

COMMISSIONERS JOURNAL NO. 59 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD JULY 15, 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  
Gary Merrell, Commissioner

**Absent:**  
Dennis Stapleton, Vice President

10:30 AM Public Hearing For Consideration Of The Barrington Estates Section 1, 2, And 3 Subdivision Drainage Petition

**RESOLUTION NO. 13-717**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JULY 11, 2013:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on July 11, 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 Absent Mr. O'Brien Aye

**PUBLIC COMMENT**

**ELECTED OFFICIAL COMMENT**

**RESOLUTION NO. 13-719**

**IN THE MATTER OF AMENDING RESOLUTION NO. 13-718, AS PRESENTED, TO APPROVE PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0712, (MINUS THE PAYMENT TO GUS COMSTOCK FROM 21011116-5382 IN THE AMOUNT OF \$47.06):**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve amending Resolution No. 13-718, as presented, to approve payment of warrants in batch numbers CMAPR0712, (minus the payment to Gus Comstock from 21011116-5382 in the amount of \$47.06).

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

**RESOLUTION NO. 13-718**

**IN THE MATTER OF APPROVING (AS AMENDED WITH RESOLUTION NO. 13-719) PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0712:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve (as amended with Resolution No.13-719) Then and Now Certificates, payment of warrants in batch numbers CMAPR0712 (minus the payment to Gus Comstock from 21011116-5382 in the amount of \$47.06) and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO' Increase</b>			
American Producers	Confine Space Equipment	66211903-5260	\$ 3,050.00
American Producers	Confine Space Equipment	66211904-5260	\$ 3,050.00
Central Ohio Farmer's Co-op	Fuel	10011106-5228	\$ 80,000.00

<u>PR #</u>	<u>Vendor Name</u>	<u>Line Desc</u>	<u>Line Account</u>	<u>Amount</u>
<b>ENVIRONMENTAL SERVICES -CAPITAL</b>				
R1304757	NEFF PAVING & CONCRETE LLC	PAVEMENT REPAIRS AND CMF	OECC 66211903-5403	\$21,450.00

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

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**RESOLUTION NO. 13-720**

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

It was moved by Mr. Merrell, seconded by O'Brien to approve the following:

The Delaware County Sheriff's Office is requesting that Dereck Keller attend a Raider Solo Engagement Instructor Course in Tiffin, Ohio from August 5-9, 2013 at the cost of \$428.00 (fund number 10031301).

The Child Support Enforcement Agency is requesting that Matt Smith and Wendy Shannon attend a Hearing Office Roundtable at the Knox County CSEA on August 1, 2013 at no cost.

The Emergency Communications Department is request that a Delcomm Employee attend a LEADS Basic Operator Training in Columbus, Ohio July 31, 2013 at no cost.

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

**RESOLUTION NO. 13-721**

**IN THE MATTER OF ACCEPTING AND APPROVING THE DELAWARE COUNTY SHERIFF'S OFFICE TRANSPORT REPORT FOR THE MONTH OF JUNE 2013:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien 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 June 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 June 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. Merrell Aye Mr. O'Brien Aye Mr. Stapleton Absent

**RESOLUTION NO. 13-722**

**IN THE MATTER OF APPROVING THE PLAT OF SUBDIVISION FOR ORANGEPOINT COMMERCE PARK SUBDIVISION, LOT 2955, DIVISION #1**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve the following:

Whereas, Orangepointe LLC has submitted the Plat of Subdivision ("Plat") for Orangepoint Commerce Park Subdivision, Lot 2955, Division 1, including related development plans ("Plans") and requests approval thereof by the Board of Commissioners of Delaware County; and

Whereas, the Orange Township Zoning Officer has reviewed said Plat and Plans for conformance with Township Zoning Regulations and approved said Plat on May 2, 2013; and

Whereas, Del-Co Water Company has reviewed said Plat and Plans for conformance with its rules and regulations and approved said Plat on May 2, 2013; and

Whereas, the Delaware County Sanitary Engineer has reviewed said Plat and Plans for conformance with the Rules, Regulations, Standards and General Procedures Governing Sewerage in Delaware County and approved said Plat on May 31, 2013; and

Whereas, the Delaware County Engineer has reviewed said Plat and Plans for conformance with Delaware County Engineering and Surveying Standards and approved said Plat on June 3, 2013; and

Whereas, the Delaware County Regional Planning Commission has reviewed said Plat and Plans for conformance with Delaware County Subdivision Regulations and approved said Plat on July 1, 2013;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the Plat of Subdivision for Orangepoint Commerce Park Subdivision, Lot 2955, Division 1

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**Orangepoint Commerce Park Subdivision, Lot 2955, Division 1**

Situated in the State of Ohio, County of Delaware, Township of Orange, located in part of Farm Lot 2, Quarter Township 2, Township 3, Range 18, United States Military Lands, containing 20.781 acres of land, more or less, said 20.781 acres being the remainder of that tract of land conveyed to Orangepointe LLC by deeds of record in Official Record 23, Page 990, and Official 23, Page 999, and that tract of land conveyed to BCP Columbus, LLC, deed of record in Official Record 2219 Page 375, being of the records in the Recorder’s Office, Delaware County, Ohio. Cost \$3.00

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

**RESOLUTION NO. 13-723**

**IN THE MATTER OF APPROVING THE PLAT OF SUBDIVISION FOR SANCTUARY AT THE LAKES SECTION 1:**

It was moved by Mr. Merrell, seconded by Mr. O’Brien to approve the following:

Whereas, M/I Homes of Central Ohio, LLC has submitted the Plat of Subdivision (“Plat”) for Sanctuary at the Lakes Section 1, including related development plans (“Plans”) and requests approval thereof by the Board of Commissioners of Delaware County; and

Whereas, the Orange Township Zoning Officer has reviewed said Plat and Plans for conformance with Township Zoning Regulations and approved said Plat on May 7, 2013; and

Whereas, Del-Co Water Company has reviewed said Plat and Plans for conformance with its rules and regulations and approved said Plat on May 8, 2013; and

Whereas, the Delaware County Sanitary Engineer has reviewed said Plat and Plans for conformance with the Rules, Regulations, Standards and General Procedures Governing Sewerage in Delaware County and approved said Plat on June 3, 2013; and

Whereas, the Delaware County Engineer has reviewed said Plat and Plans for conformance with Delaware County Engineering and Surveying Standards and approved said Plat on June 3, 2013; and

Whereas, the Delaware County Regional Planning Commission has reviewed said Plat and Plans for conformance with Delaware County Subdivision Regulations and approved said Plat on July 1, 2013;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the Plat of Subdivision for Sanctuary at the Lakes Section 1.

**Sanctuary at the Lakes Section 1:**

Situated in the Township of Orange and Genoa, County of Delaware, State of Ohio, and being a part of Farm Lots 1 & 2 Quarter Township 1, Township 3 North, Range 18 West and also in Farm Lot E, Quarter Township 2, Township 3 North, Range 17 West, United States Military Lands, and being 23.360 acres out of a 92.165 acre parcel as conveyed to M/I Homes of Central Ohio, LLC, an Ohio Limited Liability Company of record in Volume 1217, Pages 1335-1340, 2.235 acres out of a 129.215 acre parcel as conveyed to Leveque Estates, LLC of record in Official Record 704, Page 1924, 2.707 acres out of 10.000 acre parcel as conveyed to Katherine S. Leveque of record in Official Record 527, Page 1034 and 0.58 acres out of a 14.24 acre parcel as conveyed to Katherine S. Leveque of record in Official Record 437, Page 326, Parcel 2. All references to records being on file in the Office of the Recorder, Delaware County, Ohio. Cost: \$132.

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

**RESOLUTION NO. 13-724**

**IN THE MATTER OF APPROVING A DITCH MAINTENANCE PETITION AND THE DITCH MAINTENANCE ASSESSMENTS FOR CARRIAGE COVE:**

It was moved by Mr. Merrell, seconded by Mr. O’Brien to approve the following:

WHEREAS, on July 2, 2013, a Ditch Maintenance Petition for Carriage Cove was filed with the Board of Commissioners of Delaware County (the “Board”), and

WHEREAS the Petition sets forth the drainage improvements that have been or will be constructed within Carriage Cove located off of Carriage Road east of Liberty Road in Liberty township; and

WHEREAS, the Petitioners have requested that the drainage improvements be accepted into the Delaware County

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Drainage Maintenance Program and that an annual maintenance assessment be collected with the Real Estate Taxes for the improvements in the subject lot to cover the cost of current and future maintenance of the improvements; and

WHEREAS, the Petitioners represent 100% of the property owners to be assessed for maintenance related to this drainage improvement and have waived their rights to a public viewing and hearing; and

WHEREAS, based on a review of the Petition and all accompanying documents, the Board has determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program.

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

Section 1. The Board hereby grants the Petition, the Board having found and determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program.

Section 2. The Board hereby approves the maintenance assessments, in accordance with the Petition, as follows:

The cost of the drainage improvements is \$32,176.00. The drainage improvements are being constructed for the benefit of the lots being created in this subdivision. Three lots are created in these plats and each lot received an equal share of the benefit (cost) of the project. The basis for calculating the assessment for each lot is therefore \$10,725 per lot. An annual maintenance fee equal to 2% of this basis (\$214.51) will be collected for each lot. We (I) understand that the basis for calculating the maintenance assessment will be reviewed and possibly revised every 6 years. The first year's assessment for all of the lots in the amount of \$643.53 has been paid to Delaware County.

Section 3: This Board finds and determines that all formal actions taken by this Board concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in said formal actions were in meetings open to the public, in compliance with the laws of the State of Ohio.

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

**RESOLUTION NO. 13-725**

**IN THE MATTER OF APPROVING A DITCH MAINTENANCE PETITION AND THE DITCH MAINTENANCE ASSESSMENTS FOR SANCTUARY AT THE LAKES:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve the following:

WHEREAS, on July 9, 2013, a Ditch Maintenance Petition for Sanctuary at the Lakes was filed with the Board of Commissioners of Delaware County (the "Board"), and

WHEREAS the Petition sets forth the drainage improvements that have been or will be constructed within Sanctuary at the Lakes located off of Africa Road in Orange and Genoa Townships; and

WHEREAS, the Petitioners have requested that the drainage improvements be accepted into the Delaware County Drainage Maintenance Program and that an annual maintenance assessment be collected with the Real Estate Taxes for the improvements in the subject lot to cover the cost of current and future maintenance of the improvements; and

WHEREAS, the Petitioners represent 100% of the property owners to be assessed for maintenance related to this drainage improvement and have waived their rights to a public viewing and hearing; and

WHEREAS, based on a review of the Petition and all accompanying documents, the Board has determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program.

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

Section 1. The Board hereby grants the Petition, the Board having found and determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program.

Section 2. The Board hereby approves the maintenance assessments, in accordance with the Petition, as follows:

The cost of the drainage improvements is \$898,005.43 (for Section 1 and Future Sections) for the benefit of the lots being created in this subdivision. 164 lots (Total all sections) are being created in this plat and future plats and each lot received an equal share of the benefit (cost) of the project. The basis for

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calculating the assessment for each lot is therefore \$5,475.64 per lot. An annual maintenance fee equal to 2% of this basis (\$109.51) will be collected for each lot. It is understood that the basis for calculating the maintenance assessment will be reviewed and possibly revised every 6 years. The first year's assessment for all of the lots in the amount of \$4,927.95 has been paid to Delaware County, receipt of which is hereby acknowledged.

Future Assessments to be paid at time of platting of each section:

- Section 2 (38Lots) \$4,161.38
- Section 3 (18 Lots) \$1,971.18
- Section 4 (22 Lots) \$2,409.22
- Section 5 (41 Lots) (\$4,489.91)

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

**RESOLUTION NO. 13-726**

**IN THE MATTER OF AUTHORIZING THE PURCHASE OF A TRAILER, TRUCK BODY AND HYDRAULICS SYSTEM FOR THE COUNTY ENGINEER'S OFFICE:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve the following:

WHEREAS, pursuant to Section 5549.01 of the Revised Code, the Board of Commissioners (the "Board") may purchase machinery and equipment for the construction, improvement, maintenance or repair of the highways, bridges, and culverts under its jurisdiction as it deems necessary; and

WHEREAS, the County Engineer's Office has a need for a trailer, trailer and truck body for use in performing the office's official duties; and

WHEREAS, the Board is a member of the State of Ohio's cooperative purchasing program; and

WHEREAS, the truck body and hydraulics system are available for purchase via the State of Ohio's cooperative purchasing program; and

WHEREAS, the trailer which is not under the State of Ohio's cooperative purchasing program, is priced below the amount required for competitive bidding but more adequately meets the needs of the Engineer's Office than those on the State competitive purchasing program;

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

Section 1: The Board hereby authorizes the purchase of a Cronkhite Model 3612 12,000# payload tilt top trailer from Southeastern Equipment Company, Inc. at the price of \$8,710.00.

Section 2: The Board hereby authorizes the purchase of a 13' Henderson muni-body with dual auger option from Henderson Truck Equipment-Ohio at the price of \$40,234.00.

Section 3: The Board hereby authorizes the purchase of a Force America FAE-6100 Less VT35 hydraulics system from Force America Distributing, LLC at the price of \$15,081.00.

Section 3: The purchases authorized in Sections 2 and 3 shall be subject to the contract and terms and conditions for Contract #7751501709, Index Numbers 035-13 and 065-13 in the State of Ohio's cooperative purchasing program, which is fully incorporated herein and of which the purchase orders shall be made a part.

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

**RESOLUTION NO. 13-727**

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

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve the following work permits:

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

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

Permit #	Applicant	Location	Type of Work
U13-042	Columbia Gas of Ohio	River Rock Farms	Install gas main

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

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RESOLUTION NO. 13-728

**IN THE MATTER OF APPROVING THE PROJECT GRANT AGREEMENT BETWEEN THE OHIO PUBLIC WORKS COMMISSION (OPWC) AND THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY (BOARD) FOR THE REPLACEMENT OF THREE BRIDGES ON TOWNSHIP ROAD 29 (ROSS ROAD) KNOWN AS DEL-TR29-05.49, ROSS ROAD BRIDGES; AND AUTHORIZING COMMISSIONER DENNIS STAPLETON TO EXECUTE SAID AGREEMENT ALONG WITH APPROVING DISBURSEMENTS MADE AS A RESULT OF THIS AGREEMENT:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve the following:

WHEREAS, on September 27, 2012, the Delaware County Board of Commissioners (the "Board") adopted Resolution No. 12-983, declaring the necessity for the replacement of three bridges on Township Road 29 (Ross Road) known as DEL-TR29-05.49 Ross Road Bridges and authorizing the submission of an application for funding assistance to the Ohio Public Works Commission ("OPWC"); and

WHEREAS, the application for funding assistance was approved, subject to the approval of a project grant agreement with the OPWC; and

WHEREAS, Resolution No. 12-983 authorized Commissioner Dennis Stapleton to enter into any agreements as may be necessary and appropriate for obtaining this financial assistance;

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

Section 1: The Board approves the project grant agreement with OPWC for the project known as DEL-TR29-05.49 Ross Road Bridges, further known as OPWC Project Control. No. CQY03.

Section 2: Commissioner Dennis Stapleton is authorized to execute the agreement with OPWC for the project known as DEL-TR29-05.49, Ross Road Bridges, OPWC Project Control No. CQY30, and to sign any disbursements made as a result of this agreement.

(A copy of the agreement is available at the Commissioners' Office and Engineer's Office until no longer of administrative value.)

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OHIO PUBLIC WORKS COMMISSION

PROJECT GRANT AGREEMENT

LOCAL TRANSPORTATION IMPROVEMENT PROGRAM

Pursuant to Ohio Revised Code 164.05 and Ohio Administrative Code 164-1-21, this Project Grant Agreement (this "Agreement") is entered into **July 1, 2013** by and between the State of Ohio, acting by and through the Director of the Ohio Public Works Commission (hereinafter variously referred to as the "Director" or the "OPWC"), located at 65 East State Street, Suite 312, Columbus, Ohio 43215, and **Delaware County, Delaware County** (hereinafter referred to as the "Recipient"), located at **County Courthouse, Delaware, OH 43015**, in respect of the project named **Ross Road Bridges**, and as described in Appendix A of this Agreement to provide an amount not to exceed **Four Hundred Ninety-Four Thousand Dollars (\$494,000)** for the sole and express purpose of financing or reimbursing costs of the Project as more fully set forth in this Agreement and the Appendices attached hereto.

Subdivision Code: **041-00041**

OPWC Project Control No. **CQY03**

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WHEREAS, the Local Transportation Improvement Fund created under Section 164.14 of the Revised Code is to benefit local subdivisions (as hereinafter defined) for the construction, reconstruction, improvement, or planning of transportation infrastructure (as hereinafter defined);

WHEREAS, pursuant to Section 164.05 of the Revised Code, the Director of the OPWC is empowered to (i) enter into agreements with Local Subdivisions to provide loans, grants, and local debt support and credit enhancements for Capital Improvement Projects (as hereinafter defined); and (ii) authorize payments to Local Subdivisions or their Contractors (as hereinafter defined) for costs incurred for Capital Improvement Projects which have been approved by the Director;

WHEREAS, pursuant to Section 164.14 of the Revised Code, the Director is empowered to review and approve or disapprove requests for financial assistance from the District Public Works Integrating Committees in accordance with the criteria set forth in Divisions C and E of Section 164.14 of the Revised Code;

WHEREAS, Section 164.14 of the Revised Code permits a grant of funds for such a Capital Improvement Project to be expended or provided only after the District has submitted a request to fund the Project to the Director outlining the Recipient's planned use of the funds, and subsequent approval of the request by the Director;

WHEREAS, the Recipient desires to engage in the acquisition, construction, reconstruction, improvement, or planning of the Capital Improvement Project (the "Project") described in Appendix A of this Agreement;

WHEREAS, the Project has been duly recommended to the Director pursuant to Section 164.14 of the Revised Code by the District Public Works Integrating Committee of the Recipient; and

WHEREAS, the Director desires to approve the Recipient's request for a grant of financial assistance to finance certain costs of the Project, such moneys being allocated out of the State and Local Government Highway Distribution Fund to the Local Transportation Improvement Fund in the State Treasury;

NOW, THEREFORE, in consideration of the promises and covenants herein contained, the undersigned agree as follows:

SECTION 1. Definitions and General Provisions. The following words and terms as hereinafter used in this Agreement shall have the following meanings unless otherwise herein provided and unless the context or use clearly indicates an other or different meaning or intent.

"Business Day" means a day of the year on which banks located in Columbus, Ohio and in New York, New York are not required or authorized by law to remain closed and on which The New York Stock Exchange is not closed.

"Capital Improvement" or "Capital Improvement Project" means the acquisition, construction, reconstruction and improvement of roads and bridges of Local Subdivisions, including real property, interests in real property, and facilities and equipment of Local Subdivisions related or incidental thereto.

"Chief Executive Officer" means the single office or official of the Recipient designated in Appendix B pursuant to Section 6 hereof, or his authorized designee as per written notification to the Director.

"Chief Fiscal Officer" means the single office or official of the Recipient designated in Appendix B pursuant to Section 6 hereof, or his authorized designee as per written notification to the Director.

"Contractor" means a person who has a direct contractual relationship with the Recipient and is (i) the manufacturer of all or a portion of the Project, or (ii) the provider of labor, materials or services in connection with the construction, reconstruction, expansion, improvement or engineering of the Project, or both.

"Cost of Capital Improvement Projects" means the costs of acquiring, constructing, reconstructing, expanding, improving and engineering Capital Improvement Projects and, as applicable, related financing costs.

"District Committees" means the District Public Works Integrating Committees and the Executive Committees created pursuant



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to Section 164.04 of the Revised Code, and District Subcommittees created pursuant to Section 164.14 of the Revised Code.

"Fund" means the Local Transportation Improvement Fund created pursuant to Section 164.14 of the Revised Code.

"Governing Body" means the board of county commissioners or a county council if a county; the legislative authority if a municipal corporation; or the board of township trustees if a township.

"Local Subdivision" means any county, municipal corporation, or township of the State.

"Participation Percentages" means the percentage of the total actual project costs that will be contributed by the OPWC, not to exceed the maximum dollar contribution of the OPWC identified in this Project Agreement, and the percentage of the total actual project costs that will be contributed by the Recipient. Both of the percentages are identified in Appendix D. In the event that the total actual project costs exceed the estimated project costs identified in Appendix D, the Local Subdivision Participation Percentage will increase to reflect the cost overrun, while the OPWC percentage contribution will decrease recognizing that there is a maximum dollar contribution from the OPWC which is identified in this Project Agreement.

"Project Manager" means the principal employee or agent of the Recipient having administrative authority over the Project designated in Appendix B pursuant to Section 6 hereof, or authorized designee as per written notification to the Director.

"Reimbursing" means the use of funds granted to the Recipient pursuant to Section 164.14 of the Revised Code as reimbursement to the Recipient for funds expended on the Project by the Recipient, and which did not in any way inflate costs of the Capital Improvement Project.

"State" means the State of Ohio.

"Transportation Infrastructure" means any highway, road, street or bridge and the necessary safety appurtenances thereto constructed, reconstructed, expanded, improved, or engineered on authority of funds allocated pursuant to Section 164.14 of the Revised Code.

Any reference herein to public boards, commissions, departments, institutions, agencies, bodies or entities shall include those succeeding to their functions, duties or responsibilities by operation of law or who are lawfully performing their functions. Any reference to a section or provision of the Constitution of the State, or to a section, provision or chapter of the Revised Code shall include such section, provision or chapter as from time to time may have been duly amended, modified, supplemented or superseded. Words of the masculine or feminine gender shall be deemed and construed to include correlative words of the feminine, masculine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa. The terms "hereof", "hereby", "herein", "hereto", "hereunder" and similar terms refer to this Agreement and term "hereunder" means after, and the term "heretofore" means before the effective date of this Agreement.

SECTION 2. Grant of Financial Assistance. Subject to the terms and conditions contained herein, the OPWC hereby grants to the Recipient moneys from the Fund, not to exceed the amount, as set forth in Appendix C of this Agreement for the sole and express purpose of paying or reimbursing the costs certified to the OPWC under this Agreement for the completion of the Project.

SECTION 3. Local Subdivision Contribution. The Recipient shall, at a minimum, contribute to the Project (the "Local Subdivision Contribution") the Local Subdivision Participation Percentage as set forth in Appendix D of this Agreement. The Local Subdivision Contribution to the Project shall be for the sole and express purpose of paying or reimbursing the costs certified to the OPWC under this Agreement for the completion of the Project as defined and described in Appendix A of this Agreement.

SECTION 4. Notice to Proceed. Work shall not commence on this Project until the Director has issued a written Notice to Proceed to the Recipient. A Notice to Proceed shall be required for all project prime contractors or direct procurement initiated by the Recipient following execution of this Agreement.

SECTION 5. Project Schedule. Construction must begin within 30 days of the date set forth in Appendix A, Page 2, for the start of construction, or this Agreement may become null and void, at the sole discretion of the Director. However, the Recipient may apply to the Director in writing for an extension of the date to initiate construction. The Recipient shall specify the reasons for the delay in the

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start of construction and provide the Director with a new start of construction date. The Director will review such requests for extensions and may extend the start date, providing that the Project can be completed within a reasonable time frame.

**SECTION 6. Disbursements.** All payments made by the OPWC shall be made directly to the Contractor that performed the work and originated the invoice, unless the Grantor expressly authorizes the Recipient to use the reimbursement method specified in Paragraph (A)(4)(b) of Rule 164-1-22 of the Administrative Code.

(a) **Project Administration Designation.** Pursuant to Paragraph (B) of Rule 164-1-21 of the Administrative Code, the Recipient shall designate its Chief Executive Officer, Chief Fiscal Officer and Project Manager in Appendix B of this Agreement. Changes in these designations must be made in writing.

(b) **Disbursements to Contractors to Pay Costs of the Project.** The Recipient shall require that as work on the Project and as specified in its contract is performed a Contractor shall promptly submit a detailed project specific invoice to the Project Manager. Within three (3) Business Days following receipt of such invoice from a Contractor, the Project Manager shall review the invoice and, if found to be accurate, shall so certify in writing, forwarding such certification together with a copy of the invoice to the Chief Fiscal Officer. Within five (5) Business Days following receipt of such invoice and certification from the Project Manager, the Chief Fiscal Officer shall conduct such reviews as he considers appropriate and, if he approves such invoice, shall submit to the Director a Disbursement Request together with the information and certifications required by this Section 6(b). The dollar amount set forth in the Disbursement Request shall be calculated based on the Participation Percentage as set forth originally in Appendix D of this Agreement or as may be adjusted from time to time to account for changed conditions in the project financing scheme. Within five (5) Business Days following receipt of the Disbursement Request and all required information and certifications, the Director shall, if such items are deemed by the Director to be accurate and completed, initiate a voucher in accordance with applicable State requirements for the payment of the amount set forth in the Disbursement Request. Upon receipt of a warrant from the Auditor of State drawn in connection with a voucher initiated in accordance with the terms of the preceding sentence, the Director shall forward it by regular first class United States mail or electronic funds transfer, to the contractor or other authorized recipient designated in the Disbursement Request.

Prior to any disbursement from the Fund, the following documents shall be submitted to the Director by the Recipient:

- (1) If the request is for disbursement to a Contractor, an invoice submitted to the Recipient by the Contractor which invoice requests payment of such sums in connection with its performance of the Project;
- (2) If the request is for disbursement to the Recipient pursuant to Paragraph (A)(4)(b) of Rule 164-1-22 of the Administrative Code, a bill of sale, paid invoice or other evidence satisfactory to the Director that payment of such sums has been made by the Recipient in connection with the portion of the Project for which payment is requested;
- (3) The Project Manager's certification pursuant to Section 6(b) of this Agreement;
- (4) The Disbursement Request Form and Certification in the form set forth as Appendix E of this Agreement properly executed by the Chief Fiscal Officer and the Chief Executive Officer; and
- (5) Such other certificates, documents and other information as the Director may reasonably require.

If the Director finds that the documents are in compliance with the requirements of this Agreement, the Director is authorized and directed to cause the disbursement of moneys from the Fund for payment of the identified Project costs. A copy of all such documents submitted to the Director shall be retained by the Director.

The Recipient represents that the Project was initially constructed, installed or acquired by the Recipient no earlier than the execution date of this Agreement.

(c) **Limitations on Use.** No part of the moneys delivered to the Recipient pursuant to Section 2 hereof is being or will be used to refinance, retire, redeem, or otherwise pay debt service on all or any part of any part of any governmental obligations.

(d) **Project Scope.** The physical scope of the Project shall be limited to only those capital improvements as described in Appendix A of this Agreement. In the event that circumstances require a change in such physical scope, the change must be approved by the District

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Committee, recorded in the District Committee's official meeting minutes, and provided to the OPWC Director for the execution of an amendment to this Agreement.

(f) Project Cost Overruns. In the event that the Recipient determines that the moneys granted pursuant to Section 2 hereof, together with the Local Subdivision Contribution, are insufficient to pay in full the costs of the Project, the Recipient may make a request for supplemental assistance to its District Committee. The Recipient must demonstrate that such funding is necessary for the completion of the Project and the cost overrun was the result of circumstances beyond the Recipient's control, that it could not have been avoided with the exercise of due care, and that such circumstances could not have been anticipated at the time of the Recipient's initial application. Should the District Committee approve such request the action shall be recorded in the District Committee's official meeting minutes and provided to the OPWC Director for the execution of an amendment to this Agreement.

SECTION 7. Retainage. Except as provided in the second sentence of this Section, Recipient shall comply in all aspects with the requirements of Sections 153.12, 153.13, 153.14 and 153.63 of the Revised Code, or other law applicable to it, including, but not limited to, the provisions thereof, to the extent applicable to the Recipient, which require the holding of certain amounts from payments to be made to Contractors and the deposit of such amounts into an escrow account established pursuant to Section 153.63 of the Revised Code. The Recipient may use its legally applicable construction requirements for the Project, including, but not limited to, its legally applicable requirements, if any, for the retaining of certain amounts from payments to be made to contractors in lieu of the requirements of Sections 153.12, 153.13, 153.14 and 153.63 of the Revised Code.

SECTION 8. Conditions to Financial Assistance and its Disbursement. The Grantor's obligations hereunder, including its obligation to make financial assistance available to the Recipient pursuant to the terms of this Agreement, are contingent upon compliance by the Recipient with the following conditions:

(a) Recipient's acquisition and commitment of the Local Subdivision Contribution necessary for the completion of the Project, its compliance with all other provisions of this Agreement, and its compliance with the provisions of Chapter 164 of the Revised Code and Chapter 164-1 of the Administrative Code. The Recipient shall set forth in Appendix D of this Agreement a description of the manner or mechanisms of providing its local share of Project funds.

(b) Recipient shall execute any and all other documents and certificates as deemed necessary by the Director, subject to the opinion of counsel to the Director, as well as any required by changes in State or Federal Law, on the date hereof or at any time hereafter in connection with the financial assistance and disbursement of moneys pursuant to this Agreement, including any amendments to this Agreement.

SECTION 9. Representations, Warranties and Covenants of Recipient. Recipient represents, warrants and covenants for the benefit of the Grantor as follows:

(a) Recipient is a Local Subdivision of the State with all the requisite power and authority to construct, or provide for the construction of, and operate the Project under the laws of the State and to carry on its activities as now conducted;

(b) Recipient has the power to enter into and perform its obligations under this Agreement and has been duly authorized to execute and deliver this Agreement;

(c) This Agreement is the legal, valid and binding obligation of the Recipient, subject to certain exceptions in event of bankruptcy and the application of general principles of equity;

(d) Recipient has complied with all procedures, prerequisites and obligations for Project application and approval under Chapter 164 of the Revised Code and Chapter 164-1 of the Administrative Code; excluding Chapter 164-1-32;

(e) Recipient is not the subject of nor has it initiated any claim or cause of action that would give rise to any liability which would in any way inhibit Recipient's ability to carry out its performance of this Agreement according to its terms;

(f) Use of Proceeds. With respect to the Project to be financed or reimbursed by moneys granted pursuant to Section 2 hereof:

(1) The total cost of the Project shall not and will not include any cost which does not constitute "Costs of Capital

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Improvements," as defined in the Law;

(2) All of the Project is owned, or will be owned, by the Recipient or another eligible local subdivision.

(g) Sufficiency of Moneys. The Recipient has sufficient moneys in addition to those granted to Recipient pursuant to Section 2 of this Agreement to fund the Project to completion;

(h) Ohio Preference. Recipient shall, to the extent practicable, use, and shall cause all of its Contractors and subcontractors to use Ohio products, materials, services and labor in connection with the Project;

(i) Equal Employment Opportunity. Recipient shall, and shall require that all contractors and subcontractors working on the Project, comply with the equal employment opportunity requirements contained in Section 164.07(A) of the Revised Code and rule 164-1-32 of the Administrative Code;

(j) Prevailing Wage. The Recipient shall comply and shall require that all Contractors and subcontractors working on the Project comply with the prevailing wage requirements contained in Revised Code Sections 164.07(B), 4115.03 through 4115.16; and

(l) Construction Bonds, Insurance and Supervision.

(1) The Recipient shall require that each of its Contractors furnish a performance and payment bond in an amount at least equal to 100 percent (100%) of its contract price as security for the faithful performance of its contract.

(2) The Recipient shall require that each of its construction contractors and each subcontractor maintain during the life of its contract or subcontract appropriate Workers Compensation Insurance, Public Liability, Property Damage and Vehicle Liability Insurance.

(3) The Recipient shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of ensuring that construction conforms with the approved surveys, plans, profiles, cross sections and specifications and certifying to the OPWC and the Recipient at the completion of construction that construction is in accordance with the approved surveys, plans, profiles, cross sections and specifications or approved amendments thereto.

SECTION 10. Progress Reports. The Recipient shall submit to the OPWC, at the OPWC's request, summary reports detailing the progress of the Project pursuant to this Agreement and any additional reports containing such information as the OPWC may reasonably require.

SECTION 11. Audit Rights. The Recipient shall, at all reasonable times, provide the Director access to a right to inspect all sites and facilities involved in the Project and access to and a right to examine or audit any and all books, documents and records, financial or otherwise, relating to the Project or to ensure compliance with the provisions of this Agreement. The Recipient shall maintain all such books, documents and records for a period of three (3) years after the termination of this Agreement, and such shall be kept in a common file to facilitate audits and inspections. All disbursements made pursuant to the terms of this Agreement shall be subject to all audit requirements applicable to State funds. The Recipient shall ensure that a copy of any final report of audit prepared in connection with and specific to the Project, regardless of whether the report was prepared during the pendency of the Project or following its completion, is provided to the Director within ten (10) days of the issuance of the report. The Recipient simultaneously shall provide the Director with its detailed responses to each and every negative or adverse finding pertaining to the Project and contained in the report. Such responses shall indicate what steps will be taken by the Recipient in remedying or otherwise satisfactorily resolving each problem identified by any such finding. If the Recipient fails to comply with the requirements of this Section or fails to institute steps designated to remedy or otherwise satisfactorily resolve problems identified by negative audit findings, the Director may bar the Recipient from receiving further financial assistance under Chapter 164 of the Revised Code until the Recipient so complies or until the Recipient satisfactorily resolves such findings.

SECTION 12. General Assembly Appropriation. The Recipient hereby acknowledges and agrees that the financial assistance provided under this Agreement is entirely subject to, and contingent upon, the availability of funds appropriated by the General Assembly for the purposes set forth in this Agreement and in Chapter 164 of the Revised Code. The Recipient further acknowledges and agrees that

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none of the duties and obligations imposed by this Agreement on the Director shall be binding until the Recipient has complied with all applicable provisions of Chapter 164 of the Revised Code and Chapter 164-1 of the Administrative Code and until the Recipient has acquired and committed all funds necessary for the full payment of the Matching Funds applicable to the Project.

SECTION 13. Indemnification. Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, good, or supplies of the Project sufficient to impose upon the Director any of the obligations specified in Revised Code Section 126.30. Provided that the Recipient is not a Local Political Subdivision, the Recipient shall indemnify and hold harmless the Director, the OPWC, the State and their respective officers, directors, members, agents and employees from any and all liability arising out of or pursuant to this Agreement, the Recipient's use or application of the funds being provided by the OPWC hereunder and the Recipient's construction or management of the Project.

SECTION 14. Termination. The OPWC's obligations under this Agreement shall immediately terminate upon the failure of the Recipient to comply with any of the terms or conditions contained herein. Upon such termination, the Recipient shall be obligated to return any moneys delivered to the Recipient pursuant to the provisions of this Agreement. In the absence of any such failure, this Agreement shall terminate and the obligations of the parties hereto shall be deemed to be satisfied on the date on which all of the Infrastructure Bonds, of which the proceeds were used to pay or reimburse the costs of the Project, have been retired.

SECTION 15. Governing Law. This Agreement shall be interpreted and construed in accordance with the laws of the State. In the event any disputes related to this Agreement are to be resolved in a Court of Law, said Court shall be located in the courts of Franklin County, State of Ohio.

SECTION 16. Severability. If any of the provisions of this Agreement or the application thereof to any person or circumstance shall for any reason or to any extent be held invalid or unenforceable, the remainder of this Agreement and the application of this provision to such other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by Law.

SECTION 17. Entire Agreement. This Agreement and its Appendices and Attachments attached hereto contain the entire understanding between the parties and supersede any prior understandings, agreements, proposals and all other communications between the parties relating to the subject matter of this Agreement, whether such shall be oral or written.

SECTION 18. Captions. Captions contained in this Agreement are included only for convenience of reference and do not define, limit, explain or modify this Agreement or its interpretation, instruction or meanings and are in no way intended to be construed as part of this Agreement.

SECTION 19. Notices. Except as otherwise provided hereunder, any notices required hereunder shall be in writing and shall be deemed duly given when deposited in the mail, postage prepaid, return receipt requested, by the sending party to the other party at the addresses set forth below or at such other addresses as party may from time to time designate by written notice to the other party.

SECTION 20. No Waiver. If either party hereto at any time fails to require performance by the other of any provision of this Agreement, such failure in no way affects the right to require such performance at any time thereafter, nor shall the waiver by either party of a breach or default under any provision of this Agreement be construed to be a waiver of any subsequent breach or default under that provision or any other provision of this Agreement.

SECTION 21. Acceptance by Recipient. This Agreement must be signed by the Chief Executive Officer of the Recipient and returned to, and received by, the OPWC within forty-five (45) days of the date written on the first page of this Agreement. Failure of the Recipient to return a fully executed copy of this Agreement to the OPWC within the forty-five (45) day limit will result in this Agreement being declared null and void. However, upon the Recipient presenting the Director with a written explanation of the need to extend this forty-five (45) day limit, the Director, in his sole discretion, may extend the forty-five (45) day limit.

SECTION 22. Assignment. Neither this Agreement nor any rights, duties or obligations described herein shall be assigned by either party hereto without the prior written consent of the other party.

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APPENDIX A

PROJECT DESCRIPTION AND COMPLETION SCHEDULE

1) PROJECT DESCRIPTION / PHYSICAL SCOPE:

The Project, for which the provision of financial assistance is the subject of this Agreement, is hereby defined and described as follows:

a) PROJECT NAME: **Ross Road Bridges**

b) SPECIFIC LOCATION: **The project is on Ross Road at the following bridge structures:**

**DEL-TR29-0561: total work length approximately 1,000 feet**

**DEL-TR29-0609: total work length approximately 525 feet**

**DEL-TR29-0704: total work length approximately 600 feet**

(Project Location Zip Code - 43074-)

c) PROJECT TYPE; MAJOR COMPONENTS: **The project will consist of the replacement of three existing bridges with new precast concrete long span culvert structures at 3 separate locations on Township Road 29 (Ross Road). Work also includes road widening and profile grade adjustment at each location. See engineer's estimate in project application for approved bid items and quantities.**

d) PHYSICAL DIMENSIONAL CHARACTERISTICS: **The total length of three bridges on this project will be 1,125 feet.**

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2) PROJECT SCHEDULE:

The Project, for which the provision of financial assistance is the subject of this Agreement, shall be pursued and completed in accordance with the following schedule:

<u>ACTIVITY</u>	<u>START DATE</u>	<u>COMPLETION DATE</u>
Final Design	06/01/2011	06/01/2013
Bidding Process	07/01/2013	08/01/2013
Construction	08/01/2013	02/01/2014

**NOTE:** Construction must begin within 30 days of the date set forth herein for the start of construction, or this Agreement may become null and void, at the sole option of the Director. However, the Recipient may apply to the Director in writing for an extension of the date to initiate construction. The Recipient shall specify the reasons for the delay in the start of construction and provide the Director with a new start of construction date. The Director will review such requests for extensions and may extend the start date, providing that the Project can be completed within a reasonable time frame.

The information detailed in this Appendix A shall serve as the basis for Project monitoring purposes and for determining Project acceptance upon its completion. In the event that circumstances require a change in physical scope, such changes must be approved through the execution of a formal Amendment to this Project Agreement.

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APPENDIX B

PROJECT ADMINISTRATION DESIGNATION

The Project Administration Designation required by Section 6(a) of this Agreement, and in accordance with the definitions set forth in Section 1 of this Agreement, for the sole purpose of administering the Project, as defined and described in Appendix A of this Agreement, under Chapter 164 of the Revised Code and Chapter 164-1 of the Administrative Code is hereby established as follows:

The Recipient designates:

- 1.) **Hon. Dennis Stapleton/County Commissioner** to act as the Chief Executive Officer;
- 2.) **George Kaitsa/Auditor** to act as the Chief Fiscal Officer; and
- 3.) **Robert Riley, P.E./Chief Deputy Engineer** to act as the Project Manager.

**NOTE:** Upon any change in such a designation, the Recipient shall immediately provide written notification to the OPWC.

APPENDIX C

PROVISION OF FINANCIAL ASSISTANCE

As authorized by Section 2 of this Agreement for the sole and express purpose of financing the Project defined and described in Appendix A of this Agreement, the estimated costs of which are set forth and described in Appendix D of this Agreement, the OPWC hereby agrees to provide financial assistance, subject to the terms and conditions contained in this Agreement, from the State Capital Improvements Fund which constitutes the proceeds of the Infrastructure Bonds, in an amount not to exceed **Four Hundred Ninety-Four Thousand Dollars (\$494,000)**. This financial assistance shall be provided in the form of a **Grant**. **The OPWC Grant Control No. is CQY03.**

**Joint Funded Project with the Ohio Department of Transportation**

In the event that the Recipient does not have contracting authority over project engineering, construction, or right-of-way, the Recipient and the OPWC hereby assign certain responsibilities to the Ohio Department of Transportation, an authorized representative of the State of Ohio. Notwithstanding Sections 4, 6(a), 6(b), 6(c), and 7 of the Project Agreement, Recipient hereby acknowledges that upon notification by the Ohio Department of Transportation, all payments for eligible project costs will be disbursed by the Grantor directly to the Ohio Department of Transportation. A Memorandum of Funds issued by the Ohio Department of Transportation shall be used to certify the estimated project costs. Upon receipt of a Memorandum of Funds from the Ohio Department of Transportation, the OPWC shall transfer funds directly to the Ohio Department of Transportation via an Intra-State Transfer Voucher. The amount or amounts transferred shall be determined by applying the Participation Percentages defined in Appendix D to those eligible project costs within the Memorandum of Funds. In the event that the Project Scope is for right-of-way only, notwithstanding Appendix D, the OPWC shall pay for 100% of the right-of-way costs not to exceed the total financial assistance provided in Appendix C.

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APPENDIX D

LOCAL SUBDIVISION CONTRIBUTION, PROJECT FINANCING AND  
EXPENSES SCHEME AND DISBURSEMENT RATIO

1) OPWC/LOCAL SUBDIVISION PARTICIPATION PERCENTAGES: For the sole and express purpose of financing/reimbursing costs of the Project defined and described in Appendix A of this Agreement, the estimated costs of which are set forth and described in this Appendix D, the Recipient hereby designates its Local Subdivision Percentage Contribution as amounting to a minimum total value of 62% of the total Project Cost. The OPWC participation percentage shall be 38%. However, in the event of a cost over-run, the maximum OPWC dollar contribution shall not exceed the amount identified in Appendix C.

2) PROJECT FINANCING AND EXPENSES SCHEME: The Recipient further designates the Project's estimated financial resources and estimated costs certified to the OPWC under this Agreement for the Project as defined and described in Appendix A of this Agreement to consist of the following components:

a) <u>PROJECT FINANCIAL RESOURCES:</u>	
i) Local In-kind Contributions	\$0
ii) Local Public Revenues	\$806,000
iii) Local Private Revenues	\$0
iv) Other Public Revenues:	
- ODOT/FHWA	\$0
- OEPA	\$0
- OWDA	\$0
- CDBG	\$0
- Other _____	\$0
 SUBTOTAL	 \$806,000
v) OPWC Funds:	\$494,000
 SUBTOTAL	 \$494,000
 TOTAL FINANCIAL RESOURCES	 \$1,300,000
b) <u>PROJECT ESTIMATED COSTS:</u>	
i) Project Engineering Costs:	
- Preliminary Engineering	\$0
- Final Design	\$0
- Construction Administration	\$0
ii) Acquisition Expenses:	\$0
iii) Construction Costs	\$1,300,000
iv) Materials Purchased Directly	\$0
v) Permits, Advertising, Legal	\$0
vi) Construction Contingencies	\$0
 TOTAL ESTIMATED COSTS	 \$1,300,000

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

**RESOLUTION NO. 13-729**

**IN THE MATTER OF APPOINTING THE FY12 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) LABOR STANDARDS COMPLIANCE OFFICER:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve the appointment of the CDBG Labor Standards Compliance Officer:

WHEREAS, Delaware County may apply for financial assistance and administer funds received from the Ohio Development Services Agency through the CDBG program; and

WHEREAS, the Ohio Development Services Agency requires local governments participating in CDBG programs to designate a Labor Standards Compliance Officer for all CDBG-assisted projects.

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. That the Delaware County Board of Commissioners appoints Gus Comstock, Economic Development Director, to serve as the Delaware County CDBG Labor Compliance Officer.

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

**RESOLUTION NO. 13-730**

**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. O'Brien to approve the following:



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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 contracts;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the following contracts for Child Care Placement providers:

<b>Child Placement Service</b>	<b>Per diem cost and per diem reimbursement for the following categories</b>
<b>Eastway Northcutt</b> <b>4950 Northcutt Place</b> <b>Dayton, OH 45414</b>  <b>\$15,000</b>	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)
<b>Maryhaven</b> <b>1791 Alum Creek Drive</b> <b>Columbus, OH 43207</b>  <b>\$15,000</b>	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 Absent Mr. Merrell Aye Mr. O'Brien Aye

**RESOLUTION NO. 13-731**

**IN THE MATTER OF APPROVING THE DKMM COUNTY RECYCLING AND LITTER PREVENTION OFFICE PROGRAM STATUS REPORT FOR THE FIRST HALF OF 2013:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve the following:

**Program Status Report - 2013  
Report of DKMM District Funds Spent**

REPORTS due: July 15, 2013 January 15, 2014

CRLPO: Delaware Board of Commissioners (Delaware General Health District

DATE OF REPORT: January 1, 2013, through June 30, 2013

AMOUNT OF FUNDS RECEIVED: \$45,500.00  
 APPROVED CARRYOVER BALANCE (2012) \$ 0.00  
 TOTAL FUNDS AVAILABLE \$45,500.00

EXPENDITURES:  
 Salaries \$18,937.60  
 Fringe Benefits \$12,007.48  
  
 Advertising \$ 363.30  
 Other \$ 300.00 (KAB Membership)

TOTAL EXPENDITURES \$31,608.38

FUND BALANCE \$13,891.62

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

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**RESOLUTION NO. 13-732**

**IN THE MATTER OF APPROVING THE SANITARY SEWER CONSTRUCTION PLANS FOR TRAIL’S END SECTION 1:**

It was moved by Mr. Merrell, seconded by Mr. O’Brien to approve the following sanitary sewer construction plans for Trail’s End Section 1 for submittal to the Ohio EPA for their approval.

Whereas, the Director of Environmental Services recommends sanitary sewer plans for Trail’s End Section 1 for submittal to the Ohio EPA for their approval;

Therefore be it resolved, that the Board of Commissioners approves sanitary sewer plans for Trail’s End Section 1 for their approval.

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

**RESOLUTION NO. 13-733**

**IN THE MATTER OF APPROVING THE SANITARY SUBDIVIDER’S AGREEMENT FOR LOCH LOMOND HILLS PHASE 1:**

It was moved by Mr. Merrell, seconded by Mr. O’Brien to approve the following:

Whereas, the Director of Environmental Services recommends approval of the Sanitary Subdivider’s agreement;

Therefore, Be It Resolved the Board of Commissioners approve the Sanitary Subdivider’s Agreement for Loch Lomond Hills Phase 1:

**SUBDIVIDER'S AGREEMENT  
DELAWARE COUNTY SANITARY ENGINEER**

THIS AGREEMENT executed on this 15<sup>th</sup> day of July 2013, by and between LOCH LOMOND HILLS LLC. herein after called “SUBDIVIDER”, and the BOARD OF COUNTY COMMISSIONERS of Delaware County, Ohio, as evidenced by LOCH LOMOND HILLS PHASE 1 Plat or Sewer Easements Record on Said Development Parcel filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, is governed by the following considerations and conditions, to wit:

There are 31.0 single family residential equivalent connections approved with this AGREEMENT. Capacity shall be reserved for one year from the date of this AGREEMENT, unless the COUNTY COMMISSIONERS grant an extension in writing. Capacity is not guaranteed until the final Subdivision Plat or Sanitary Easements are recorded. If the final Subdivision Plat or Sanitary Easements are not recorded prior to expiration of the reservation deadline as set forth herein, the SUBDIVIDER agrees and acknowledges that capacity shall not be guaranteed.

Said SUBDIVIDER is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for LOCH LOMOND HILLS PHASES 1 & 2, all of which are a part of this AGREEMENT. The SUBDIVIDER shall pay the entire cost and expense of said improvements.

The SUBDIVIDER shall execute Bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (\$195,155.00) which is acceptable to the COUNTY COMMISSIONERS to insure faithful performance of this AGREEMENT and the completion of all improvements in accordance with the Subdivision Regulations of Delaware County, Ohio.

The SUBDIVIDER shall indemnify and save harmless the County, Townships and/or Villages and all of their officials, employees and agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any action, or omissions of the SUBDIVIDER, and any of its contractors or sub-contractors, or from any material, method or explosive used in said work or by or on account of any accident caused by negligence or any other act or omission of SUBDIVIDER, and any of its contractors or the contractors’ agents or employees.

All public improvement construction shall be performed within one (1) year from the date of the approval of this AGREEMENT by the COUNTY COMMISSIONERS, but extension of time may be granted if approved by the COUNTY COMMISSIONERS.

The SUBDIVIDER shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the COUNTY. The representative shall be replaced by the SUBDIVIDER, when in the opinion of the COUNTY, the representative’s performance is deemed inadequate.

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The SUBDIVIDER further agrees that any violations of or noncompliance with any of the provisions and stipulations of this AGREEMENT shall constitute a breach of contract, and the COUNTY shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this Subdivision.

Should the SUBDIVIDER become unable to carry out the provisions of this AGREEMENT, the SUBDIVIDER'S heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this AGREEMENT.

**SANITARY SEWER CONSTRUCTION**

It is further agreed that upon execution of this AGREEMENT, the SUBDIVIDER shall pay the DELAWARE COUNTY SANITARY ENGINEER three and one-half percent (3½%) of the estimated construction cost of the IMPROVEMENTS for plan review (\$6900.42). The SUBDIVIDER shall also deposit with the DELAWARE COUNTY SANITARY ENGINEER the sum of \$15,772 estimated to be necessary to pay the cost of inspection by the DELAWARE COUNTY SANITARY ENGINEER. The DELAWARE COUNTY SANITARY ENGINEER shall in his or her sole discretion inspect, as necessary, the IMPROVEMENTS being installed or constructed by the SUBDIVIDER and shall keep accurate records of the time spent by his or her employees and agents in such inspections for which the SANITARY ENGINEER shall be reimbursed from charges against said deposit. At such time as said fund has been depleted to a level of \$600.00 or less, as a result of charges against the same at the rate of:

INSPECTOR \$75.00 per hour  
CAMERA TRUCK \$150.00 per hour

for time spent by said SANITARY ENGINEER or his or her staff, the SUBDIVIDER shall make an additional deposit of \$600.00 to said fund. On completion of all IMPROVEMENTS provided herein and acceptance of same by the COUNTY, any unused portions of the inspection fund shall be repaid to the SUBDIVIDER less an amount equal to \$0.75 per foot of sewer which will be deducted to cover re-inspection.

The SUBDIVIDER, for a period of five (5) years after acceptance of the IMPROVEMENTS by the COUNTY, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the IMPROVEMENTS shall be the same as new equipment warranties and shall be assigned to the COUNTY upon acceptance of the IMPROVEMENTS.

The SUBDIVIDER shall provide to the COUNTY all necessary easements or rights-of-way required to complete the IMPROVEMENTS, all of which shall be obtained at the expense of the SUBDIVIDER. All public sanitary sewers and private laterals to offsite properties shall have a recorded permanent, exclusive sanitary easement on file at the Delaware County Recorder's Office, the language of which shall be approved by the DELAWARE COUNTY SANITARY ENGINEER. The dimensions of all easements shall be as shown on the approved engineering drawings.

The COUNTY shall, upon certification in writing from the DELAWARE COUNTY SANITARY ENGINEER that all construction is complete according to the plans and specifications, by Resolution accept the IMPROVEMENTS described herein and accept and assume operations and maintenance of the same.

After said acceptance, the capacity charge shall be paid by the applicant upon request to the DELAWARE COUNTY SANITARY ENGINEER for a tap permit to connect to the sanitary sewer.

**ALL CONSTRUCTION UNDER COUNTY JURISDICTION:**

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to DELAWARE COUNTY as required:

- (1) "as built" drawings of the IMPROVEMENTS which plans shall become the property of the COUNTY and shall remain in the office of the DELAWARE COUNTY SANITARY ENGINEER and DELAWARE COUNTY ENGINEER. The drawings shall be on reproducible MYLAR (full size), two paper copies (one full size & one 11"x17"), and a Compact Diskette with the plans in DWG format & PDF format.
- (2) An excel spreadsheet, from a template as provided by the DELAWARE COUNTY SANITARY ENGINEER, shall accompany the plan submittal showing the locations of the manholes in Ohio State Plane North Coordinates NAD 1983 (NAVD 1988 datum) and other miscellaneous project data.
- (3) an itemized statement showing the cost of IMPROVEMENTS
- (4) an Affidavit or waiver of lien from all Contractors associated with the project that all material and labor costs have been paid. The SUBDIVIDER shall indemnify and hold harmless the COUNTY from expenses or claims for labor or materials incident to said construction of the IMPROVEMENTS.
- (5) documentation showing the required sanitary sewer easements

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the DELAWARE COUNTY SANITARY ENGINEER a five (5) year maintenance Bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

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The SUBDIVIDER shall during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the COUNTY regarding submission of shop drawings, construction schedules, operation of facilities and other matters incident hereto.

The SUBDIVIDER shall obtain all other necessary utility services incident to the construction of said IMPROVEMENTS AND FOR THEIR CONTINUED OPERATION. The SUBDIVIDER shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the SUBDIVIDER and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the COUNTY.

IN CONSIDERATION WHEREOF, the DELAWARE COUNTY BOARD OF COMMISSIONERS hereby grants the SUBDIVIDER or its agent the right and privilege to make the IMPROVEMENTS stipulated herein and as shown on the approved plans.

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

**RESOLUTION NO. 13-734**

**IN THE MATTER OF REJECTING ALL BIDS FOR THE PROJECT KNOWN AS TIP FLOOR REPAIRS TO THE SOLID WASTE TRANSFER STATION, CONTRACT NO. DCES 13-02:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve the following:

Whereas, Delaware County received bids for the Tip Floor Repairs to the Solid Waste Transfer Station Project on June 28, 2013; and

Whereas, Delaware County reserves the right to reject any and all bids, in whole or in part, to waive any defect in any or all bids; and

Whereas, all the bids were determined to be incomplete.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners rejects all bids received for the Tip Floor Repairs to the Solid Waste Transfer Station Project DCES 13-02.

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

**RESOLUTION NO. 13-735**

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

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve the following:

The Delaware County Emergency Medical Services Department recommends accepting the resignation of Drew DeSimone as a part-time paramedic; effective May 3, 2013;

Therefore Be It Resolved, the Board of Commissioners accept the resignation of Drew DeSimone as a part-time paramedic; effective May 3, 2013.

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

**RESOLUTION NO. 13-736**

**IN THE MATTER OF ESTABLISHING A NEW AGENCY FUND FOR THE ARSON REGISTRY FUND:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve the following:

<b>New Agency Fund</b>	
Arson Registry Fund	77531339

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

**COMMISSIONERS' COMMITTEES REPORTS**

**Commissioner Merrell-No Reports; Returning From Vacation**

**Commissioner O'Brien**

**-Attended And Participated On The DKMM Executive Committee; Location Of District Office; Working On A Policy To Bring To The Full Board That Will Also Cover Changing Locations In The Future DKMM Also Covered: Pay Raises; Revenues Lower For Some Counties May Be Due To Demolish**

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**Projects****RESOLUTION NO. 13-737**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF EMPLOYMENT; COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL AND FOR COLLECTIVE BARGAINING:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to adjourn into Executive Session at 10:07AM.

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

**RESOLUTION NO. 13-738**

**IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to adjourn out of Executive Session at 10:47AM.

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

**RESOLUTION NO. 13-739**

**PUBLIC HEARING FOR CONSIDERATION OF THE BARRINGTON ESTATES SECTION 1, 2, AND 3 SUBDIVISION DRAINAGE PETITION FILED BY THE BARRINGTON ESTATES CIVIC ASSOCIATION AND OTHERS:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to open the hearing at 10:48AM.

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

**RESOLUTION NO. 13-740**

**IN THE MATTER OF APPROVING, FOR A SPECIFIC OCCURRENCE, A SUSPENSION OF RULE 3-SPEAKER REGISTRATION; RULE 4-LIMITATIONS AND RULE 7-PUBLIC COMMENT PROCEDURE FROM THE RULES GOVERNING PUBLIC COMMENT BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve, for a specific occurrence, a suspension of Rule 3-Speaker Registration; Rule 4-Limitations; Rule 7-Public Comment Procedure from the Rules Governing Public Comment Before The Board Of County Commissioners Of Delaware County, Ohio

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

**RESOLUTION NO. 13-741**

**IN THE MATTER OF CLOSING THE PUBLIC HEARING FOR CONSIDERATION OF THE BARRINGTON ESTATES SECTION 1, 2, AND 3 SUBDIVISION DRAINAGE PETITION FILED BY THE BARRINGTON ESTATES CIVIC ASSOCIATION AND OTHERS:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to close the hearing at 10:57AM.

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

**RESOLUTION NO. 13-742**

**IN THE MATTER OF GRANTING THE PRAYER OF THE PETITION AND DIRECTING THE DELAWARE COUNTY ENGINEER TO PROCEED WITH PREPARATION OF PLANS, REPORTS, AND SCHEDULES FOR THE BARRINGTON ESTATES SECTION 1, 2, AND 3 SUBDIVISION DRAINAGE PETITION FILED BY THE BARRINGTON ESTATES CIVIC ASSOCIATION AND OTHERS:**

It was moved by Mr. Merrell, seconded by Mr. O'Brien to approve the following:

Whereas, on February 20, 2013, a Drainage Petition for The Barrington Estates Section 1, 2, and 3 Subdivision Watershed was filed with the Board of Commissioners of Delaware County (the "Board"); and

Whereas, the Board on Monday May 13<sup>th</sup>, 2013, conducted a view of the proposed improvements; and

Whereas, the Board on Monday July 15<sup>th</sup>, 2013, held a public hearing to determine if the action is necessary, conducive to the public welfare, and the benefits derived exceed the cost incurred for the Barrington Estates

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Section 1, 2, and 3 Subdivision Watershed Drainage Petition Project; and

Whereas, after hearing testimony from property owners and the preliminary report of County Engineer, Chris Bauserman, the Board is prepared to issue its findings on the proposed improvements.

Therefore, Be It Resolved, by the Board of Commissioners of Delaware County, Ohio as follows:

Section 1. The Board hereby finds that the proposed improvement is necessary and that it will be conducive to the public welfare. The Board also finds that it is reasonably certain that the cost of the proposed improvement will be less than the benefits. Accordingly, the Board hereby grants the prayer of the petition. The hearing on the Petition is hereby adjourned to the date fixed for the filing of the reports, plans, and schedules by the Delaware County Engineer.

Section 2. The Board hereby orders the Delaware County Auditor to transfer \$ Zero from the general revenue funds of the county to the general drainage improvement fund.

Section 3. Upon the transfer of funds ordered in Section 2, the Board hereby orders the Delaware County Engineer to proceed with the preparation of plans, reports and schedules as presented for the proposed Barrington Estates Section 1, 2, and 3 Subdivision Watershed Drainage Petition Project. The Board hereby fixes May 13, 2014 as the date for filing of the engineer's reports, plans, and schedules. Upon filing of this information a public hearing date will be set and proper notification given to property owners in the affected watershed.

Section 4. THE BOARD HEREBY APPROVES ESTABLISHING A NEW ORGANIZATION KEY FOR BARRINGTON ESTATES SECTION 1, 2, AND 3 SUBDIVISION DRAINAGE PETITION PROJECT 40311445.

Section 5. This Board finds and determines that all formal actions taken by this Board concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in said formal actions were in meetings open to the public, in compliance with the laws of the State of Ohio.

Section 6. Sections 1, 4, 5, and 6 of this Resolution shall take immediate effect upon passage. Sections 2 and 3 of this Resolution shall take effect upon the expiration of the twenty-one day appeal period, provided no appeal has been taken.

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

There being no further business, the meeting adjourned.

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Gary Merrell

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Ken O'Brien

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Dennis Stapleton

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Jennifer Walraven, Clerk to the Commissioners