition, or any subsequent breach thereof, unless such covenant or condition is permanently waived in writing by Licensor.

13.3 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

14. TERMINATION, REMOVAL:

14.1 All rights which Licensee may have hereunder shall cease upon the date of (a) termination, (b) revocation, or (c) subsequent agreement, or (d) Licensee's removal of the Facility from the Encroachment. However, neither termination nor revocation of this Agreement shall affect any claims and liabilities which have arisen or accrued hereunder, and which at the time of termination or revocation have not been satisfied; neither party, however, waiving any third party defenses or actions.

14.2 Within thirty (30) days after revocation or termination, Licensee, at its sole risk and expense, shall (a) remove the Facilities from the rail corridor of Licensor, unless the parties hereto agree otherwise, (b) restore the rail corridor of Licensor in a manner satisfactory to Licensor, and (c) reimburse Licensor any loss, cost or expense of Licensor resulting from such removal.

15. NOTICE:

15.1 Licensee shall give Licensor at least thirty (30) days written notice before doing any work on Licensor's rail corridor, except that in cases of emergency shorter notice may be given. Licensee shall provide proper notification as follows:

a. For non-emergencies, Licensee shall complete and submit Licensor's Outside Party Number Request Form (Form # OP) by facsimile, to facsimile numbers: (904) 245-3692. Licensee may also scan and email a completed form to email address: OP_Request@csx.com. A blank form, as well as additional instructions and information, can be obtained from Licensor's web site, via web link:
http://www.csx.com/share/wwwcsx_mura/assets/File/Customers/Non-freight_Services/Property_Real_Estate/Outside_Party_Number_Request_Form.pdf.

b. For emergencies, Licensee shall complete all of the steps outlined in Section 15.1 a. above, and shall also include detailed information of the emergency. Licensee shall also call and report details of the emergency to Licensor's Rail Operations Emergency Telephone Number: 1-800-232-0144. In the event Licensor needs to contact Licensee concerning an emergency involving Licensee's Facility(ies), the emergency phone number for Licensee is: 740-833-2160.

15.2 All other notices and communications concerning this Agreement shall be addressed to Licensee at the address above, and to Licensor at the address shown on Page 1, c/o CSXT Contract Management, J180; or at such other address as either party may designate in writing to the other.

15.3 Unless otherwise expressly stated herein, all such notices shall be in writing and sent via Certified or Registered Mail, Return Receipt Requested, or by courier, and shall be considered delivered upon: (a) actual receipt, or (b) date of refusal of such delivery.

16. ASSIGNMENT:

16.1 The rights herein conferred are the privileges of Licensee only, and Licensee shall obtain Licensor's prior written consent to any assignment of Licensee's interest herein; said consent shall not be unreasonably withheld.

16.2 Subject to Sections 2 and 16.1, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns.

16.3 Licensee shall give Licensor written notice of any legal succession (by merger, consolidation, reorganization, etc.) or other change of legal existence or status of Licensee, with a copy of all documents attesting to such change or legal succession, within thirty (30) days thereof.

16.4 Licensor expressly reserves the right to assign this Agreement, in whole or in part, to any grantee, lessee, or vendee of Licensor's underlying property interests in the Encroachment, upon written notice thereof to Licensee.

16.5 In the event of any unauthorized sale, transfer, assignment, sublicense or encumbrance of this Agreement, or any of the rights and privileges hereunder, Licensor, at its option, may revoke this Agreement by giving Licensee or any such assignee written notice of such revocation; and Licensee shall reimburse Licensor for any loss, cost or expense Licensor may incur as a result of Licensee's failure to obtain said consent.

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17. TITLE:

17.1 Licensee understands that Licensor occupies, uses and possesses lands, rights-of-way and rail corridors under all forms and qualities of ownership rights or facts, from full fee simple absolute to bare occupation. Accordingly, nothing in this Agreement shall act as or be deemed to act as any warranty, guaranty or representation of the quality of Licensor's title for any particular Encroachment or segment of Rail Corridor occupied, used or enjoyed in any manner by Licensee under any rights created in this Agreement. It is expressly understood that Licensor does not warrant title to any Rail Corridor and Licensee will accept the grants and privileges contained herein, subject to all lawful outstanding existing liens, mortgages and superior rights in and to the Rail Corridor, and all leases, licenses and easements or other interests previously granted to others therein.

17.2 The term "license," as used herein, shall mean with regard to any portion of the Rail Corridor which is owned by Licensor in fee simple absolute, or where the applicable law of the State where the Encroachment is located otherwise permits Licensor to make such grants to Licensee, a "permission to use" the Rail Corridor, with dominion and control over such portion of the Rail Corridor remaining with Licensor, and no interest in or exclusive right to possess being otherwise granted to Licensee. With regard to any other portion of Rail Corridor occupied, used or controlled by Licensor under any other facts or rights, Licensor merely waives its exclusive right to occupy the Rail Corridor and grants no other rights whatsoever under this Agreement, such waiver continuing only so long as Licensor continues its own occupation, use or control. Licensor does not warrant or guarantee that the license granted hereunder provides Licensee with all of the rights necessary to occupy any portion of the Rail Corridor. Licensee further acknowledges that it does not have the right to occupy any portion of the Rail Corridor held by Licensor in less than fee simple absolute without also receiving the consent of the owner(s) of the fee simple absolute estate. Further, Licensee shall not obtain, exercise or claim any interest in the Rail Corridor that would impair Licensor's existing rights therein.

17.3 Licensee agrees it shall not have nor shall it make, and hereby completely and absolutely waives its right to, any claim against Licensor for damages on account of any deficiencies in title to the Rail Corridor in the event of failure or insufficiency of Licensor's title to any portion thereof arising from Licensee's use or occupancy thereof.

17.4 Licensee agrees to fully and completely defend all claims or litigation for slander of title, overburden of easement, or similar claims arising out of or based upon the Facilities placement, or the presence of the Facilities in, on or along any Encroachment(s), including claims for punitive or special damages.

17.5 Licensee shall not at any time own or claim any right, title or interest in or to Licensor's property occupied by the Encroachments, nor shall the exercise of this Agreement for any length of time give rise to any right, title or interest in Licensee to said property other than the license herein created.

17.6 Nothing in this Agreement shall be deemed to give, and Licensor hereby expressly waives, any claim of ownership in and to any part of the Facilities.

17.7 Licensee shall not create or permit any mortgage, pledge, security, interest, lien or encumbrances, including without limitation, tax liens and liens or encumbrances with respect to work performed or equipment furnished in connection with the construction, installation, repair, maintenance or operation of the Facilities in or on any portion of the Encroachment (collectively, "Liens or Encumbrances"), to be established or remain against the Encroachment or any portion thereof or any other Licensor property.

17.8 In the event that any property of Licensor becomes subject to such Liens or Encumbrances, Licensee agrees to pay, discharge or remove the same promptly upon Licensee's receipt of notice that such Liens or Encumbrances have been filed or docketed against the Encroachment or any other property of Licensor; however, Licensee reserves the right to challenge, at its sole expense, the validity and/or enforceability of any such Liens or Encumbrances.

18. GENERAL PROVISIONS:

18.1 This Agreement, and the attached specifications, contains the entire understanding between the parties hereto.

18.2 Neither this Agreement, any provision hereof, nor any agreement or provision included herein by reference, shall operate or be construed as being for the benefit of any third person.

18.3 Except as otherwise provided herein, or in any Rider attached hereto, neither the form of this Agreement, nor any language herein, shall be interpreted or construed in favor of or against either party hereto as the sole drafter thereof.

18.4 This Agreement is executed under current interpretation of applicable Federal, State, County, Municipal or other local statute, ordinance or law(s). However, each separate division (paragraph, clause, item, term, condition, covenant or agreement) herein shall have independent and severable status for the determination of legality, so that if any separate division is determined to be void or unenforceable for any reason, such determination shall have no

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have no effect upon the validity or enforceability of each other separate division, or any combination thereof.

18.5 This Agreement shall be construed and governed by the laws of the state in which the Facilities and Encroachment are located.

18.6 If any amount due pursuant to the terms of this Agreement is not paid by the due date, it will be subject to Licensor's standard late charge and will also accrue interest at eighteen percent (18%) per annum, unless limited by local law, and then at the highest rate so permitted.

18.7 Licensee agrees to reimburse Licensor for all reasonable costs (including attorney's fees) incurred by Licensor for collecting any amount due under the Agreement.

18.8 The provisions of this License are considered confidential and may not be disclosed to a third party without the consent of the other party(s), except: (a) as required by statute, regulation or court order, (b) to a parent, affiliate or subsidiary company, (c) to an auditing firm or legal counsel that are agreeable to the confidentiality provisions, or (d) to Lessees of Licensor's land and/or track who are affected by the terms and conditions of this Agreement and will maintain the confidentiality of this Agreement.

18.9 Licensor shall refund to Licensee any overpayments collected, plus any taxes paid in advance; PROVIDED, however, such refund shall not be made when the cumulative total involved is less than One Hundred Dollars (\$100.00).

19. CONTRACTOR'S ACCEPTANCE

19.1 Licensee shall observe and abide by, and shall require Licensee's Contractors to observe and abide by the terms, conditions and provisions set forth in this Agreement. Prior to any commencement of work under this Agreement by Licensee's Contractor, Licensee shall require Licensee's Contractor to execute and deliver to Licensor the Contractor Acceptance form attached hereto as Schedule A to acknowledge Licensee's Contractor's agreement to observe and abide by terms and conditions of the Agreement.

20. RESERVED:

21. RIDERS:

21.1 The following Rider(s) is/are herewith attached and included herein:
[X] Telecommunication Cable or Fiber Optic

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COMMUNICATIONS CABLE OR FIBER OPTIC LINE PROTECTION RIDER

This Rider is and shall be a part of Agreement No. CSX741440, and is incorporated therein.

1. No construction of any type pursuant or related in any way to this Agreement shall be commenced by Licensee, or by any agent, representative, contractor, subcontractor of Licensee, without Licensee first giving at least thirty (30) days written notice to the following Parallel Cable Occupier(s):

("MCI") ATTN: Investigations
Mr. Dean Boyers
Worldcom/MCI Telecommunications Corporation
2400 North Glenville Drive
Richardson, TX 75082-4354
Phone No. (800) 624-9675
 or (972) 729-6016

(NOTE: WRITTEN NOTICE TO MCI IS ALSO REQUIRED)

2. The notice shall be accompanied by drawing(s) showing the general plan, elevation, details and methods of Licensee's proposed construction, and the location of Occupier(s)' cable or facilities in relation to Licensee's proposed construction.

3. Prior to any construction, Licensee must locate and identify, any existing cable, wire or fiber optic line (including any appurtenances thereto) of said cable occupier(s) traversing or located in, on, or immediately adjacent to the proposed Crossing, at Licensee's sole risk.

4. Any changes, alteration, relocation or protection of wire(s), cable(s) or facilities of such Occupier(s), required by said Occupier(s), shall be at Licensee's sole expense except as otherwise negotiated between Licensee and said Occupier(s).

5. Licensee shall be solely responsible and liable for any damage to (e.g., cutting, dislocating, etc.) said wire(s) or cable(s), and appurtenances thereto, resulting in any way from Licensee's exercise of rights or privileges under this Agreement.

Schedule "A"

CONTRACTOR'S ACCEPTANCE

This Amendment is and shall be a part of Agreement No. CSX741440, and is incorporated therein.

To and for the benefit of CSX TRANSPORTATION, Inc. (Licensor") and to induce Licensor to permit Contractor on or about Licensor's property for the purpose of performing work in accordance with the Agreement dated June 21, 2013, between Licensee and Licensor, Contractor hereby agrees to abide by and perform all applicable terms of the Agreement, including, but not limited to Sections 3, 9, 10 of the Agreement.

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

RESOLUTION NO. 13-701

IN THE MATTER OF ADOPTING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CITIZEN PARTICIPATION PLAN:

It was moved by Mr. Merrell, seconded by Mr. Stapleton to adopt the Delaware County Citizen Participation Plan for 2013 to 2017:

WHEREAS, the Ohio Development Services Agency's Ohio CDBG Small Cities Handbook requires communities to maintain a Citizen Participation Plan, per 24 CFR Part 570.431, and make updates every five years; and

WHEREAS, the Economic Development Director recommends adopting the Delaware County Citizen Participation Plan for 2013 to 2017.

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

Section 1. The Delaware County Board of Commissioners hereby adopt the attached Delaware County Citizen Participation Plan for 2013 to 2017.

**DELAWARE COUNTY
CITIZEN PARTICIPATION PLAN
For 2013 to 2017**

Community Development Block Grant
HOME Investment Partnerships

SECTION 1. INTRODUCTION AND SCOPE OF PARTICIPATION

Delaware County has designed this Citizen Participation Plan to provide for and encourage citizen participation in the Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) programs. This Plan is an essential element of the County's community development process and has been developed to comply with the regulations and requirements of the CDBG & HOME programs as administered by the U.S. Department of Housing and Urban Development (HUD).

The primary goal of this Citizen Participation Plan is to provide all citizens adequate opportunity to participate in the planning, implementation, and assessment of the CDBG and HOME programs. The Plan sets forth policies and procedures for citizen participation, which are designed to maximize the opportunity for citizen participation in the process, with special emphasis on encouraging participation by persons of low and moderate incomes and residents of areas where community development funds are utilized.

Delaware County will undertake efforts to provide for citizen participation during the community development process and throughout the planning, implementation and assessment of all CDBG & HOME programs undertaken by the County. The County will make reasonable effort to involve citizens in the development, implementation and assessment of community development programs including, but not limited to, the following phases:

- a. identification and assessment of housing and community development needs; determination of CDBG project(s) and documentation; and the development of CDBG & HOME applications;
- b. changes and/or amendments to approved CDBG & HOME projects; and,
- c. assessment of CDBG & HOME program performance.

All phases of the process will be conducted by local officials in an open manner. Citizens are encouraged to participate at all levels and will be given access to program information during each phase of the programs as outlined herein.

SECTION 2. TECHNICAL ASSISTANCE

The staff of Delaware County, shall provide technical assistance to individual citizens and citizen groups, with particular attention to those groups representative of persons of low or moderate income, as may be required to adequately provide for citizen participation in the planning, implementation and assessment of CDBG & HOME programs.

Such technical assistance is intended to further meaningful citizen participation in the community development decision making process. Technical assistance will also be utilized to foster public understanding of CDBG & HOME program requirements.

Technical assistance will be provided on request and may include, but not necessarily be limited to: interpreting the CDBG & HOME program and its rules, regulations, procedures and other requirements; providing information and/or materials concerning the programs; and, assisting low and moderate income citizens, and residents of blighted neighborhoods to develop statements of views, identify their needs, and to develop activities and proposals for projects which, when implemented, will advance the resolution of those needs.

SECTION 3. PUBLIC HEARINGS

Citizen participation in the community development process will be conducted on a community-wide basis and will actively involve the views and proposals of all citizens, with particular attention to low and moderate income persons and residents of areas where CDBG & HOME activities are proposed or on-going.

Public hearings will be held during all phases of the community development process, as outlined herein, to allow citizens to voice opinions and offer proposals concerning the development and performance of CDBG & HOME programs. Local officials will respond to questions and proposals from citizens at each public hearing. Any questions that citizens may have concerning a program will be answered and their comments, suggestions, and/or proposals will be received. Citizens may also express comments and views concerning the community development process or

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development process or any specific CDBG or HOME project to the County Council at any regularly scheduled meeting.

3.1 Public Hearing Times and Locations

All public hearings will be held at times and locations which will be accessible to all citizens, with particular attention to persons of low and moderate incomes, and residents of CDBG & HOME project areas.

Public hearings will be scheduled for times convenient to the general public, as determined by the County. Public hearings may be held at any site which, in the opinion of the local officials, provides adequate access for citizen participation.

Hearings will normally be held at the Delaware County Commissioners Board Room during regularly scheduled board meetings. The site is centrally located and generally accessible to all citizens, including persons with disabilities. Hearings may, however, at the option of local officials, be held at alternate locations to be specified in the public hearing notice(s).

3.2 Annual Action Plan Public Hearing

At least one public hearing shall be held during any program fiscal year prior to the submission of an application to HUD for CDBG and/or HOME assistance. The primary purposes of the public hearing shall be to review the most critical needs to be addressed by the CDBG & HOME programs and to present for public comment and review the program activities which have been selected by the County to address the identified needs.

Citizens will be provided information concerning the CDBG & HOME programs at this public hearing. Such information shall include the goals and objectives of the CDBG program; the total amount of CDBG funds available; the role of citizens in program planning, implementation, and assessment; the range of activities which may be undertaken; the process to be followed in developing the CDBG & HOME application; the application timetable(s); the schedule of meetings and hearings; and, an identification of projects which could result in the relocation of area residences or businesses and the actions that would be undertaken if such relocation were necessary.

A second objective of citizen participation during this stage is to inform citizens of the proposed project activities to be included in the CDBG & HOME application and to solicit comments from citizens concerning these activities.

3.3 Substantial Amendment Public Hearings

Delaware County will assure the opportunity for citizen participation during the implementation of any CDBG & HOME programs when changes to the project are under consideration. Citizen participation shall be obtained and considered in any amendments to CDBG & HOME programs which involve significant changes in dollar amounts spent on activities, changes in program beneficiaries, changes in the location of approved activities, and major budget shifts between approved activities.

3.4 Public Hearing Notice

Notice of public hearings will be published in a local newspaper at least ten (10) days prior to the hearing date. The County may waive hearing notice requirements in cases where unusual circumstances justify alternative means of notifying the general public. In such situations, shorter notice may be given, and public notices posted in public places may be used in place of a notice published in the newspaper.

Each notice of a hearing shall include the time, date, place, and topics and procedures to be discussed. Notices for public hearings may be run or posted, separately or together, as may be deemed necessary.

3.5 Accessibility to Persons with Disabilities

The locations of all public hearings as described herein shall be made accessible to persons with disabilities. A sign language interpreter will be provided whenever the County is notified in advance that one or more deaf persons will be in attendance, according to the instructions provided in the Public Hearing Notice. The County shall provide a qualified reader whenever the County is notified in advance that one or more visually impaired persons will be in attendance. Additionally, the County shall provide reasonable accommodations whenever the County is notified in advance that one or more persons with mobility or developmental disabilities will be in attendance.

3.6 Limited English Proficiency Residents

Delaware County recognizes the need to undertake reasonable actions to facilitate the participation of persons with Limited English Proficiency. Local officials will undertake all reasonable actions necessary to allow such persons to participate in the community development process. Such actions may include the provision of an interpreter and/or the provision of materials in the appropriate language or format for persons with Limited English Proficiency.

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English Proficiency.

SECTION 4. PROGRAM INFORMATION

Citizens will be provided full access to CDBG program information during all phases of a CDBG project. The County shall make reasonable effort to assure that CDBG & HOME program information is available to all citizens, with particular attention to those of low and moderate incomes and/or CDBG & HOME project areas.

To facilitate citizen access to CDBG & HOME program information, the County will keep all documents related to the CDBG & HOME programs on file, and information from the project files shall be made available for examination and duplication, on request, during regular business hours.

Materials to be made available shall include, but are not necessarily limited to: the Citizen Participation Plan; records of public hearings; prior CDBG & HOME program applications; letters of approval; grant agreements; labor standards materials; performance and evaluation reports; other reports required by HUD; proposed and approved CDBG & HOME program application(s) for the current year; written comments or complaints received concerning the programs; and, copies of the applicable Federal and State rules, regulations, policies, requirements and procedures governing the CDBG & HOME programs.

SECTION 5. PROCEDURES FOR COMMENTS, OBJECTIONS AND COMPLAINTS

The scheduled public hearings described in this Citizen Participation Plan are designed to facilitate public participation in all phases of the community development process. Citizens are encouraged to submit their views on all aspects of programs during review and comment periods and public hearings. However, to ensure that citizens are given the opportunity to assess and comment on all aspects of the community development program on a continuous basis, citizens may, at any time, submit written comments or complaints to the County.

Citizens or citizen's groups desiring to comment or object to any phase of the planning, development, approval or implementation of CDBG & HOME activities should submit such comments or objections in writing to the County through a progressive level of review. The initial comment or objection should be sent to the Delaware County Economic Development Department. Should, after a reasonable period, a party believe the comment or complaint has not been properly addressed or considered, then the aggrieved may appeal his/her case to the Delaware County Board of Commissioners.

Local officials shall make every effort to provide written responses to citizen proposals or complaints within fifteen (15) working days of the receipt of such comments or complaints where practicable. Should the County be unable to sufficiently resolve an objection or complaint, it may be forwarded by the aggrieved party to HUD.

Citizens may, at any time, contact HUD directly to register comments, objections or complaints concerning the County's CDBG & HOME application(s) and/or program(s). Citizens are encouraged, however, to attempt to resolve any complaints at the local level as outlined above prior to contacting HUD.

All comments or complaints submitted to HUD should be addressed in writing to:

U.S. Department of Housing and Urban Development
451 7th Street S.W., Washington, DC 20410

SECTION 6. AMENDMENTS

The County may, from time to time, modify the provisions outlined herein through amendment to this Citizen Participation Plan. It shall be the policy of the Delaware County to periodically review the effectiveness of this Plan in facilitating citizen participation in the process and in helping to meet the community development needs and goals identified. To this end, the effectiveness of the Plan may be discussed at public hearings held in conjunction with the community development program as discussed herein, and potential amendments to the Plan will be reviewed.

Amendments to the Plan will be made as necessary. All amendments shall be approved by resolution of the County and shall be incorporated into this Plan.

SECTION 7. AUTHORITY

No portion of this Citizen Participation Plan shall be construed to restrict the responsibility and authority of the elected officials of the Delaware County in the development, implementation and execution of any CDBG & HOME program.

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

RESOLUTION NO. 13-702

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IN THE MATTER OF AWARDING A CONTRACT TO PAGE EXCAVATING TO DEMOLISH RESIDENTIAL STRUCTURES WITH FUNDING FROM THE ATTORNEY GENERAL’S MOVING OHIO FORWARD DEMOLITION PROGRAM:

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

WHEREAS, the Delaware County Board of Commissioners agreed to participate in the Moving Ohio Forward Demolition Program per Resolution 12-760, and

WHEREAS, the following residential structures were determined to be eligible properties following the county and contractor’s evaluation of demolition, environmental and title clearance studies:

1. 4868 State Route 229 (61810001025000), Ashley (Oxford Twp)
2. 3907 SR 229 (61820001023000), Ashley (Oxford Twp)
3. 55 W. Central Ave (51943223002000), Delaware corp
4. 1371 Lewis Center Road (31821302006000), Lewis Center (Orange Twp)
5. 81 Scioto Street (31942604007000), Powell corp
6. 10239 E. State Route 37 (41713101006000) , Sunbury (Berkshire Twp)
7. 8215 Cheshire Road (41724001034000), Sunbury (Berkshire Twp); and

WHEREAS, the Ohio Regional Development Corporation published the bid notice, known as Moving Ohio Forward-Delaware County #1 Residential Demolition & Asbestos Abatement, on May 11, 2013, and posted the notice on the county’s website. The following bids were received then opened on May 29, 2013:

B&K Lehner Excavating	\$92,100
Triumph Group	\$85,029
Ours Excavating	\$79,800
Baumann Enterprises	\$112,900
Page Excavating	\$79,135
B&B Wrecking	\$159,000, and

WHEREAS, the Economic Development Director and the Ohio Regional Development Corporation reviewed the bids and recommend the bid submitted by Page Excavating as the lowest and best bid; and

WHEREAS, Page Excavating is qualified and able to perform the demolition.

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

Section 1. The Board of Commissioners approves the Page Excavating contract in the amount of \$79,135.

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

CONTRACT AGREEMENT

THIS AGREEMENT made this 1st day of July, 2013, by and between Page Excavating hereinafter called the "Contractor" and Delaware County hereinafter called the "Owner".

WITNESSETH, that 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 demolition of the project; namely, Moving Ohio Forward-Delaware County #1 Residential Demolition & Asbestos Abatement , 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 Moving Ohio Forward-Delaware County #1 Residential Demolition & Asbestos Abatement, for the sum not to exceed Seventy Nine Thousand One Hundred Thirty Five Dollars . (\$ 79,135.00).

ARTICLE 3. Contract.

The executed contract documents shall consist of the following:

- a. This Agreement
- b. General Conditions
- c. Scope of work

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- d. Invitation for Bids
- e. Instructions to Bidders
- f. Signed copy of Bid
- g. Required Forms (attached)

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. Merrell Aye Mr. Stapleton Aye Mr. O'Brien Absent

RESOLUTION NO. 13-703

IN THE MATTER OF APPROVING THE CHILD PLACEMENT SERVICES CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS; THE DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES AND CHILD PLACEMENT PROVIDERS AS LISTED:

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

Whereas, Delaware County contracts with Child Care Placement providers in accordance with state and federal regulations, and

Whereas, the Director of Jobs & Family Services recommends approval of the following contract;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approves the following contract for A Child Care Placement provider:

Child Placement Service	Per diem cost and per diem reimbursement for the following categories
Tri State Youth Academy 7130 County Road 121 P.O. Box 47 Chesterville, Ohio 43317 \$15,000	A. Maintenance B. Administration C. Case Management D. Transportation E. Other Direct Services (e.g., special diets, clothing, insurance, respite care) F. Behavioral Healthcare G. Other costs - (any other cost the Agency has agreed to participate in)

(A copy of each of these contracts is available in the Commissioners' Office until no longer of administrative value).

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

RESOLUTION NO. 13-704

IN THE MATTER OF AUTHORIZING THE PURCHASE OF NEW 1000 kW STANDBY GENERATOR FOR THE OLENTANGY ENVIRONMENTAL CONTROL CENTER:

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

WHEREAS, the Olentangy Environmental Control Center (OECC) is one on the wastewater treatment plants owned and operated by Delaware County. In order to protect the environment, it is necessary that the OECC operate properly at all times, even when the electricity supplied by the power company that serves the site is not working. Emergency or standby power is provided by two diesel engine powered generators.

WHEREAS, one of the two generators is in need of replacement due to length of service (installed in 1979) and decrease in output (60% of rated capacity); and,

WHEREAS, the County desires to purchase a new Caterpillar Model C32 Diesel generator set rated at 1000 kW standby from Ohio CAT for \$287,845.00 as a replacement; and,

WHEREAS, pursuant to R.C. § 9.48(B)(2), a county may participate in a joint purchasing program operated by or through a national or state association of political subdivisions in which the purchasing political subdivision is eligible for membership; and,

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WHEREAS, Acquisition by a county of equipment, material, supplies, or services, through participation in an association program under R.C. § 9.48(B)(2) is exempt from any competitive selection requirements otherwise required by law, if the contract in which it is participating was awarded pursuant to a publicly solicited request for a proposal; and,

WHEREAS, Delaware County is a member of the National Joint Powers Alliance (“NJPA”) holding membership number 40112; and,

WHEREAS, NJPA is a public corporation or agency serving as a municipal contracting agency that creates national cooperative contract purchasing opportunities and solutions on behalf of its members, which include all government, education and non-profit agencies nationwide; and,

WHEREAS, NJPA, for purposes of R.C. § 9.48(B)(2), qualifies as a national association of political subdivisions; and,

WHEREAS, the generator is available for purchase via NJPA contract #092409-CAT; and,

WHEREAS, the NJPA contract for the generator was awarded pursuant to a publicly solicited request for a proposal.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD: The Board hereby authorizes the purchase of the Caterpillar Model C32 Diesel generator set rated at 1000 kW standby from Ohio CAT for \$287,845.00, pursuant to NJPA Contract #092409-CAT, which is, by this reference, fully incorporated herein and of which the approved purchase order shall be made a part.

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

RESOLUTION NO. 13-705

IN THE MATTER OF RE-APPOINTING JOHN SCHILLER TO THE DELAWARE-MORROW COUNTY MENTAL HEALTH & RECOVERY SERVICES BOARD:

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

WHEREAS, the Delaware-Morrow Mental Health and Recovery Services Board is the body established, pursuant to Chapter 340.02 of the Revised Code, to govern the joint alcohol, drug addiction, and mental health service district of Delaware and Morrow Counties; and

WHEREAS, the Delaware County Board of Commissioners (the “Board”) has eight appointments to the Delaware-Morrow Mental Health and Recovery Services Board, and John Schiller’s term expired on June 30, 2013; and

WHEREAS, Mr. Schiller has applied for reappointment to a new term commencing July 1, 2013 and expiring on June 30, 2017;

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

Section 1. The Board hereby re-appoints John Schiller as a member of the Delaware- Morrow County Health & Recovery Services Board to the term commencing on July 1, 2013 and expiring on June 30, 2017.

Section 2. The appointment approved in Section 1 hereof shall be effective on July 1, 2013.

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

RESOLUTION NO. 13-706

IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BETWEEN THE IAEP LOCAL R7-11 AND THE BOARD OF COUNTY COMMISSIONERS:

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

WHEREAS, the International Association of EMT's and Paramedics, Local R7-11 and county have been in discussion about changing the language of the collective bargaining agreement Article 21, Section 21.5; and

WHEREAS; the Memorandum of Understanding has been prepared to reflect the contract language to agree that an employee may pay back a traded shift in 90 days;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio hereby authorize the County Administrator to enter into a Memorandum of Understanding with the International Association of EMT’s and Paramedics, Local R7-11 and the Board of Commissioners, to reflect language in the collective bargaining agreement in

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bargaining agreement in regard to employee trades.

MEMORANDUM OF UNDERSTANDING
Between
DELAWARE COUNTY EMERGENCY MEDICAL SERVICES
and
INTERNATIONAL ASSOCIATION OF EMTS AND PARAMEDICS, LOCAL R7-11, NAGE-SEIU

WHEREAS the Parties have been in discussion about changing the language in

Section 21.5 - Employee Trades which reads:

An employee shall be permitted to trade time with another employee upon submitting the trade into the County's scheduling software. The hours worked for a trade shall not be considered hours worked for overtime. Where one employee substitutes for another, each employee will be credited as if he or she had worked his or her normal schedule for that shift. Trading of shifts outside of the normal work schedule will not be authorized (e.g. overtime shifts).

In the event of an unforeseen circumstance, an employee may call their assigned station to make arrangements with another employee to provide coverage. This may only occur twice in any 6 month period. The duty lieutenant or the acting lieutenant must be notified. Additionally, the trade shall be completed on the County's scheduling software immediately upon the employee's arrival. If no one is willing to trade, the employee calling shall speak with the duty or acting lieutenant, and indicate that they will be late. The duty or acting lieutenant shall notify an on-duty Captain.

Trades shall not impede department operations. Both employees are required to have at least 48 hours of sick time accrued to be eligible to trade. Employee's agreeing to work a trade who are late or absent without leave at the time they are scheduled to work shall be held accountable, not the employee for whom he/she is working. When an employee calls off for a trade time or fails to report for duty, that employee shall have that amount of time deducted from their sick leave bank, but will not be paid for the deducted sick leave. Employees who show a pattern of not honoring trades will be ineligible for trades for a period of one year.

When submitting the trade into the scheduling software, both days that will be traded must be indicated. Trades must be paid back within a thirty (30) day period. In the case of trades, employees may work a total of 48 hours. After 24 hours of continuous work time, an employee will not operate emergency vehicles.

NOW THEREFORE the Parties agree to the following change in contract language:

Section 21.5 - Employee Trades.

An employee shall be permitted to trade time with another employee upon submitting the trade into the County's scheduling software. The hours worked for a trade shall not be considered hours worked for overtime. Where one employee substitutes for another, each employee will be credited as if he or she had worked his or her normal schedule for that shift. Trading of shifts outside of the normal work schedule will not be authorized (e.g. overtime shifts).

In the event of an unforeseen circumstance, an employee may call their assigned station to make arrangements with another employee to provide coverage. This may only occur twice in any six (6) month period. The duty lieutenant or the acting lieutenant shall be notified. Additionally, the trade shall be completed on the County's scheduling software immediately upon the employee's arrival. If no one is willing to trade, the employee calling shall speak with the duty or acting lieutenant, and indicate that they will be late. The duty or acting lieutenant shall notify an on-duty Captain.

Trades shall not impede department operations. Both employees are required to have at least 48 hours of sick time accrued to be eligible to trade. Employee's agreeing to work a trade who are late or absent without leave at the time they are scheduled to work shall be held accountable, not the employee for whom he/she is working. When an employee calls off for a trade time or fails to report for duty, that employee shall have that amount of time deducted from their sick leave bank, but will not be paid for the deducted sick leave. Employees who show a pattern of not honoring trades will be ineligible for trades for a period of one year.

When submitting the trade into the scheduling software, both days that will be traded must be indicated. Trades shall be paid back within a ninety (90) day period.

In the case of trades, employees may work a total of 48 hours. After 24 hours of continuous work time, an employee will not operate emergency vehicles.

Duration- This Memorandum of Understanding shall be effective from the date of signing to October 31, 2014 and thereafter until another bargaining agreement is reached.

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

RESOLUTION NO. 13-707

IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS FOR CLERK OF COURTS:

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

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Supplemental Appropriations

10020201-5260 Clerk of Courts/Inventoried Equipment & Furniture 12,039.

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

COMMISSIONERS' COMMITTEES REPORTS

Commissioner Merrell
-Upcoming 4th of July Events

Commissioner Stapleton
-4th Of July Events

Tim Hansley, County Administrator, Reports and Comments
-Emergency Services and 4th of July Weekend.

There being no further business, the meeting adjourned.

Gary Merrell

Ken O'Brien

Dennis Stapleton

Jennifer Walraven, Clerk to the Commissioners