

COMMISSIONERS JOURNAL NO. 63 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD JULY 27, 2015

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

Present:  
Gary Merrell, President  
Barb Lewis, Vice President

1:30 PM Reconvene Viewing For Consideration Of The Drainage Improvement Petition Filed By Epon Communities, Inc. (On East Hidden Ravines Dr. About 200' West Of The Intersection With Highfield Drive)

RESOLUTION NO. 15-878

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JULY 23, 2015:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on July 23, 2015; 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 Mrs. Lewis Aye -

PUBLIC COMMENT

ELECTED OFFICIAL COMMENT

RESOLUTION NO. 15-879

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0724:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0724 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO' Increase</b>			
Andritz (Add a Line)	Equipment Parts Water Rec	66111903-5260	\$11,625.00
<b>PR</b>	<b>Vendor Name</b>	<b>Line Description</b>	<b>Line Account</b>
R1504292	Marsha Ames	FAMILY SUPPORT	70161609- 5301
			\$7,000.00

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye -

RESOLUTION NO. 15-880

IN THE MATTER OF A TRANSFER LIQUOR LICENSE REQUEST FROM HERRADURA GRILL, INC. TO FIESTA JALISCO II, LLC. AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following resolution:

Whereas, the Ohio Division of Liquor Control has notified both the Delaware County Board of Commissioners and the Liberty Township Trustees that Fiesta Jalisco II, LLC. has requested a transfer permit located at 9762 Sawmill Parkway, Powell, OH 43065 and

Whereas, the Delaware County Board of Commissioners has found no reason to file an objection,

Therefore Be it Resolved, The Clerk of the Board shall complete the necessary forms and notify the Ohio Division of Liquor Control that no objections are made and no hearing is requested by this Board of County Commissioners.

Vote on Motion - Mr. Merrell Aye Mrs. Lewis Aye

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**RESOLUTION NO. 15-881**

**IN THE MATTER OF SCHEDULING A SPECIAL COMMISSIONERS' SESSION FOR TUESDAY SEPTEMBER 1, 2015 AT 1:00PM FOR ADJOURNING INTO EXECUTIVE SESSION FOR EMPLOYMENT AND COMPENSATION OF A PUBLIC EMPLOYEE OF PUBLIC OFFICIAL:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to schedule a special Commissioners' Session for Tuesday September 1, 2015 at 1:00pm for adjourning into executive session for employment and compensation of a public employee of public official.

Vote on Motion            Mr. Merrell     Aye     -                            Mrs. Lewis     Aye

**RESOLUTION NO. 15-882**

**IN THE MATTER OF CANCELING THE MONDAY AUGUST 17, 2015 COMMISSIONERS' SESSION:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to cancel the Monday August 17, 2015 Commissioners' session.

Vote on Motion            Mrs. Lewis     Aye     -                            Mr. Merrell     Aye

**KRISTINE HODGE, SUPERINTENDENT  
DELAWARE COUNTY BOARD OF DEVELOPMENTAL DISABILITIES  
-Recognition Resolution for The Americans With Disabilities Act (ADA) 25th Anniversary  
-Presentation-Vision and Priorities at the Developmental Disabilities Board**

**RESOLUTION NO. 15-883**

**IN THE MATTER OF RECOGNIZING THE AMERICANS WITH DISABILITIES ACT (ADA) 25TH ANNIVERSARY:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following resolution:

Whereas, the Americans with Disabilities Act (ADA) was passed on July 26, 1990 to ensure the civil rights of citizens with disabilities, and

Whereas, this historic act was the world's first comprehensive declaration of equality and inclusion for persons with disabilities, and

Whereas, according to the Centers for Disease Control and Prevention (CDC) approximately 20 percent of the U.S. population has some kind of disability, and

Whereas, the ADA prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, transportation and all public and private places that are open to the general public, and

Whereas, the ADA has expanded opportunities for Americans with disabilities by reducing barriers, changing perceptions and increasing full participation in community life,

Now therefore be it resolved, that the Delaware County Board of Commissioners affirms, on this 25th Anniversary of the signing of the Americans with Disabilities Act (ADA), that we will continue to encourage the citizens of Delaware County to work toward full ADA compliance, and

Be it further resolved, that the Delaware County Board of Commissioners thank the Delaware County Community for their continued acceptance and inclusion of all people, including those with disabilities and who contribute to our community in numerous ways.

Vote on Motion            -                            Mr. Merrell     Aye     Mrs. Lewis     Aye

**RESOLUTION NO. 15-884**

**IN THE MATTER OF APPROVING A CONTRACT OF SALE AND PURCHASE BETWEEN WILLIAM R. & JANICE E. REED AND THE BOARD OF DELAWARE COUNTY COMMISSIONERS FOR DEL-CR14-3.17, E. POWELL ROAD WIDENING:**

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

Whereas, the County Engineer recommends approval of the contract of sale and purchase with William R. & Janice E. Reed for the project known as DEL-CR14-3.17, E. Powell Road Widening.

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the contract of sale

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and purchase with William R. & Janice E. Reed for the project known as DEL-CR14-3.17, E. Powell Road Widening as follows:

**CONTRACT OF SALE AND PURCHASE  
VACANT LAND/IMPROVEMENTS**

**WITNESSETH:** On this 27<sup>th</sup> day of July 2015, William R. & Janice E. Reed, 3716 E. Powell Road, Lewis Center, Ohio 43035 hereinafter, the SELLER, in consideration of the mutual promises, agreements, and covenants herein do hereby grant, remise, and sell to the Board of County Commissioners of Delaware County, Ohio, whose address is 101 North Sandusky Street, Delaware, Ohio 43015, hereinafter the PURCHASER, the following described premises, hereinafter the PROPERTY, to wit:

See Attached Exhibit A (Property Description)  
187-WD and 187-T – DEL-CR14-3.17, E. Powell Road Widening

By this reference, Exhibit A is incorporated herein and made a part hereof as if fully rewritten herein.

**TERMS OF PURCHASE:**

1. PURCHASER promises and agrees to pay to the SELLER the total sum of Three Thousand Four Hundred Fifty-One Dollars (\$3,451.00) which total sum to be paid the SELLER pursuant to this CONTRACT shall be in exchange and constitute the entire compensation for all of the following:
  - (A) All title, rights, and interest in and to the PROPERTY; and,
  - (B) For damages to any residual lands of the SELLER; and,
  - (C) For SELLER's covenants herein; and,
  - (D) For expenses related to the relocation of the SELLER, their family, and business; and,
  - (E) For any supplemental instruments necessary for transfer of title.

It is understood and agreed that the SELLER is responsible for all delinquent taxes and assessments on the PROPERTY, including, but not limited to, penalties and interest and all other real estate taxes and assessments which are a lien on the PROPERTY on the date of closing. The current calendar year's taxes are to be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever date is earlier. SELLER is also responsible for all future installments of special assessments levied and assessed against the PROPERTY, whether these special assessments have or have not been certified to the county auditor for collection, provided those installments are a lien on the PROPERTY at the date of transfer. The PURCHASER may hold in escrow a sufficient amount of the purchase money to satisfy the above items. Any balance remaining after taxes, assessments, etc. are discharged, shall be refunded to the SELLER and any deficiency shall be the responsibility of the SELLER.

2. Closing shall occur at a time and place agreed upon between the parties, but no later than 30 days after notification of the SELLER by the PURCHASER that PURCHASER is ready to close. All title and interest in the PROPERTY shall transfer from the SELLER to the PURCHASER and closing shall occur within ninety (90) days. This date by which transfer and closing must occur may be modified via a signed writing mutually agreed upon by all parties to this CONTRACT.
3. SELLER agrees to transfer, sell, and convey, upon the fulfillment of all the obligations and terms of this CONTRACT, by a good and sufficient deed of general warranty of title, with full release of dower, to said PURCHASER, its successors and assigns, the PROPERTY in fee simple, together with all the appurtenances and hereditaments thereunto belonging and improvements now located thereon and all fixtures of every nature now attached or used with said land and improvements.
4. SELLER further agrees to release to the PURCHASER, its heirs, successors and assigns, any and all abutters rights or easements, including access rights to and from the PROPERTY, what ever the nature of such access rights, including but not limited to, across, in, over, upon, and above, appurtenant to any remaining lands of the SELLER not sold, transferred, or conveyed to the PURCHASER pursuant to this CONTRACT of which the PROPERTY now forms a part. (This paragraph applies to limited access parcels only.)
5. SELLER further agrees to execute supplemental instruments necessary for the construction and maintenance over, across, and upon the PROPERTY, necessary for the road, street, and/or highway project for which the PROPERTY was acquired.
6. SELLER further agrees to transfer, sell, and convey the PROPERTY with release of dower and warranting the same free and clear from all liens and encumbrances whatsoever, excepting zoning restrictions and public utility easements of record.
7. SELLER further agrees to assist wherever possible to procure, record, and deliver to the PURCHASER releases and cancellations of all interest in such title, including, but not limited to

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tenants, lessees or others now in possession, or in any manner occupying or having an interest in the PROPERTY, and all assessment claims against the PROPERTY.

8. Prior to acceptance by the PURCHASER, the execution of this CONTRACT by the SELLER shall constitute an offer to sell which shall continue for a period of twenty (20) days from the date of such execution. Upon acceptance of this CONTRACT by the PURCHASER within said period, it shall constitute a valid and binding CONTRACT of Sale and Purchase.
9. SELLER agrees that the PURCHASER may designate an escrow agent who shall act on behalf of both parties in connection with the consummation and closing of this CONTRACT.
10. SELLER also agrees that he will not destroy, change, alter, or damage the existing character of the PROPERTY. The SELLER understands and hereby assumes the risk of and any and all damage, change, or alteration that may occur to the PROPERTY between execution of this CONTRACT and the date the PURCHASER takes possession of the PROPERTY and hereby agrees to indemnify the PURCHASER for any and all such damage, change, or alteration that occurs.

In the event that any damage, change, alteration or destruction occurs to the PROPERTY resulting from any cause whatsoever, prior to the date possession is surrendered to the PURCHASER, the SELLER agrees to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER, or to accept the purchase price consideration, hereinabove stated, less the cost of restoration. In the event the SELLER refuses to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER or to accept the money consideration less the cost of such restoration as hereinabove stated, the PURCHASER may, at its option after discovery or notification of such destruction, change, alteration, damage, removal, or injury, terminate this CONTRACT by signed written notice to said SELLER. In addition to termination of the CONTRACT, PURCHASER hereby preserves and may exercise any and all legal options, actions, causes, or remedies that are or may be available to the PURCHASER. Nothing in this provision or this CONTRACT shall be interpreted to limit the PURCHASER from exercising any such available legal options, actions, causes, or remedies.

11. Until such time as the SELLER completely vacates the PROPERTY, the SELLER agrees to indemnify, save and hold the PURCHASER, and all of its officers, employees, agents, servants, representatives, and volunteers free and harmless from any and all claims of liability, whatever the source or nature, related to the SELLER's use and occupation of the PROPERTY and from any and all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the SELLER's use or occupation of the PROPERTY. The SELLER shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the PURCHASER or any of its officers, employees, agents, servants, representatives, and volunteers by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees.
12. The SELLER hereby acknowledges that the compensation or consideration specified in this CONTRACT represents and is the full and total amount of compensation and consideration that the SELLER will and is entitled to receive from the PURCHASER in exchange for, in relation to, and in connection with the transfer of the PROPERTY. The SELLER and the SELLER's heirs, executors, administrators, successors, and assigns hereby forever release the PURCHASER from any and all claims for any damages, injuries, or any additional compensation or consideration than is expressly provided for in this CONTRACT. The SELLER hereby further forever releases the PURCHASER from any and all claims the SELLER, and the SELLER's heirs, administrators, executors, successors, and assigns may make as related to the transfer of the PROPERTY, costs associated with the transfer of the PROPERTY, for any damage to any residue property as a result of the transfer, for any damage or injury suffered to the SELLER or the SELLER's business as a result of relocating from the PROPERTY, for expenses related to the relocation of the SELLER, their family, and business, or any other cost, damage, or injury, whatever the source or nature, associated with or the result of the transfer of the PROPERTY.
13. This CONTRACT shall be binding upon the SELLER and the SELLER's heirs, executors, administrators, successors and assigns, and shall inure to the benefit of the PURCHASER, its heirs, successors and assigns.
14. If any item, condition, portion, or section of this CONTRACT 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 CONTRACT and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.

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- 15. This CONTRACT shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this CONTRACT shall be filed in and heard before the courts of Delaware County, Ohio.
- 16. This CONTRACT and its Attachments shall constitute the entire understanding and agreement between the SELLER and the PURACHER, 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.
- 17. This CONTRACT shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

Vote on Motion            Mr. Merrell      Aye      Mrs. Lewis      Aye      -

**RESOLUTION NO. 15-885**

**IN THE MATTER OF APPROVING A CONTRACT OF SALE AND PURCHASE BETWEEN VINCENT K. CHU AND THE BOARD OF DELAWARE COUNTY COMMISSIONERS FOR DEL-CR14-3.17, E. POWELL ROAD WIDENING:**

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

Whereas, the County Engineer recommends approval of the contract of sale and purchase with Vincent K. Chu for the project known as DEL-CR14-3.17, E. Powell Road Widening.

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the contract of sale and purchase with Vincent K. Chu for the project known as DEL-CR14-3.17, E. Powell Road Widening as follows:

**CONTRACT OF SALE AND PURCHASE  
VACANT LAND/IMPROVEMENTS**

**WITNESSETH:** On this 27<sup>th</sup> day of July, 2015, Vincent K. Chu, whose address is 7911 Bale Kenyon Road, Lewis Center, Ohio 43035, hereinafter, the SELLER, in consideration of the mutual promises, agreements, and covenants herein do hereby grant, remise, and sell to the Board of County Commissioners of Delaware County, Ohio, whose address is 101 North Sandusky Street, Delaware, Ohio 43015, hereinafter the PURCHASER, the following described premises, hereinafter the PROPERTY, to wit:

See Attached Exhibit A (Property Description)  
191-WD and 191-T – DEL-CR14-3.17, E. Powell Road Widening

By this reference, Exhibit A is incorporated herein and made a part hereof as if fully rewritten herein.

**TERMS OF PURCHASE:**

- 1. PURCHASER promises and agrees to pay to the SELLER the total sum of Six Thousand Twenty-Five Dollars (\$6,025.00) which total sum to be paid the SELLER pursuant to this CONTRACT shall be in exchange and constitute the entire compensation for all of the following:
  - a. All title, rights, and interest in and to the PROPERTY; and,
  - b. For damages to any residual lands of the SELLER; and,
  - c. For SELLER’s covenants herein; and,
  - d. For expenses related to the relocation of the SELLER, their family, and business; and,
  - e. For any supplemental instruments necessary for transfer of title.
  - f. It is understood and agreed that the SELLER is responsible for all delinquent taxes and assessments on the PROPERTY, including, but not limited to, penalties and interest and all other real estate taxes and assessments which are a lien on the PROPERTY on the date of closing. The current calendar year’s taxes are to be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever date is earlier. SELLER is also responsible for all future installments of special assessments levied and assessed against the PROPERTY, whether these special assessments have or have not been certified to the county auditor for collection, provided those installments are a lien on the PROPERTY at the date of transfer. The PURCHASER may hold in escrow a sufficient amount of the purchase money to satisfy the above items. Any balance remaining after taxes, assessments, etc. are discharged, shall be refunded to the SELLER and any deficiency shall be the responsibility of the SELLER.
- 2. Closing shall occur at a time and place agreed upon between the parties, but no later than 30 days after notification of the SELLER by the PURCHASER that PURCHASER is ready to close. All title and interest in the PROPERTY shall transfer from the SELLER to the PURCHASER and closing

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shall occur within ninety (90) days. This date by which transfer and closing must occur may be modified via a signed writing mutually agreed upon by all parties to this CONTRACT.

3. SELLER agrees to transfer, sell, and convey, upon the fulfillment of all the obligations and terms of this CONTRACT, by a good and sufficient deed of general warranty of title, with full release of dower, to said PURCHASER, its successors and assigns, the PROPERTY in fee simple, together with all the appurtenances and hereditaments thereunto belonging and improvements now located thereon and all fixtures of every nature now attached or used with said land and improvements.
4. SELLER further agrees to release to the PURCHASER, its heirs, successors and assigns, any and all abutters rights or easements, including access rights to and from the PROPERTY, what ever the nature of such access rights, including but not limited to, across, in, over, upon, and above, appurtenant to any remaining lands of the SELLER not sold, transferred, or conveyed to the PURCHASER pursuant to this CONTRACT of which the PROPERTY now forms a part. (This paragraph applies to limited access parcels only.)
5. SELLER further agrees to execute supplemental instruments necessary for the construction and maintenance over, across, and upon the PROPERTY, necessary for the road, street, and/or highway project for which the PROPERTY was acquired.
6. SELLER further agrees to transfer, sell, and convey the PROPERTY with release of dower and warranting the same free and clear from all liens and encumbrances whatsoever, excepting zoning restrictions and public utility easements of record.
7. SELLER further agrees to assist wherever possible to procure, record, and deliver to the PURCHASER releases and cancellations of all interest in such title, including, but not limited to tenants, lessees or others now in possession, or in any manner occupying or having an interest in the PROPERTY, and all assessment claims against the PROPERTY.
8. Prior to acceptance by the PURCHASER, the execution of this CONTRACT by the SELLER shall constitute an offer to sell which shall continue for a period of twenty (20) days from the date of such execution. Upon acceptance of this CONTRACT by the PURCHASER within said period, it shall constitute a valid and binding CONTRACT of Sale and Purchase.
9. SELLER agrees that the PURCHASER may designate an escrow agent who shall act on behalf of both parties in connection with the consummation and closing of this CONTRACT.
10. SELLER also agrees that he will not destroy, change, alter, or damage the existing character of the PROPERTY. The SELLER understands and hereby assumes the risk of and any and all damage, change, or alteration that may occur to the PROPERTY between execution of this CONTRACT and the date the PURCHASER takes possession of the PROPERTY and hereby agrees to indemnify the PURCHASER for any and all such damage, change, or alteration that occurs.
  - a. In the event that any damage, change, alteration or destruction occurs to the PROPERTY resulting from any cause whatsoever, prior to the date possession is surrendered to the PURCHASER, the SELLER agrees to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER, or to accept the purchase price consideration, hereinabove stated, less the cost of restoration. In the event the SELLER refuses to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER or to accept the money consideration less the cost of such restoration as hereinabove stated, the PURCHASER may, at its option after discovery or notification of such destruction, change, alteration, damage, removal, or injury, terminate this CONTRACT by signed written notice to said SELLER. In addition to termination of the CONTRACT, PURCHASER hereby preserves and may exercise any and all legal options, actions, causes, or remedies that are or may be available to the PURCHASER. Nothing in this provision or this CONTRACT shall be interpreted to limit the PURCHASER from exercising any such available legal options, actions, causes, or remedies.
11. Until such time as the SELLER completely vacates the PROPERTY, the SELLER agrees to indemnify, save and hold the PURCHASER, and all of its officers, employees, agents, servants, representatives, and volunteers free and harmless from any and all claims of liability, whatever the source or nature, related to the SELLER's use and occupation of the PROPERTY and from any and all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the SELLER's use or occupation of the PROPERTY. The SELLER shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the PURCHASER or any of its officers, employees, agents, servants, representatives, and volunteers by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees.

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12. The SELLER hereby acknowledges that the compensation or consideration specified in this CONTRACT represents and is the full and total amount of compensation and consideration that the SELLER will and is entitled to receive from the PURCHASER in exchange for, in relation to, and in connection with the transfer of the PROPERTY. The SELLER and the SELLER’s heirs, executors, administrators, successors, and assigns hereby forever release the PURCHASER from any and all claims for any damages, injuries, or any additional compensation or consideration than is expressly provided for in this CONTRACT. The SELLER hereby further forever releases the PURCHASER from any and all claims the SELLER, and the SELLER’s heirs, administrators, executors, successors, and assigns may make as related to the transfer of the PROPERTY, costs associated with the transfer of the PROPERTY, for any damage to any residue property as a result of the transfer, for any damage or injury suffered to the SELLER or the SELLER’s business as a result of relocating from the PROPERTY, for expenses related to the relocation of the SELLER, their family, and business, or any other cost, damage, or injury, whatever the source or nature, associated with or the result of the transfer of the PROPERTY.
13. This CONTRACT shall be binding upon the SELLER and the SELLER’s heirs, executors, administrators, successors and assigns, and shall inure to the benefit of the PURCHASER, its heirs, successors and assigns.
14. If any item, condition, portion, or section of this CONTRACT 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 CONTRACT and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
15. This CONTRACT shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this CONTRACT shall be filed in and heard before the courts of Delaware County, Ohio.
16. This CONTRACT and its Attachments shall constitute the entire understanding and agreement between the SELLER and the PURACHER, 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.
17. This CONTRACT shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

Vote on Motion                Mrs. Lewis        Aye        Mr. Merrell        Aye        -

**RESOLUTION NO. 15-886**

**IN THE MATTER OF APPROVING A CONTRACT OF SALE AND PURCHASE BETWEEN CALVIN F. & ALICE L. GRAHAM, TRUSTEES, AND THE BOARD OF DELAWARE COUNTY COMMISSIONERS FOR DEL-CR14-3.17, E. POWELL ROAD WIDENING:**

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

Whereas, the County Engineer recommends approval of the contract of sale and purchase with Calvin F. & Alice L. Graham, Trustees, for the project known as DEL-CR14-3.17, E. Powell Road Widening.

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the contract of sale and purchase with Calvin F. & Alice L. Graham, Trustees, for the project known as DEL-CR14-3.17, E. Powell Road Widening as follows:

**CONTRACT OF SALE AND PURCHASE  
VACANT LAND/IMPROVEMENTS**

**WITNESSETH:** On this 27<sup>th</sup> day of July, 2015, Calvin F. & Alice L. Graham, Trustees, 3734 E. Powell Road, Lewis Center, Ohio 43035 hereinafter, the SELLER, in consideration of the mutual promises, agreements, and covenants herein do hereby grant, remise, and sell to the Board of County Commissioners of Delaware County, Ohio, whose address is 101 North Sandusky Street, Delaware, Ohio 43015, hereinafter the PURCHASER, the following described premises, hereinafter the PROPERTY, to wit:

See Attached Exhibit A (Property Description)  
188-WD and 188-T – DEL-CR14-3.17, E. Powell Road Widening

By this reference, Exhibit A is incorporated herein and made a part hereof as if fully rewritten herein.

**TERMS OF PURCHASE:**

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1. PURCHASER promises and agrees to pay to the SELLER the total sum of Two Thousand Dollars (\$2,000.00) which total sum to be paid the SELLER pursuant to this CONTRACT shall be in exchange and constitute the entire compensation for all of the following:
  - a. All title, rights, and interest in and to the PROPERTY; and,
  - b. For damages to any residual lands of the SELLER; and,
  - c. For SELLER's covenants herein; and,
  - d. For expenses related to the relocation of the SELLER, their family, and business; and,
  - e. For any supplemental instruments necessary for transfer of title.
  - f. It is understood and agreed that the SELLER is responsible for all delinquent taxes and assessments on the PROPERTY, including, but not limited to, penalties and interest and all other real estate taxes and assessments which are a lien on the PROPERTY on the date of closing. The current calendar year's taxes are to be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever date is earlier. SELLER is also responsible for all future installments of special assessments levied and assessed against the PROPERTY, whether these special assessments have or have not been certified to the county auditor for collection, provided those installments are a lien on the PROPERTY at the date of transfer. The PURCHASER may hold in escrow a sufficient amount of the purchase money to satisfy the above items. Any balance remaining after taxes, assessments, etc. are discharged, shall be refunded to the SELLER and any deficiency shall be the responsibility of the SELLER.
2. Closing shall occur at a time and place agreed upon between the parties, but no later than 30 days after notification of the SELLER by the PURCHASER that PURCHASER is ready to close. All title and interest in the PROPERTY shall transfer from the SELLER to the PURCHASER and closing shall occur within ninety (90) days. This date by which transfer and closing must occur may be modified via a signed writing mutually agreed upon by all parties to this CONTRACT.
3. SELLER agrees to transfer, sell, and convey, upon the fulfillment of all the obligations and terms of this CONTRACT, by a good and sufficient deed of general warranty of title, with full release of dower, to said PURCHASER, its successors and assigns, the PROPERTY in fee simple, together with all the appurtenances and hereditaments thereunto belonging and improvements now located thereon and all fixtures of every nature now attached or used with said land and improvements.
4. SELLER further agrees to release to the PURCHASER, its heirs, successors and assigns, any and all abutters rights or easements, including access rights to and from the PROPERTY, what ever the nature of such access rights, including but not limited to, across, in, over, upon, and above, appurtenant to any remaining lands of the SELLER not sold, transferred, or conveyed to the PURCHASER pursuant to this CONTRACT of which the PROPERTY now forms a part. (This paragraph applies to limited access parcels only.)
5. SELLER further agrees to execute supplemental instruments necessary for the construction and maintenance over, across, and upon the PROPERTY, necessary for the road, street, and/or highway project for which the PROPERTY was acquired.
6. SELLER further agrees to transfer, sell, and convey the PROPERTY with release of dower and warranting the same free and clear from all liens and encumbrances whatsoever, excepting zoning restrictions and public utility easements of record.
7. SELLER further agrees to assist wherever possible to procure, record, and deliver to the PURCHASER releases and cancellations of all interest in such title, including, but not limited to tenants, lessees or others now in possession, or in any manner occupying or having an interest in the PROPERTY, and all assessment claims against the PROPERTY.
8. Prior to acceptance by the PURCHASER, the execution of this CONTRACT by the SELLER shall constitute an offer to sell which shall continue for a period of twenty (20) days from the date of such execution. Upon acceptance of this CONTRACT by the PURCHASER within said period, it shall constitute a valid and binding CONTRACT of Sale and Purchase.
9. SELLER agrees that the PURCHASER may designate an escrow agent who shall act on behalf of both parties in connection with the consummation and closing of this CONTRACT.
10. SELLER also agrees that he will not destroy, change, alter, or damage the existing character of the PROPERTY. The SELLER understands and hereby assumes the risk of and any and all damage, change, or alteration that may occur to the PROPERTY between execution of this CONTRACT and the date the PURCHASER takes possession of the PROPERTY and hereby agrees to indemnify the PURCHASER for any and all such damage, change, or alteration that occurs.
  - a. In the event that any damage, change, alteration or destruction occurs to the PROPERTY resulting from any cause whatsoever, prior to the date possession is surrendered to the



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PURCHASER, the SELLER agrees to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER, or to accept the purchase price consideration, hereinabove stated, less the cost of restoration. In the event the SELLER refuses to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER or to accept the money consideration less the cost of such restoration as hereinabove stated, the PURCHASER may, at its option after discovery or notification of such destruction, change, alteration, damage, removal, or injury, terminate this CONTRACT by signed written notice to said SELLER. In addition to termination of the CONTRACT, PURCHASER hereby preserves and may exercise any and all legal options, actions, causes, or remedies that are or may be available to the PURCHASER. Nothing in this provision or this CONTRACT shall be interpreted to limit the PURCHASER from exercising any such available legal options, actions, causes, or remedies.

11. Until such time as the SELLER completely vacates the PROPERTY, the SELLER agrees to indemnify, save and hold the PURCHASER, and all of its officers, employees, agents, servants, representatives, and volunteers free and harmless from any and all claims of liability, whatever the source or nature, related to the SELLER's use and occupation of the PROPERTY and from any and all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the SELLER's use or occupation of the PROPERTY. The SELLER shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the PURCHASER or any of its officers, employees, agents, servants, representatives, and volunteers by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees.
12. The SELLER hereby acknowledges that the compensation or consideration specified in this CONTRACT represents and is the full and total amount of compensation and consideration that the SELLER will and is entitled to receive from the PURCHASER in exchange for, in relation to, and in connection with the transfer of the PROPERTY. The SELLER and the SELLER's heirs, executors, administrators, successors, and assigns hereby forever release the PURCHASER from any and all claims for any damages, injuries, or any additional compensation or consideration than is expressly provided for in this CONTRACT. The SELLER hereby further forever releases the PURCHASER from any and all claims the SELLER, and the SELLER's heirs, administrators, executors, successors, and assigns may make as related to the transfer of the PROPERTY, costs associated with the transfer of the PROPERTY, for any damage to any residue property as a result of the transfer, for any damage or injury suffered to the SELLER or the SELLER's business as a result of relocating from the PROPERTY, for expenses related to the relocation of the SELLER, their family, and business, or any other cost, damage, or injury, whatever the source or nature, associated with or the result of the transfer of the PROPERTY.
13. This CONTRACT shall be binding upon the SELLER and the SELLER's heirs, executors, administrators, successors and assigns, and shall inure to the benefit of the PURCHASER, its heirs, successors and assigns.
14. If any item, condition, portion, or section of this CONTRACT 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 CONTRACT and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
15. This CONTRACT shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this CONTRACT shall be filed in and heard before the courts of Delaware County, Ohio.
16. This CONTRACT and its Attachments shall constitute the entire understanding and agreement between the SELLER and the PURCHASER, 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.
17. This CONTRACT shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

Vote on Motion                    -                    Mr. Merrell            Aye            Mrs. Lewis            Aye

**RESOLUTION NO. 15-887**

**IN THE MATTER OF APPROVING OWNER'S AGREEMENT FOR DERBY GLEN FARMS  
SECTION 3:**

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It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following agreement:

Whereas, The Engineer recommends approving the Owner's Agreement for Derby Glen Farms Section 3.

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the Owner's Agreement for Derby Glen Farms Section 3.

**OWNER'S AGREEMENT  
PROJECT NUMBER: 15012**

**THIS AGREEMENT**, executed on this 27<sup>th</sup> day of July, 2015 between **JEWETT ROAD, LLC**, hereinafter called '**OWNER**' and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **DERBY GLEN FARMS SECTION 3**, further identified as Project Number 15012 is governed by the following considerations to wit:

Said **OWNER** 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, all of which are a part of this **AGREEMENT**.

**OPTIONS:**

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

**OWNER** hereby elects to use Option 2 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or 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 actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

**All public improvement construction** shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** 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.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **FIFTY-FIVE THOUSAND DOLLARS (\$55,000)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

**Upon completion of construction**, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

**Acceptance of the project** into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

**Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer** during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**.

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The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within Delaware County and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County**.

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

**In consideration whereof**, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants the **OWNER** or his agent, the right and privilege to make the improvements stipulated herein.

**EXHIBIT “A”**

CONSTRUCTION COST ESTIMATE	\$980,700
CONSTRUCTION BOND AMOUNT	\$ N/A
MAINTENANCE BOND AMOUNT	\$ 98,070
INSPECTION FEE DEPOSIT	\$ 55,000

Vote on Motion            Mr. Merrell        Aye        -                            Mrs. Lewis        Aye

**RESOLUTION NO. 15-888**

**IN THE MATTER OF APPROVING OWNER’S AGREEMENT FOR TANGER OUTLETS OFFSITE DRAINAGE IMPROVEMENTS:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following agreement:

Whereas, The Engineer recommends approving the Owner’s Agreement for Tanger Outlets Offsite Drainage Improvements.

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the Owner’s Agreement for Tanger Outlets Offsite Drainage Improvements.

**OWNER’S AGREEMENT**

**THIS AGREEMENT** made and entered into this 27<sup>th</sup> day of July, 2015 by and between the **COUNTY OF DELAWARE** (acting through its **BOARD OF COUNTY COMMISSIONERS**, hereinafter called the **COUNTY**, and **COLUMBUS OUTLETS, LLC (OWNER #1) AND FALLON GILBERT CO., LLC (OWNER #2)**, as evidenced by the Engineering and Construction Plan for **TANGER OUTLETS OFFSITE DRAINAGE IMPROVEMENTS**, which was approved by the County Engineer, hereinafter called the **PLAN**, is governed by the following considerations to wit:

- 1) **OWNER #1** is to construct, install or otherwise make all of the improvements as shown and set forth to be performed and completed on the **PLAN**, which is part of this **AGREEMENT**.
- 2) **OWNER #1** shall pay the entire cost and expenses of said improvements.
- 3) **OWNER #1** has provided an irrevocable letter of credit or other approved financial warranty in the amount of **ONE HUNDRED NINETY-THREE THOUSAND DOLLARS (\$193,000)** payable to the **BOARD OF COUNTY COMMISSIONERS** to insure the faithful performance of this **AGREEMENT** and the completion of all of the said improvements in accordance with the current **“Delaware County Engineering and Surveying Standards for Subdivision Development”** and current **“Subdivision Regulations of Delaware County, Ohio”**. Said financial warranty will be released upon completion of the work to the satisfaction of the **COUNTY**.
- 4) **OWNER #1** has deposited inspection fees in the amount of **FIFTEEN THOUSAND FOUR HUNDRED DOLLARS (\$15,400)** estimated to be necessary to pay the cost of inspection by the Delaware County Engineer. Upon completion of the project and acceptance of the improvements by the Delaware County Commissioners, the remaining amount in the fund shall be returned to the **OWNER #1**.
- 5) **OWNER #1** is to complete all construction to the satisfaction of the **COUNTY** as evidenced by an approval letter from the Delaware County Engineer.
- 6) **OWNER #1 AND OWNER #2** shall hold the **COUNTY** free and harmless from any and all claims for damages of every nature arising or growing out of the construction of said improvements.
- 7) **OWNER #1** will at all times during the construction of said improvements maintain through traffic on the public roadway and keep the same free of unreasonable hazards to the public. Said roadway shall not be closed to traffic except as approved by the Delaware County Engineer. Construction signs, barricades and lights shall be placed as needed on the job site as needed in accordance with the

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**Ohio Department of Transportation “Uniform Traffic Control Devices” and “Traffic Control for Construction and Maintenance”.**

- 8) **OWNER #2** agrees to allow access to **OWNER #1** onto his property to perform all work relative to the public improvements shown and set forth the approved plan.
- 9) **OWNER #1 AND OWNER #2** further agree that any violation of or noncompliance with any of the provisions as stipulations of this **AGREEMENT** shall constitute a breach of contract, and the Delaware County Engineer shall have the right to stop work forthwith and use the surety for the completion of the improvements.
- 10) Should **OWNER #1** become unable to carry out the provisions of this **AGREEMENT**, the **OWNER #1’s** successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.
- 11) Upon approval and acceptance of the improvements, the original copy of the **PLAN** shall become the property of the **COUNTY** and shall be field in the office of the Delaware County Engineer.
- 12) In consideration whereof, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants to **OWNER #1** or his agent the right and privilege to make the said improvements stipulated herein.

Vote on Motion                      Mrs. Lewis              Aye              -                      Mr. Merrell              Aye

**RESOLUTION NO. 15-889**

**IN THE MATTER OF APPROVING FINAL LEGISLATION FOR THE STATE ROUTE 3 AND PLUMB ROAD INTERSECTION IMPROVEMENTS:**

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

**FINAL RESOLUTION**  
**PID No. 86149**

WHEREAS, the Board of Commissioners of Delaware County (“Board”) approved resolution #15-387 on April 6, 2015 proposing cooperation with the Director of Transportation to perform the following Improvement:

Installation of a new signal and left turn lanes on SR 3 at Plumb Road; and,

WHEREAS, the Director plans to undertake said Improvements as part of a larger Project consisting of the following:

The Project consists of two lane resurfacing, replacement of two culverts and minor signal work at existing signals, installation of new signal and left turn lane at SR 3 at Plumb Road and culvert replacement, lying within Delaware County; and,

WHEREAS, Delaware County proposes to cooperate with the Director of Transportation in the above described Project as follows:

Subject to receipt of contributions of \$25,000.00 by Genoa Township and \$25,000.00 by Berkshire Township, Delaware County will contribute a lump sum amount of \$100,000.00 to the construction of the Project; and,

WHEREAS, the Director of Transportation has accepted said legislation proposing cooperation and has caused to be made plans and specifications and an estimate of cost and expense for improving the above described highway and has transmitted copies of the same to Delaware County Engineer; and,

WHEREAS, the County desires the Director of Transportation proceed with the aforesaid highway improvement.

NOW, THEREFORE, Be It Resolved by the Board of Commissioners of Delaware County, that:

- 1. Delaware County agrees to contribute, as the entire local share of the above described Project, a lump sum of One Hundred Thousand and 00/100 Dollars (\$100,000.00) from the Road and Bridge Project fund subject to receipt of \$25,000 contributions from Berkshire and Genoa Townships, for use by the Director of Transportation in completing the Project; and,
- 2. The County Auditor is hereby authorized and directed to issue an order for payment of said sum upon the requisition of the Director of Transportation or the County Engineer to pay the cost and expense of said Improvement; and,
- 3. The Board hereby requests the Director of Transportation to proceed with the aforesaid highway Improvement; and,

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4. The Clerk is directed to transmit to the Director of Transportation a fully executed and certified copy of this resolution.

Vote on Motion - Mr. Merrell Aye Mrs. Lewis Aye

**RESOLUTION NO. 15-890**

**IN THE MATTER OF APPROVING PLANS, SPECIFICATIONS, ESTIMATE AND SETTING THE BID DATE FOR THE PROJECT KNOWN AS DEL-CR 13-1.27, WORTHINGTON ROAD IMPROVEMENTS:**

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

Whereas, Resolution Number 13-699 declared the necessity for and initiated the Improvement known as DEL-CR 13-1.27, Worthington Road Improvements, and;

Whereas, the County Engineer has prepared plans, specifications and estimates for the Improvement, and;

Whereas, the County Engineer has estimated the construction cost of the Improvement to be \$5,713,000;

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

Section 1: The plans, specifications and estimate for the project known as DEL-CR 13-1.27, Worthington Road Improvements are hereby approved, and;

Section 2: The County Engineer is authorized to advertise for and receive bids on behalf of the Board in accordance with the following Invitation to Bid:

***Public Notice***  
**Advertisement for Bids**

Bids shall be submitted electronically through the [www.bidexpress.com](http://www.bidexpress.com) webservice until 10:00 am on Tuesday, August 18, 2015, at which time they will be publicly received and read aloud, for the project known as:

**DEL-CR 13-1.27**  
**Worthington Road**

All proposals shall be submitted electrically through the web service [www.bidexpress.com](http://www.bidexpress.com). The bid shall be accompanied by a Bid Security in the form of a bid bond in the amount of one hundred percent (100%) of the bid or a certified check in the amount of ten percent (10%) of the bid. In addition to the Bid Security, a one (1) year Maintenance/Performance Bond is required for this project in the amount of one hundred percent (100%) of the total project cost.

The Owner of the project is the Delaware County Board of Commissioners. Copies of the plans and specifications must be obtained from [www.bidexpress.com](http://www.bidexpress.com). All bidders must register and be a member of the web service to bid on the project.

This notice is posted on the Delaware County website at [www.co.delaware.oh.us](http://www.co.delaware.oh.us) and may be accessed by selecting "Bids and Notices"

The Owner requires that all work associated with the project be completed before September 1, 2016. The estimated commencement of work date is August 24, 2015.

This is a prevailing wage contract in accordance with Ohio Revised Code Chapter 4111 and the requirements of the Ohio Department of Commerce, Division of Labor and Worker Safety, Wage and Hour Bureau. Bidders shall comply with all applicable provisions.

No bids shall be withdrawn for a period of sixty (60) days after the opening thereof. Awarding of the contract shall be to the Lowest and Best bidder as determined by the Delaware County Board of Commissioners in the best interest of Delaware County. The Board reserves the right to reject any or all bids.

Delaware Gazette Advertisement Dates: July 31, 2015

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye -

**RESOLUTION NO. 15-891**

**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 PROJECT KNOWN AS HOME AND STEITZ ROAD**

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**INTERSECTION, AND AUTHORIZING COMMISSIONER GARY MERRELL TO EXECUTE SAID AGREEMENT ALONG WITH APPROVING DISBURSEMENTS MADE AS A RESULT OF THIS AGREEMENT:**

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

WHEREAS, on December 2, 2013, the Delaware County Board of Commissioners (the "Board") adopted Resolution No. 13-1237, declaring the necessity for improvements to Home and Steitz Road Intersection, and Resolution No. 14-1069 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. 14-1069 authorized Commissioner Gary Merrell 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 (copy available for review at the Commissioners' Office until no longer of administrative value) with OPWC for the project known as Home and Steitz Road Intersection, further known as OPWC Project Control. No. DQS10.

Section 2: Commissioner Gary Merrell is authorized to execute the agreement with OPWC for the project known as Home and Steitz Road Intersection, OPWC Project Control No. DQS10, and to sign any disbursements made as a result of this agreement.

Vote on Motion                Mrs. Lewis                Aye                Mr. Merrell                Aye                -

**RESOLUTION NO. 15-892**

**IN THE MATTER OF REVISING THE COST ESTIMATE FOR AND THE PERMANENT BASE OF THE DITCH MAINTENANCE IMPROVEMENTS FOR RAVINES AT ALUM CREEK:**

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

WHEREAS, a Ditch Maintenance Petition ("Petition") was submitted by T&R Properties, Inc., owner of the project known as Ravines at Alum Creek ("Project"), and approved by Resolution Number 05-169; and

WHEREAS, construction of the Project was delayed after approval of said Petition; and

WHEREAS, the Project is currently under construction, and the costs of the improvements to go on Ditch Maintenance have increased; and

WHEREAS, the Project's engineer has provided a revised Ditch Maintenance Cost Estimate showing the current total cost of the improvements to be \$387,529.91, the current Basis for Calculating the per lot assessment to be \$5,784.03 and the current Annual Maintenance Fee to be \$115.68 per lot; and

WHEREAS, T&R Properties, Inc., as sole owner of the Project, has applied for such revisions and waived its right to any notice and a hearing for the increase of the Ditch Maintenance Fees and has deposited the additional \$2,393.74 owed as a result of said increase to Delaware County; and

WHEREAS, the County Engineer requests revisions noting the current cost of the improvements to go on Ditch Maintenance, the current Basis for Calculating the Assessment for each lot and the current Annual Maintenance Fee for each lot, all in accordance with sections 6137.11 and 6137.112 of the Revised Code;

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

Section 1. The Cost of the Drainage Improvements for Ravines at Alum Creek shall be revised to \$387,529.91, in lieu of the original estimate, and said amount shall serve as the permanent base that is used to calculate maintenance fund assessments for owners benefiting from the improvements.

Section 2. The Basis for calculating the Assessment for each lot shall be \$5,784.03.

Section 3. The Annual Maintenance Fee equal to 2% of the Basis shall be \$115.68.

Vote on Motion                -                Mr. Merrell                Aye                Mrs. Lewis                Aye

**RESOLUTION NO. 15-893**

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**IN THE MATTER OF DECLARING THE NECESSITY FOR IMPROVEMENTS TO MILLER PAUL AND FREDRICKS ROAD, INCLUDING THE REPLACEMENT OF TWO BRIDGES, AND APPROVING SPECIFICATIONS, ESTIMATES AND SETTING THE BID DATE FOR DEL-2015 DESIGN BUILD BRIDGE PACKAGE:**

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

Whereas, Section 5555.022 of the Revised Code provides that a Board of County Commissioners may find by a majority vote that the public convenience and welfare require the improving of any part of any public road, may fix the route and termini of the road, may fix the road and termini of the improvement and may authorize such improvement; and,

Whereas, the County Engineer has determined that the existing bridge on Miller Paul Road between Vans Valley and Trenton Roads in Trenton Township and the existing bridge on Fredericks Road between Stockwell and Monkey Hollow Roads in Porter Township are deficient and require replacement; and

Whereas, the County Engineer recommends that the Board proceed with the replacement of said bridges as a single design-build Improvement; and

Whereas, the County Engineer has prepared plans, specifications, a design-build scope of services and estimates for the Improvement; and

Whereas, the County Engineer has estimated the total construction cost of the Improvement to be \$422,000.

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

Section 1: The public convenience and welfare require replacement of the bridges on Miller Paul Road and Fredericks Road and the Improvement known as DEL-2015 Design Build Bridge Package be initiated for such purposes; and

Section 2: The plans, specifications and estimates for said Improvements are hereby approved; and,

Section 3: The County Engineer is authorized to advertise for and receive bids on behalf of the Board in accordance with the following Invitation to Bid:

***Public Notice***  
**Advertisement for Bids**

Bids shall be submitted electronically through the [www.bidexpress.com](http://www.bidexpress.com) webservice until 10:00 am on Tuesday, September 1, 2015, at which time they will be publicly received and read aloud, for the project known as:

**DEL 2015 Design Build  
Bridge Package**

All proposals shall be submitted electrically through the web service [www.bidexpress.com](http://www.bidexpress.com). The bid shall be accompanied by a Bid Security in the form of a bid bond in the amount of one hundred percent (100%) of the bid or a certified check in the amount of ten percent (10%) of the bid. In addition to the Bid Security, a one (1) year Maintenance/Performance Bond is required for this project in the amount of one hundred percent (100%) of the total project cost.

The Owner of the project is the Delaware County Board of Commissioners. Copies of the plans and specifications must be obtained from [www.bidexpress.com](http://www.bidexpress.com). All bidders must register and be a member of the web service to bid on the project.

This notice is posted on the Delaware County website at [www.co.delaware.oh.us](http://www.co.delaware.oh.us) and may be accessed by selecting "Bids and Notices"

The Owner requires that all work associated with the project be completed before May 20, 2016. The estimated commencement of work date is September 10, 2015.

This is a prevailing wage contract in accordance with Ohio Revised Code Chapter 4111 and the requirements of the Ohio Department of Commerce, Division of Labor and Worker Safety, Wage and Hour Bureau. Bidders shall comply with all applicable provisions.

No bids shall be withdrawn for a period of sixty (60) days after the opening thereof. Awarding of the contract shall be to the Lowest and Best bidder as determined by the Delaware County Board of Commissioners in the best interest of Delaware County. The Board reserves the right to reject any or all bids.

Delaware Gazette Advertisement Dates: July 31, 2015

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Vote on Motion            Mr. Merrell        Aye        -                                Mrs. Lewis        Aye

**RESOLUTION NO. 15-894**

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

It was moved by Mrs. Lewis, seconded by Mr. Merrell 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:

<b>Permit #</b>	<b>Applicant</b>	<b>Location</b>	<b>Type of Work</b>
U15-071	Fibertech	Big Walnut Road under I-71	Trench cable
U15-072	Fibertech	Bale Kenyon Road under I-71	Trench cable
U15-073	Columbia Gas	Worthington Road Bridge	Relocate gas line
U15-074	Frontier	Africa Road starting at State Route 36 south 1400 feet	Place aerial cable in right-of-way
U15-075	Columbia Gas	Brookview Manor Phase 1	Install gas in right-of-way
U15-076	AT&T	E. Powell Road	Place cable in right-of-way
U15-077	Time Warner Cable	Green Meadows Drive starting at Orange Road south 500 feet	Bury fiber
U15-078	Time Warner Cable	Northwest corner of Lazelle Road at US 23	Place cable in right-of-way

Vote on Motion            Mrs. Lewis        Aye        -                                Mr. Merrell        Aye

**RESOLUTION NO. 15-895**

**IN THE MATTER OF APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND S&ME, INC. FOR PROFESSIONAL SERVICES FOR THE TIP FLOOR REHAB:**

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

Whereas, the Director of Environmental Services recommends approval of the following Agreement;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approves the following Agreement with S&ME, Inc. for Professional Services for the Tip Floor Rehab Project.

**PROFESSIONAL SERVICES CONTRACT**  
**Delaware County Solid Waste Transfer Station - Tip Floor Rehab**

**Section 1 – Parties to the Agreement**

This Agreement is made and entered into this 27th day of July, 2015, by and between Delaware County, Ohio, by and through the Delaware County Board of Commissioners, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and S&ME Inc., 6190 Enterprise Court, Dublin, OH 43016 (“Consultant”).

**Section 2 – Contract Administrator**

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

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

Consultant agrees to furnish, unto the County, professional services in accordance with the Scope of Services and Price Proposal dated *May 11, 2015* (EXHIBIT A), by this reference hereby made part of this Agreement. Consultant further agrees to perform the Work promptly and in a skillful and competent manner under the direction of the Administrator and in accordance with accepted professional standards.

**Section 4 – Compensation**

The County will compensate Consultant for the work specified above as follows:

\$11,525.00

The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Services.



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**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.

**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 subconsultants and 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 subconsultants and 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 subconsultants and 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 subconsultants and 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 subconsultants and 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,

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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.

13.2 **Independent Contractor:** The Parties acknowledge and agree that Consultant 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. Consultant also agrees that, as an independent contractor, Consultant 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.

Consultant, acting as an independent Contractor, hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.

The County is a public employer as defined in R.C. § 145.01(D). The County has classified Consultant as an independent contractor or another classification other than public employee. As a result, no contributions will be made to the Ohio Public Employees Retirement System (“OPERS”) for or on behalf of Consultant for services and/or deliverables rendered and/or received under or pursuant to this Agreement. Consultant acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed it of such classification and that no contributions will be made to OPERS. In support of being so informed and pursuant to R.C. § 145.038, Consultant agrees to and shall complete an OPERS Independent Contractor Acknowledgement Form (“Form”). The Form is attached hereto and by this reference is incorporated as a part of this Agreement. The County shall retain the completed Form and immediately transmit a copy of it to OPERS.

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

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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.

Furthermore, Be It Resolved that the Board of County Commissioners approve a purchase order with S&ME, Inc. in the amount of \$11,525.00 from org key 68011916-5301.

Vote on Motion - Mr. Merrell Aye Mrs. Lewis Aye

**RESOLUTION NO. 15-896**

**THE MATTER OF APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND MIKE ZIMMERMAN FOR DRAINAGE IMPROVEMENTS AT THE TRANSFER STATION:**

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

Whereas, the Director of Environmental Services recommends approval of the following Agreement;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approves the following Agreement with Mike Zimmerman for Drainage Improvements at the Transfer Station.

**SERVICES CONTRACT**

**Section 1 – Parties to the Agreement**

This Agreement is made and entered into this 27th day of July, 2015 by and between Delaware County, Ohio, by and through the Delaware County Board of Commissioners, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Mike Zimmerman P.O. Box 467 Delaware, Ohio 43015 (“Contractor”) (hereinafter collectively referred to as the “Parties”).

**Section 2 – Contract Administrator**

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

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

Install 60LF of 12 inch SDR 35 water tight gasket Pipe to a Catch basin. Line will tie into the County pump station with a water tight connection. Backfill will be CDF up to 8 inches and will then be 4000 Psi air entrained concrete.

**Section 4 – Compensation**

The County shall pay the Contractor for the services provided in the total sum of Twenty One Thousand Six Hundred Dollars and Zero Cents (\$21,600.00).

**Section 5 – Payment**

Compensation shall be paid based on invoices in accordance with the Proposal. Invoices shall be submitted to the Administrator by the Contractor on company letterhead clearly listing the word “Invoice” with a sequential invoice

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number provided. The County may request additional documentation to substantiate said invoices and the Contractor shall promptly submit documentation as needed to substantiate said invoices. The County shall pay invoices within thirty (30) days of receipt.

**Section 6 – Term**

This Agreement shall be in effect upon execution of this Agreement until the services have been completed.

**Section 7 – Insurance**

- 7.1 **General Liability Coverage:** Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.2 **Automobile Liability Coverage:** Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.3 **Workers' Compensation Coverage:** Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.4 **Additional Insureds:** The County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 7.1 and 7.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 7.5 **Proof of Insurance:** Prior to the commencement of any work under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement and properly executed endorsements listing the additional insured as required in Subsection 7.4. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Agreement.

**Section 8 – Liability and Warranties**

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

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

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

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

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

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

**Section 11 – Miscellaneous Terms & Conditions**

- 11.1 **Prohibited Interests:** Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 11.2 **Entire Agreement:** This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Contractor, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.
- 11.3 **Governing Law:** This Agreement shall be governed by and interpreted in accordance with the laws of the

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State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.

- 11.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.
- 11.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 11.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 11.7 Findings for Recovery: Contractor certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.
- 11.8 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

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

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

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

- 11.9 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.
- 11.10 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.

Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.

The County is a public employer as defined in R.C. § 145.01(D). The County has classified Contractor as an independent contractor or another classification other than public employee. As a result, no contributions will be made to the Ohio Public Employees Retirement System (“OPERS”) for or on behalf of

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Contractor for services and/or deliverables rendered and/or received under or pursuant to this Agreement. Contractor acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed it of such classification and that no contributions will be made to OPERS. In support of being so informed and pursuant to R.C. § 145.038, Contractor agrees to and shall complete an OPERS Independent Contractor Acknowledgement Form ("Form"). The Form is attached hereto and by this reference is incorporated as a part of this Agreement. The County shall retain the completed Form and immediately transmit a copy of it to OPERS.

Furthermore, Be It Resolved that the Board of County Commissioners approve a purchase order with M Zimmerman in the amount of \$21,600.00 from org key 68011916-5403.

Vote on Motion            Mr. Merrell        Aye    Mrs. Lewis        Aye    -

**RESOLUTION 15-897**

**IN THE MATTER OF MODIFYING THE BOUNDARY OF THE DELAWARE COUNTY REGIONAL 1A SEWER DISTRICT:**

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

WHEREAS, pursuant to section 6117.01(B)(1) of the Revised Code, for the purpose of preserving and promoting the public health and welfare, a board of county commissioners may lay out, establish, consolidate, or otherwise modify the boundaries of, and maintain, one or more sewer districts within the county and outside municipal corporations; and

H1

WHEREAS, the Delaware County Board of Commissioners (the "Board") has established the Regional 1A Sewer District, which is the existing sanitary service area that includes all wastewater discharges tributary to and treated by either the Olentangy Environmental Control Center (OECC) or the Alum Creek Wastewater Reclamation Facility (ACWRF); and

WHEREAS, the following parcels are located in part or in whole outside of the current boundary for the Regional 1A Sewer District and are identified with the following Parcel Identification Numbers:

- |                |                |                |
|----------------|----------------|----------------|
| 41722001017000 | 41723001002000 | 41724002006000 |
| 41722001018000 | 41723001001000 | 41724002005000 |
| 41723001005000 | 41724002001000 | 41724002004000 |
| 41723001004000 | 41724002008000 | 41724002003000 |
| 41723001003000 | 41724002007000 | 41724002002000 |
| 41723001003001 |                |                |

(the "Berkshire/Ciminello Parcels") and shown on the attached Exhibit A; and

WHEREAS, Berkshire Township and Joe Ciminello, representing the many of the individual parcel owners, have requested that the Board modify the boundary of the Regional 1A Sewer District to include the Berkshire/Ciminello Parcels, in order to allow for orderly development of the area adjacent to the Tanger Outlet Mall and to preserve and promote public health and welfare; and

WHEREAS, the County wishes to provide the opportunity for sanitary sewer service to a currently unsewered area surrounded by the current boundaries for the Northstar Wastewater Treatment Plant Service Area, the Bent Tree Wastewater Treatment Plant Service Area, and the future Central Big Walnut Service Area as defined by the 2005 Sewer Master Plan, and is identified with the following Parcel Identification Numbers:

- |                |                |                |
|----------------|----------------|----------------|
| 41721002036000 | 41721002027000 | 41721002032000 |
| 41721002035000 | 41721002026000 | 41721001004000 |
| 41721002034000 | 41721002025000 | 41721001005000 |
| 41721002033000 | 41721002024000 | 41721001006000 |
| 41721002031000 | 41721002023000 | 41721001007000 |
| 41721002030000 | 41721002022000 | 41721001008000 |
| 41721002029000 | 41721002022001 | 41721001009000 |
| 41721002028000 | 41721002020000 | 41721001010000 |
|                |                | 41721001011000 |

(the "Unsewered North Galena Road Parcels") and shown on the attached Exhibit A; and

WHEREAS, the capacity of the existing sewer system is limited by the existing infrastructure and the modification of the Regional 1A Sewer District boundary does not increase the capacity available.

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

COMMISSIONERS JOURNAL NO. 63 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD JULY 27, 2015

Section 1. The Board hereby modifies the boundary of the Delaware County Regional 1A Sewer District to include the Berkshire/Ciminello Parcels, finding that said modification is for the purpose of preserving and promoting the public health and welfare, as well as economic development purposes.

Section 2. The Board hereby modifies the boundary of the Delaware County Regional 1A Sewer District to include the Unsewered North Galena Road Parcels, finding that said modification is for the purpose of preserving and promoting the public health and welfare.

Section 3. The Board hereby directs the Delaware County Sanitary Engineer to cause the official map of the Regional 1A Sewer District to be amended to indicate the modification approved in Sections 1 and 2 of this Resolution.

Section 4. The Board hereby declares that improvements to the existing sanitary sewer collection system are necessary in order to provide sanitary sewer service to the Berkshire/Ciminello and Unsewered North Galena Road Parcels. The cost and construction of the improvements shall not be the responsibility of the County and shall be borne by others.

Section 5. The Board hereby directs the Delaware County Sanitary Engineer to coordinate and negotiate with the adjacent sewer service providers (Sunbury and Galena) to plan for future sewer service to the Central Big Walnut Service Area.

Section 6. If future service area and infrastructure planning with other sewer service providers results in additional amendments to the Regional 1A Sewer District, the costs for the infrastructure improvements referenced in Section 4 shall not be reimbursed to others by the County.

Section 7. This Resolution shall take effect immediately upon adoption.

Vote on Motion            Mrs. Lewis        Aye    Mr. Merrell        Aye    -

**RESOLUTION NO. 15-898**

**IN THE MATTER OF APPROVING THE SANITARY SEWER IMPROVEMENT PLANS FOR VERONA FORCEMAIN IMPROVEMENTS:**

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

Whereas, the Director of Environmental Services recommends sanitary sewer plans for Verona Forcemain Improvements for submittal to the Ohio EPA for their approval.

Therefore be it resolved, that the Board of Commissioners approves sanitary sewer plans for Verona Forcemain Improvements for submittal to the Ohio EPA for their approval.

Vote on Motion            Mr. Merrell        Aye    Mrs. Lewis        Aye    -

**RESOLUTION NO. 15-899**

**IN THE MATTER OF APPROVING THE SANITARY SEWER CONSTRUCTION PLANS INCLUDED WITHIN THE DEL-CR 13-1.27 WORTHINGTON ROAD PLAN:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the sanitary sewer construction plans included within the DEL-CR 13-1.27 Worthington Road plan for submittal to the Ohio EPA for their approval.

Whereas, the Director of Environmental Services recommends the sanitary sewer construction plans included within the DEL-CR 13-1.27 Worthington Road plan for submittal to the Ohio EPA for their approval.

Therefore be it resolved, that the Board of Commissioners approves the sanitary sewer construction plans included within the DEL-CR 13-1.27 Worthington Road plan for submittal to the Ohio EPA for their approval.

Vote on Motion            Mrs. Lewis        Aye    Mr. Merrell        Aye    -

**ADMINISTRATOR REPORTS**

**Tim Hansley**  
**-No reports**

**COMMISSIONERS' COMMITTEES REPORTS**

**Commissioner Lewis**  
**-Attended the Sawmill Parkway ground-breaking last Thursday. More development means more job for our county.**

**Commissioner Merrell**  
**-Also attended the ground-breaking. The event was well attended. The creation of more jobs by**

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expanding the parkway will be an asset to the county.

**RECESS 9:50AM**

**IN THE FIELD:**

**1:30 PM RECONVENING OF VIEWING FOR CONSIDERATION OF THE DRAINAGE IMPROVEMENT PETITION FILED BY EPCON COMMUNITIES, INC. TO VACATE PORTIONS OF THE EXISTING STORM WATER EASEMENTS IN THE ORANGE CENTRE DEVELOPMENT SECTION 1 PROJECT #0723 (UPON APPROVAL OF CONSTRUCTION OF NEW ALIGNMENT AND EASEMENT WITHIN THE COURTYARDS AT HIDDEN RAVINES SECTION 1, 2, AND 3)**

On **Monday July 27, 2015 at 1:30PM** near the following on East Hidden Ravines Dr. about 200' west of the intersection with Highfield Drive, (near the front of the pond), The Delaware County Commissioners viewed the watershed area with staff members from the Delaware County Soil and Water Conservation District.

**Commissioners Present: Gary Merrell, and Barb Lewis**

On April 24, 2015, a Drainage Petition For Epcon Communities, Inc. To Vacate Portions Of The Existing Storm Water Easements In The Orange Centre Development Section 1 Project #0723 (Upon Approval Of Construction Of New Alignment And Easement Within The Courtyards At Hidden Ravines Section 1, 2, And 3) Was Filed With The Board Of County Commissioners To:

1. Vacate portions of the existing storm water management improvements and associated maintenance easements in the Orange Centre Development Section 1 Project #0723 upon approval of construction of proposed new alignment and easement within the Courtyards at Hidden Ravines Section 1, 2, and 3.
2. Commencing In Delaware County, Orange Township In The Orange Centre Development Section 1 Project #0723

**NOTE: the first hearing on the petition is scheduled for Monday August 6, 2015, at 9:45AM**

The Commissioners:

- Looked At The Proposed Vacation And New Alignment Area
- Viewed Existing Outlets (No Current Outlets Will Change)
- Proposed Realignment Will Have Same Or Better Capacity As Current (Flipping The Pond Area)
- Viewed Maps Of Area (Current Drainage Infrastructure Wet Retention Basin)
- The Infrastructure In This Area Will Be Approved By The County Engineer

For this petition, all of the cost will be paid by Epcon Communities

- projects since 1998 are automatically placed on County Drainage Maintenance Program
- this is a landowner initiated process and detailed surveys follow if the project moves past the first hearing
- if approved the storm water infrastructure will be placed on the County Drainage Maintenance Program
- if approved money pooled only for this project; assessments placed on build-able lots current and future

-4 Factors Determine Possible Assessment: Acres Benefited, Land Use, Percent Of Improvement Used; Remote Factor

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



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**SIGN-IN SHEET FOR JULY 27, 2015**

1:30 PM Reconvene Viewing For Consideration Of The Drainage Improvement Petition Filed By Epcon Communities, Inc. (On East Hidden Ravines Dr. About 200' West Of The Intersection With Highfield Drive)

	NAME	ADDRESS
1	Gary Merrell	Commissioner
2	Barb Lewis	Commissioner
3	Jennifer Walraven	Board Clerk
4	Myra Busil	Milson Company
5	Bob SMITH	Gilson
6	FRANK METZGER	CONTINENTAL BUILDERS INC
7	Matt Lorum	DSLWD
8	Brian Prenger	EMH&T Inc.
9	Todd Pomorski	EPCON COMMUNITIES

There being no further business, the meeting adjourned.

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 Gary Merrell

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 Barb Lewis

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 Jennifer Walraven, Clerk to the Commissioners