

COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016

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

Present:
Barb Lewis, President
Jeff Benton, Vice President
Gary Merrell, Commissioner

1
RESOLUTION NO. 16-90

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JANUARY 28, 2016:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on January 28, 2016; 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 Mr. Benton Aye

2
PUBLIC COMMENT

3
ELECTED OFFICIAL COMMENT

4
RESOLUTION NO. 16-91

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0129:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0129 and Purchase Orders as listed below:

PR Number	Vendor Name	Line Desc	Account	Amount	Line
R1601888	LEND LEASE (US) CONSTRUCTION INC	GMP - PHASE 1	40411414 - 5410	\$3,576,854.00	0001
R1601932	VERIZON	MIFI FOR IPADS	10011303 - 5315	\$ 8,700.00	0001
R1601935	BUCKEYE POWER SALES CO INC	EQUIPMENT FOR REPAIR OF GENERATORS	10011105 - 5201	\$ 1,000.00	0001
R1601935	BUCKEYE POWER SALES CO INC	LABOR FOR GENERATOR REPAIR	10011105 - 5328	\$ 2,500.00	0002
R1601935	BUCKEYE POWER SALES CO INC	SERVICE CONTRACT FOR GENERATORS	10011105 - 5325	\$ 3,500.00	0003
R1601938	SYNERGY MECHANICAL CONTRACTORS INC	SPRINKLERS AND BACKFLOW SERVICE CONTRACT	10011105 - 5325	\$ 21,000.00	0001
R1601938	SYNERGY MECHANICAL CONTRACTORS INC	REPAIR SERVICES FOR SPRINKLERS AND BACKFLOW	10011105 - 5328	\$ 7,500.00	0002
R1601995	DUDE SOLUTIONS INC	CAPITAL FORECAST MODULE	10011105 - 5320	\$ 6,862.50	0001
R1601996	ULTIMATE CARE SUPPORTED LIVING	IN HOME RESPITE CARE	22511607 - 5342	\$ 27,216.00	0001

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

5
RESOLUTION NO. 16-92

IN THE MATTER OF APPROVING OWNER'S AGREEMENTS FOR NORTH FARMS SECTION 3 AND NORTH FARMS SECTION 7, PHASE A:

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

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

Whereas, The Engineer recommends approving the Owner's Agreements For North Farms Section 3 and North Farms Section 7, Phase A

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the Owner's Agreements for North Farms Section 3 and North Farms Section 7, Phase A.

Owner's Agreement for North Farms Section 3

**OWNER'S AGREEMENT
PROJECT NUMBER: 15045**

THIS AGREEMENT, executed on this 1st day of February, 2016 between **ROCKFORD HOMES**, hereinafter called '**OWNER**' and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **NORTH FARMS SECTON 3**, further identified as Project Number 15045 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 1 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 **THIRTY THOUSAND DOLLARS (\$30,000)** 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,

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

which plans shall become the property of the COUNTY and remain in the office of the Delaware County Engineer.

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	\$528,600
CONSTRUCTION BOND AMOUNT	\$528,600
MAINTENANCE BOND AMOUNT	\$ 52,900
INSPECTION FEE DEPOSIT	\$ 30,000

Owner's Agreement for North Farms Section 7, Phase A

**OWNER'S AGREEMENT
PROJECT NUMBER: 15073**

THIS AGREEMENT, executed on this 1st day of February, 2016 between ROCKFORD HOMES, hereinafter called "OWNER" and the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS), for the project described as NORTH FARMS SECTON 7, PHASE A, further identified as Project Number 15073 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 1 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 TWENTY-SEVEN THOUSAND DOLLARS (\$27,000) 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.

COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016

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.

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	\$337,500
CONSTRUCTION BOND AMOUNT	\$337,500
MAINTENANCE BOND AMOUNT	\$ 33,700
INSPECTION FEE DEPOSIT	\$ 27,000

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

6
RESOLUTION NO. 16-93

IN THE MATTER OF ESTABLISHING A MAINTENANCE BONDS AND RETURNING CONSTRUCTION BONDS FOR ENCLAVE AT THE LAKES AND NORTH FARMS SECTIONS 6 & 11:

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

Enclave at the Lakes

The roadway construction has been completed for the referenced subdivision and, as the results of The Engineer's recent field review, The Engineer has determined that only minor remedial work remains which can be accomplished during the subsequent one year maintenance period. Therefore, in accordance with the Owner's Agreement, The Engineer recommends that the maintenance bond be set at \$186,500 (10% of the original construction estimate) and the project be placed on the required one year maintenance period. A Maintenance Bond in that amount is in place. The Engineer also requests permission to return the Bond being held as construction surety to the owner, M/I Homes of Central Ohio, LLC.

North Farms Sections 6 & 11

The roadway construction has been completed for the referenced subdivision and, as the results of The Engineer's recent field review, The Engineer has determined that only minor remedial work remains which can be accomplished during the subsequent one year maintenance period. Therefore, in accordance with the Owner's Agreement, The Engineer recommends that the maintenance bond be set at \$172,800 (10% of the

COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016

original construction estimate) and the project be placed on the required one year maintenance period. A Maintenance Bond in that amount is in place. The Engineer also requests permission to return the Bond being held as construction surety to the owner, M/I Homes of Central Ohio, LLC.

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

7
RESOLUTION NO. 16-94

IN THE MATTER OF APPROVING THE PLAT OF SUBDIVISION FOR THE INN AT BEAR TRAIL:

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

Whereas, The Jerry McClain Co., Inc. has submitted the Plat of Subdivision (“Plat”) for The Inn at Bear Trail, including related development plans (“Plans”) and requests approval thereof by the Board of Commissioners of Delaware County; and

Whereas, the Orange Township Zoning Officer has reviewed said Plat and Plans for conformance with Township Zoning Regulations and approved said Plat on November 18, 2015; and

Whereas, Del-Co Water Company has reviewed said Plat and Plans for conformance with its rules and regulations and approved said Plat on November 19, 2015; and

Whereas, the Delaware County Sanitary Engineer has reviewed said Plat and Plans for conformance with the Rules, Regulations, Standards and General Procedures Governing Sewerage in Delaware County and approved said Plat on November 20, 2015; and

Whereas, the Delaware County Engineer has reviewed said Plat and Plans for conformance with Delaware County Engineering and Surveying Standards and approved said Plat on November 23, 2015; and

Whereas, the Delaware County Regional Planning Commission has reviewed said Plat and Plans for conformance with Delaware County Subdivision Regulations and approved said Plat on December 23, 2015.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the Plat of Subdivision for The Inn at Bear Trail.

The Inn at Bear Trail

Situated in the State of Ohio, County of Delaware, Township of Orange, and in Farm Lot 4 (0.367 acres), Quarter Township 3 and Farm Lot 23 (14.618 Acres), Quarter Township 4, Township 3, Range 18, United States Military Lands, containing 14.985 acres of land, more or less, said 14.985 acres being all of the remainder of that tract of land conveyed to The Inn at Bear Trail Limited by deed of record in Official Record 1350, Page 2798, Recorder’s Office, Delaware County, Ohio. Cost: \$3.

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

8
RESOLUTION NO. 16-95

IN THE MATTER OF APPROVING A CONTRACT OF SALE AND PURCHASE BETWEEN MICHAEL D. HART AND CYNTHIA I. HART, HUSBAND & WIFE, AND THE BOARD OF DELAWARE COUNTY COMMISSIONERS FOR DEL-CR10-0.90, S. OLD STATE ROAD WIDENING:

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

Whereas, the County Engineer recommends approval of the contract of sale and purchase with Michael D. Hart and Cynthia I. Hart, husband & wife, for the project known as DEL-CR10-0.90, S. Old State Road Widening.

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the contract of sale and purchase with Michael D. Hart and Cynthia I. Hart, husband & wife, for the project known as DEL-CR10-0.90, S. Old State Road Widening as follows:

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

WITNESSETH: On this 1st day of February, 2016, Michael D. Hart and Cynthia I. Hart, husband and wife, whose address is 8040 S. Old State Rd., Lewis Center, Ohio 43035 hereinafter, the SELLER, in consideration of the mutual promises, agreements, and covenants herein do hereby grant, remise, and sell to

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

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)
Par. 138 WD, CH, S
DEL-CR10-0.90, S. Old State 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 One hundred and eighteen thousand, twenty two dollars (\$118,022.00) 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 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.

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

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.
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.

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

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. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

9

RESOLUTION NO. 16-96

IN THE MATTER OF APPROVING REAL ESTATE ACQUISITION SERVICES AGREEMENTS BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND HINKLE REAL ESTATE ADVISORS, INC.; BRIAN W. BARNES & CO., INC.; ROURKE ACQUISITION SERVICES, INC.; AND THE ROBERT WEILER COMPANY:

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

Whereas, Section 305.15 of the Revised Code provides that a Board of Commissioners may enter into contracts with any person, firm, partnership, association, or corporation qualified to perform engineering services in the state; and

Whereas the County Engineer recommends approval of agreements with Hinkle Real Estate Advisors, Inc.; Brian W. Barnes & Co., Inc.; Rourke Acquisition Services, Inc.; and The Robert Weiler Company for real estate acquisition services.

Now, Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the agreements with Hinkle Real Estate Advisors, Inc.; Brian W. Barnes & Co., Inc.; Rourke Acquisition Services, Inc.; and The Robert Weiler Company for real estate acquisition services as follows:

Real Estate Acquisition Services Agreement with Hinkle Real Estate Advisors, Inc.

DELAWARE COUNTY, OHIO
Real Estate Acquisition Services Agreement

Section 1 – Parties to the Agreement

This Agreement is made and entered into this 1st day of February, 2016 by and between the Delaware County Board of Commissioners, Delaware County, Ohio (“County”), and the firm of Hinkle Real Estate Advisors, Inc., 7140 North High Street, Suite #210, Worthington, Ohio 43085 (“Consultant”).

Section 2 – Contract Administrator

The Delaware County Board of Commissioners hereby designates the Delaware County Engineer as Administrator and agent of the Board for performance of the Work performed under this Agreement. The Administrator shall have the right to issue Notice to Proceed, Notice to Suspend or Notice to Resume Work under this Agreement within the dates to which this Agreement is effective and shall have general supervision of the Work.

Section 3 – Basic Services of Consultant

The duties of the Consultant shall encompass the following tasks within Delaware County.

- A. Appraisal Services, appraisers shall be selected from the ODOT prequalified list for parcels over \$10,000 in value;
- B. Value Analysis, for parcels under \$10,000 in value at a rate of \$750 per report.
- C. Value Finding Reports at a rate of \$1,750 per report.
- D. Summary Reports not to exceed \$10,000 per report.
- E. Appraisal Updates billed at 50% of the original appraisal fee unless significant plan changes have occurred.
- F. Value Analysis reviews at \$400 per each.
- G. Parcel Impact Notes at \$125 per each
- H. Value Finding reviews at \$900 per each.
- I. Summary Report reviews at 50% of initial appraisal fee.
- J. Pre-Trial Services including consultation, depositions, interrogatories, trial preparation and court testimony are billed at the rate of \$250 per hour.

Section 4 – Payment for Professional Services

- 4.1 The County agrees to pay the Consultant as compensation for professional services as listed in Section 3, an amount not to exceed Seventy-Five Thousand Dollars (\$75,000.00). Costs will vary depending on actual time required to perform the services requested.
- 4.2 The actual cost plus reimbursable expenses as incurred by the Consultant in the performance of the portion of the work outlined in Section 3 of this Agreement, shall not exceed the amount stipulated in Section 4.1 without an amendment to the Agreement duly authorized by the County.
- 4.3 Payment for services performed shall be due and payable monthly, based on the actual time and expenses incurred by the Consultant in the performance of the services on the project.

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

Section 5 – Payment

- 5.1 Notwithstanding any provision in this contract to the contrary, the maximum obligation of the County under this contract is limited to the amount of \$75,000. Unless the County appropriates and authorizes the expenditure of additional funds pursuant to proper modification of this contract, the Consultant's duties and obligations to perform additional services under this contract shall be considered ended December 31, 2016 or when the amount of \$75,000, as described previously, has been invoiced and paid to the Consultant (whichever comes first) in accordance with the provisions of this Section. Payment of invoices submitted to the County by the Consultant shall be made by the County within thirty (30) days of the date the County receives the invoice. If the maximum obligation of the County provided herein is changed properly, then the new amount will control the continuation of the duties and obligations of the Consultant to perform additional services.
- 5.2 County shall provide all criteria and full information as to County's requirement for the Project; designate a person to act with authority on County's behalf in respect of all aspects of the Consultant's submissions; and give prompt written notice to Consultant whenever County observes or otherwise becomes aware of any defect in the work.

Section 6 – Time of Schedule and Completion

- 6.1 The Consultant shall provide a written, detailed cost proposal for each project at the request of the County prior to services being performed.
- 6.2 After notification from the County to proceed, the Consultant shall, to the extent possible, schedule activities to meet specific project dates as requested by the County.

Section 7 – Insurance

- 7.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.4 Additional Insureds: The County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 7.1 and 7.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 7.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement and properly executed endorsements in accordance with 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. 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 Delaware County and its officials and 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 extent caused in whole or part 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.

As the County's sole and exclusive remedy under this Agreement any claim, demand or suit shall be directed and/or asserted only against the Consultant and not against any of the Consultant's employees, officers or directors.

The Consultant's liability with respect to any claims arising out of this Agreement shall be absolutely limited to direct damages arising out of the work, and the Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the County, including but not limited to, claims for loss of use, loss of profits and loss of markets.

Section 9 – Termination of Agreement

The County reserves the right to terminate this Agreement at any time for reasons identified in this Agreement or for any other reasons, for the convenience of the County. Upon termination of the Agreement, the County will provide written notice to the Consultant to terminate all work at which time the Consultant shall terminate all work associated with this Agreement and submit a final invoice for the portion of the work completed to date. The

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

County shall not be responsible for payment for any work performed after the date of termination.

Section 10 – Change in Scope of Work

In the unforeseen event that substantial changes to the scope of work as defined in Section 3 are required during performance of work under this Agreement, 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 Documents

Upon completion or termination of the Agreement, the Consultant shall provide copies, if requested, to the County of all documents as part of this Agreement. The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed written or electronic work produced exclusively as part of this 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 project, without the prior express written consent of County.

13.2 **Independent Contractor:** Consultant agrees that he/she/it shall act in performance of this Agreement as an independent contractor. No agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Agreement. Consultant assumes all responsibility for any and all federal, state, municipal, or other tax liabilities, along with workers compensation, unemployment compensation, contributions to retirement plans, and/or insurance premiums which may accrue and/or become due as a result of compensation received for services and/or deliverables rendered and/or received under or pursuant to this Agreement.

The County is a public employer as defined in R.C. § 145.01(D). The County has classified the 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 or any of Consultant’s employees 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 he/she/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

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

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

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

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

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

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

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

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

Real Estate Acquisition Services Agreement with Brian W. Barnes & Co., Inc.

DELAWARE COUNTY, OHIO
Real Estate Acquisition Services Agreement

Section 1 – Parties to the Agreement

This Agreement is made and entered into this 1st day of February, 2016 by and between the Delaware County Board of Commissioners, Delaware County, Ohio (“County”), and the firm of Brian W. Barnes & Co., Inc. 6860 Perimeter Drive, Suite B, Dublin, OH 43016 (“Consultant”).

Section 2 – Contract Administrator

The Delaware County Board of Commissioners hereby designates the Delaware County Engineer as Administrator and agent of the Board for performance of the Work performed under this Agreement. The Administrator shall have the right to issue Notice to Proceed, Notice to Suspend or Notice to Resume Work under this Agreement within the dates to which this Agreement is effective and shall have general supervision of the Work.

Section 3 – Basic Services of Consultant

The duties of the Consultant shall encompass the following tasks within Delaware County.

- A. Appraisal Services, appraisers shall be selected from the ODOT prequalified list for parcels over \$10,000 in value;
- B. Value Analysis, for parcels under \$10,000 in value at a rate of \$750 per report.
- C. Value Finding Reports at a rate of \$1,750 per report.
- D. Summary Reports not to exceed \$10,000 per report.
- E. Appraisal Updates billed at 50% of the original appraisal fee unless significant plan changes have occurred.
- F. Value Analysis reviews at \$400 per each.
- G. Parcel Impact Notes at \$125 per each
- H. Value Finding reviews at \$900 per each.
- I. Summary Report reviews at 50% of initial appraisal fee.
- J. Pre-Trial Services including consultation, depositions, interrogatories, trial preparation and court testimony are billed at the rate of \$250 per hour.

Section 4 – Payment for Professional Services

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

- 4.1 The County agrees to pay the Consultant as compensation for professional services as listed in Section 3, an amount not to exceed Seventy-Five Thousand Dollars (\$75,000.00). Costs will vary depending on actual time required to perform the services requested.
- 4.2 The actual cost plus reimbursable expenses as incurred by the Consultant in the performance of the portion of the work outlined in Section 3 of this Agreement, shall not exceed the amount stipulated in Section 4.1 without an amendment to the Agreement duly authorized by the County.
- 4.3 Payment for services performed shall be due and payable monthly, based on the actual time and expenses incurred by the Consultant in the performance of the services on the project.

Section 5 – Payment

- 5.1 Notwithstanding any provision in this contract to the contrary, the maximum obligation of the County under this contract is limited to the amount of \$75,000. Unless the County appropriates and authorizes the expenditure of additional funds pursuant to proper modification of this contract, the Consultant's duties and obligations to perform additional services under this contract shall be considered ended December 31, 2016 or when the amount of \$75,000, as described previously, has been invoiced and paid to the Consultant (whichever comes first) in accordance with the provisions of this Section. Payment of invoices submitted to the County by the Consultant shall be made by the County within thirty (30) days of the date the County receives the invoice. If the maximum obligation of the County provided herein is changed properly, then the new amount will control the continuation of the duties and obligations of the Consultant to perform additional services.
- 5.2 County shall provide all criteria and full information as to County's requirement for the Project; designate a person to act with authority on County's behalf in respect of all aspects of the Consultant's submissions; and give prompt written notice to Consultant whenever County observes or otherwise becomes aware of any defect in the work.

Section 6 – Time of Schedule and Completion

- 6.1 The Consultant shall provide a written, detailed cost proposal for each project at the request of the County prior to services being performed.
- 6.2 After notification from the County to proceed, the Consultant shall, to the extent possible, schedule activities to meet specific project dates as requested by the County.

Section 7 – Insurance

- 7.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.4 Additional Insureds: The County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 7.1 and 7.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 7.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement and properly executed endorsements in accordance with 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. 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 Delaware County and its officials and 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 extent caused in whole or part 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.

As the County's sole and exclusive remedy under this Agreement any claim, demand or suit shall be directed and/or asserted only against the Consultant and not against any of the Consultant's employees, officers or directors.

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

The Consultant's liability with respect to any claims arising out of this Agreement shall be absolutely limited to direct damages arising out of the work, and the Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the County, including but not limited to, claims for loss of use, loss of profits and loss of markets.

Section 9 – Termination of Agreement

The County reserves the right to terminate this Agreement at any time for reasons identified in this Agreement or for any other reasons, for the convenience of the County. Upon termination of the Agreement, the County will provide written notice to the Consultant to terminate all work at which time the Consultant shall terminate all work associated with this Agreement and submit a final invoice for the portion of the work completed to date. The County shall not be responsible for payment for any work performed after the date of termination.

Section 10 – Change in Scope of Work

In the unforeseen event that substantial changes to the scope of work as defined in Section 3 are required during performance of work under this Agreement, 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.

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Upon completion or termination of the Agreement, the Consultant shall provide copies, if requested, to the County of all documents as part of this Agreement. The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed written or electronic work produced exclusively as part of this 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 project, without the prior express written consent of County.

13.2 **Independent Contractor:** Consultant agrees that he/she/it shall act in performance of this Agreement as an independent contractor. No agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Agreement. Consultant assumes all responsibility for any and all federal, state, municipal, or other tax liabilities, along with workers compensation, unemployment compensation, contributions to retirement plans, and/or insurance premiums which may accrue and/or become due as a result of compensation received for services and/or deliverables rendered and/or received under or pursuant to this Agreement.

The County is a public employer as defined in R.C. § 145.01(D). The County has classified the 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 or any of Consultant's employees 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 he/she/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

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

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

- 13.7 **Severability:** If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 13.8 **Findings for Recovery:** Consultant certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.
- 13.9 **Non-Discrimination/Equal Opportunity:** Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

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

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

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

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

Real Estate Acquisition Services Agreement with Rourke Acquisition Services, Inc.

DELAWARE COUNTY, OHIO
Real Estate Acquisition Services Agreement

Section 1 – Parties to the Agreement

This Agreement is made and entered into this 1st day of February, 2016 by and between the Delaware County Board of Commissioners, Delaware County, Ohio (“County”), and the firm of Rourke Acquisition Services, Inc., 1361 Haines Avenue, Columbus, Ohio 43212 (“Consultant”).

Section 2 – Contract Administrator

The Delaware County Board of Commissioners hereby designates the Delaware County Engineer as Administrator and agent of the Board for performance of the Work performed under this Agreement. The Administrator shall have the right to issue Notice to Proceed, Notice to Suspend or Notice to Resume Work under this Agreement within the dates to which this Agreement is effective and shall have general supervision of the Work.

Section 3 – Basic Services of Consultant

The duties of the Consultant shall encompass the following tasks.

- A. Value Analysis, for parcels under \$10,000 in value at a rate of \$700 per report.
- B. Negotiation Services including closings at a rate of \$1,350 per parcel
- C. Title research at a rate of \$250 (short title) and \$450 (full title)
- D. Right-of-Way acquisition Project Management at a rate of \$425 per parcel.

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

Section 4 – Payment for Professional Services

- 4.1 The County agrees to pay the Consultant as compensation for professional services as listed in Section 3, an amount not to exceed Seventy-Five Thousand Dollars (\$75,000.00). Costs will vary depending on actual time required to perform the services requested.
- 4.2 The actual cost plus reimbursable expenses as incurred by the Consultant in the performance of the portion of the work outlined in Section 3 of this Agreement, shall not exceed the amount stipulated in Section 4.1 without an amendment to the Agreement duly authorized by the County.
- 4.3 Payment for services performed shall be due and payable monthly, based on the actual time and expenses incurred by the Consultant in the performance of the services on the project.

Section 5 – Payment

- 5.1 Notwithstanding any provision in this contract to the contrary, the maximum obligation of the County under this contract is limited to the amount of \$75,000. Unless the County appropriates and authorizes the expenditure of additional funds pursuant to proper modification of this contract, the Consultant's duties and obligations to perform additional services under this contract shall be considered ended December 31, 2016 or when the amount of \$75,000, as described previously, has been invoiced and paid to the Consultant (whichever comes first) in accordance with the provisions of this Section. Payment of invoices submitted to the County by the Consultant shall be made by the County within thirty (30) days of the date the County receives the invoice. If the maximum obligation of the County provided herein is changed properly, then the new amount will control the continuation of the duties and obligations of the Consultant to perform additional services.
- 5.2 County shall provide all criteria and full information as to County's requirement for the Project; designate a person to act with authority on County's behalf in respect of all aspects of the Consultant's submissions; and give prompt written notice to Consultant whenever County observes or otherwise becomes aware of any defect in the work.

Section 6 – Time of Schedule and Completion

- 6.1 The Consultant shall provide a written, detailed cost proposal for each project at the request of the County prior to services being performed.
- 6.2 After notification from the County to proceed, the Consultant shall, to the extent possible, schedule activities to meet specific project dates as requested by the County.

Section 7 – Insurance

- 7.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.4 Additional Insureds: The County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 7.1 and 7.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 7.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement and properly executed endorsements in accordance with 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. 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 Delaware County and its officials and 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 extent caused in whole or part 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.

As the County's sole and exclusive remedy under this Agreement any claim, demand or suit shall be directed and/or asserted only against the Consultant and not against any of the Consultant's employees, officers or

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

directors.

The Consultant's liability with respect to any claims arising out of this Agreement shall be absolutely limited to direct damages arising out of the work, and the Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the County, including but not limited to, claims for loss of use, loss of profits and loss of markets.

Section 9 – Termination of Agreement

The County reserves the right to terminate this Agreement at any time for reasons identified in this Agreement or for any other reasons, for the convenience of the County. Upon termination of the Agreement, the County will provide written notice to the Consultant to terminate all work at which time the Consultant shall terminate all work associated with this Agreement and submit a final invoice for the portion of the work completed to date. The County shall not be responsible for payment for any work performed after the date of termination.

Section 10 – Change in Scope of Work

In the unforeseen event that substantial changes to the scope of work as defined in Section 3 are required during performance of work under this Agreement, 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 Documents

Upon completion or termination of the Agreement, the Consultant shall provide copies, if requested, to the County of all documents as part of this Agreement. The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed written or electronic work produced exclusively as part of this 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 project, without the prior express written consent of County.

13.2 **Independent Contractor:** Consultant agrees that he/she/it shall act in performance of this Agreement as an independent contractor. No agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Agreement. Consultant assumes all responsibility for any and all federal, state, municipal, or other tax liabilities, along with workers compensation, unemployment compensation, contributions to retirement plans, and/or insurance premiums which may accrue and/or become due as a result of compensation received for services and/or deliverables rendered and/or received under or pursuant to this Agreement.

The County is a public employer as defined in R.C. § 145.01(D). The County has classified the 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 or any of Consultant's employees 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 he/she/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.

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

- 13.6 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 13.7 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 13.8 Findings for Recovery: Consultant certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.
- 13.9 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.
- Consultant further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.
- Consultant certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.
- Consultant certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.
- 13.10 Campaign Finance – Compliance with R.C. 3517.13: Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled “Certification/Affidavit in Compliance With O.R.C. Section 3517.13.” **Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract.** Such certification is attached to this Contract and by this reference made a part thereof.

Real Estate Acquisition Services Agreement with The Robert Weiler Company:

DELAWARE COUNTY, OHIO
Real Estate Acquisition Services Agreement

Section 1 – Parties to the Agreement

This Agreement is made and entered into this 1st day of February, 2016 by and between the Delaware County Board of Commissioners, Delaware County, Ohio (“County”), and the firm of The Robert Weiler Company, 10 North High Street, Suite 401, Columbus, Ohio 43215 (“Consultant”).

Section 2 – Contract Administrator

The Delaware County Board of Commissioners hereby designates the Delaware County Engineer as Administrator and agent of the Board for performance of the Work performed under this Agreement. The Administrator shall have the right to issue Notice to Proceed, Notice to Suspend or Notice to Resume Work under this Agreement within the dates to which this Agreement is effective and shall have general supervision of the Work.

Section 3 – Basic Services of Consultant

The duties of the Consultant shall encompass the following tasks within Delaware County.

- A. Appraisal Services, appraisers shall be selected from the ODOT prequalified list for parcels over \$10,000 in value;

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

- B. Value Analysis, for parcels under \$10,000 in value at a rate of \$750 per report.
- C. Value Finding Reports at a rate of \$1,750 per report.
- D. Summary Reports not to exceed \$10,000 per report.
- E. Appraisal Updates billed at 50% of the original appraisal fee unless significant plan changes have occurred.
- F. Value Analysis reviews at \$400 per each.
- G. Parcel Impact Notes at \$125 per each
- H. Value Finding reviews at \$900 per each.
- I. Summary Report reviews at 50% of initial appraisal fee.
- J. Pre-Trial Services including consultation, depositions, interrogatories, trial preparation and court testimony are billed at the rate of \$250 per hour.

Section 4 – Payment for Professional Services

- 4.1 The County agrees to pay the Consultant as compensation for professional services as listed in Section 3, an amount not to exceed \$50,000.00. Costs will vary depending on actual time required to perform the services requested.
- 4.2 The actual cost plus reimbursable expenses, as incurred by the Consultant in the performance of the portion of the work outlined in Section 3 of this Agreement, shall not exceed the amount stipulated in Section 4.1 without an amendment to the Agreement duly authorized by the County.
- 4.3 Payment for services performed shall be due and payable monthly, based on the actual time and expenses incurred by the Consultant in the performance of the services on the project.

Section 5 – Payment

- 5.1 Any provision in this contract to the contrary, the maximum obligation of the County under this contract is limited to the amount of \$50,000. Unless the County appropriates and authorizes the expenditure of additional funds pursuant to proper modification of this contract, the Consultant's duties and obligations to perform additional services under this contract shall be considered ended December 31, 2016 or when the amount of \$50,000, as described previously, has been invoiced and paid to the Consultant (whichever comes first) in accordance with the provisions of this Section. Payment of invoices submitted to the County by the Consultant shall be made by the County within thirty (30) days of the date of the invoice. If the maximum obligation of the County provided herein is changed properly, then the new amount will control the continuation of the duties and obligations of the Consultant to perform additional services.
- 5.2 County shall provide all criteria and full information as to County's requirement for the Project; designate a person to act with authority on County's behalf in respect of all aspects of the Consultant's submissions; and give prompt written notice to Consultant whenever County observes or otherwise becomes aware of any defect in the work.

Section 6 – Time of Schedule and Completion

- 6.1 The Consultant shall provide written detailed cost proposal for each project at the request of the County prior to services being performed.
- 6.2 After notification from the County to proceed, the Consultant shall, to the extent possible, schedule activities to meet specific project dates as requested by the County.

Section 7 – Insurance

- 7.1 General Liability Coverage: Consultant shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.2 Automobile Liability Coverage: Consultant shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.3 Workers' Compensation Coverage: Consultant shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 7.4 Additional Insureds: The County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 7.1 and 7.2. Consultant shall require all of its subcontractors to provide like endorsements.
- 7.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Consultant, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement and properly executed endorsements in accordance with 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. Consultant will replace certificates for any insurance expiring prior to completion of work under this Agreement.

Section 8 – Indemnification

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

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 extent caused in whole or part 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.

As the County's sole and exclusive remedy under this Agreement any claim, demand or suit shall be directed and/or asserted only against the Consultant and not against any of the Consultant's employee's, officers or directors.

The Consultant's liability with respect to any claims arising out of this Agreement shall be absolutely limited to direct damages arising out of the work and the Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the County, including but not limited to, claims for loss of use, loss of profits and loss of markets."

Section 9 – Termination of Agreement

The County reserves the right to terminate this Agreement at any time for reasons identified in this Agreement or for any other reasons, for the convenience of the County. Upon termination of the Agreement, the County will provide written notice to the Consultant to terminate all work at which time the Consultant shall terminate all work associated with this Agreement and submit a final estimate for the portion of the work completed to date. The County shall not be responsible for payment for any work performed after the date of termination.

Section 10 – Change in Scope of Work

In the unforeseen event that substantial changes to the scope of work as defined in Section 3 are required during performance of work under this Agreement, 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 Documents

Upon completion or termination of the Agreement, the Consultant shall provide copies, if requested, to the County of all documents as part of this Agreement. The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed written or electronic work produced exclusively as part of this Agreement. This section does not require unauthorized duplication of copyrighted materials.

Section 12 – Change of Key Consultant Staff

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

Section 13 – Miscellaneous Terms & Conditions

- 13.1 **Prohibited Interests:** Consultant agrees that no agent, officer, or employee of the County during his/her tenure or for one year there after shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Consultant further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this project, without the prior express written consent of County.
- 13.2 **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.
- 13.3 **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.
- 13.4 **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.
- 13.5 **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.
- 13.6 **Severability:** If any item, condition, portion, or section of this Agreement or the application thereof to any

COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016

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.

- 13.7 Findings for Recovery: Consultant certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.
- 13.8 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, it 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 certifies that it has five or more employees and that none of its employees shall be considered public employees pursuant to Chapter 145 of the Revised Code for purposes of this Agreement.
- 13.9 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

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

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

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

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

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

10
RESOLUTION NO. 16-97

IN THE MATTER OF APPROVING CONTRACT FOR PROFESSIONAL SERVICES BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS INTEGRATIVE GIS, LLC FOR PROVIDING GIS SUPPORT FOR THE ENGINEER’S OFFICE:

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

Whereas, the County Engineer recommends approval of the contract between the Delaware County Commissioners and Integrative GIS, LLC for providing GIS support for The Engineer’s Office;

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio, that the following Professional services Contract is hereby approved:

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into this 1st day of February, 2016, by and between the **Delaware County Board of Commissioners**, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

43015 (“County”), and **Integrative GIS, LLC, 3068 Ross Road, Sunbury OH 43074** (“Consultant”), hereinafter collectively referred to as the “Parties”, and shall be known as the “Agreement.”

1 SERVICES PROVIDED BY CONSULTANT

- 1.1 The Consultant will provide “Services” in connection with the following “Project”:
- Geographic information system (GIS) support on integration and conversion of data with new asset management system.
 - Create and deploy CIP map document to aid in reporting and more robust CIP editing solution in ArcGIS desktop.
 - Integration of culverts, guardrail and pavement marking data into the current Enterprise Engineering database.
 - GIS support technical mapping and organization for subdivision document management system.
 - Ongoing support of current online editing application for engineering data including but not limited to traffic, construction and storm water.
 - Ongoing training and support for current GIS data layer maintenance for engineering office and projects.
 - Ongoing Enterprise Engineering GIS database maintenance and support.
 - Other projects and support services as requested and determined to be mutually acceptable under the scope and available committed hours.
- 1.2 The Consultant shall perform the Services promptly and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 Services shall be rendered by the Consultant in accordance with the following documents, to be retained and on file with each Party, and by this reference made part of this Agreement:
- 1.3.1 Proposal for GIS Consulting Services dated January 6, 2016

2 SUPERVISION OF WORK

- 2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Engineer (“County Engineer”) as the Project Manager and agent of the County for this Agreement.
- 2.2 The County Engineer or his designee shall have authority to review and order changes, commencement, suspension or termination of the Services performed under this Agreement.

3 AGREEMENT AND MODIFICATIONS

- 3.1 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 Project, and may only be modified or amended in writing with the mutual consent and agreement of the parties.

4 FEES AND REIMBURSABLE EXPENSES

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Scope of Services as enumerated in Section 1.3.
- 4.2 Total compensation under this Agreement shall not exceed **\$49,970** without subsequent modification by both Parties.
- 4.3 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.

5 NOTICES

- 5.1 “Notices” issued under this Agreement shall be served to the parties listed below in writing.

County Engineer:

Name: Chris Bauserman, P.E., P.S.
Attn: Robert Riley, P.E.
Address: 50 Channing Street, Delaware, Ohio 43015
Telephone: 740-833-2400
Email: rriley@co.delaware.oh.us

Consultant:

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

Name of Principal in Charge: Andrea Parsons
 Address of Firm: 3068 Ross Road
 City, State, Zip: Sunbury, OH 43074
 Telephone: 614.314.1112
 Email: integrativegis@gmail.com

6 PAYMENT

- 6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Consultant and approved by the County Engineer shall be based on the calculated percentage of work performed to date in accordance with the Consultant's Price Proposal.
- 6.2 Invoices shall be submitted to the Project Manager 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.
- 6.3 The County shall pay invoices within thirty (30) days of receipt.

7 NOTICE TO PROCEED, COMPLETION OF WORK, DELAYS AND EXTENSIONS

- 7.1 The Consultant shall commence Work upon written Notice to Proceed ("Authorization") of the County Engineer and shall complete the work no later than December 31, 2016.
- 7.2 Consultant shall not proceed with any "If Authorized" tasks without written Authorization.
- 7.3 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 County Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

8 SUSPENSION OR TERMINATION OF AGREEMENT

- 8.1 The County, upon written Notice as specified in Section 5, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Consultant shall immediately suspend or terminate Work, as ordered by the County.
- 8.2 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.

9 CHANGE IN SCOPE OF SERVICES

- 9.1 In the event that significant changes to the Scope of Services 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.

10 OWNERSHIP

- 10.1 Upon completion or termination of the Agreement, the Consultant shall provide copies, if so requested, to the County of all documents or electronic files produced under this Agreement
- 10.2 The County shall have ownership of said documents, which are considered, but not limited to, any completed or partially completed tangible written or electronic work produced in accordance with the Agreement.
- 10.3 This section does not require unauthorized duplication of copyrighted materials.

11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT

- 11.1 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.
- 11.2 The Consultant shall not assign or transfer this Agreement, or any of the rights, responsibilities, or remedies contained herein, to any other party without the express, written consent of the County.

12 INDEMNIFICATION

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

- 12.1 The Consultant shall indemnify and hold free and harmless Delaware County and its officials and 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.
- 12.2 The Consultant shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result breach of contract, infringement of any right to use, possess, or otherwise operate or have any owned, protected, licensed, trademarked, patented, non-patented, and/or copyrighted software, product, service, equipment, invention, process, article, or appliance manufactured, used, or possessed in the performance of the Agreement and/or in providing the Services, to the extent caused by any act, error, or omission 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.

13 INSURANCE AND WORKERS COMPENSATION

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

14 MISCELLANEOUS TERMS AND CONDITIONS

- 14.1 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.
- 14.2 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.

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.

- 14.3 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.
- 14.4 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.
- 14.5 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.
- 14.6 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

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

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.

- 14.7 Findings for Recovery: Consultant certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 14.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 14.9 County Policies: The Consultant shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Consultant shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Consultant to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 14.10 Drug-Free Workplace: The Consultant agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Consultant shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 14.11 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

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

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

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

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

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

11

RESOLUTION NO. 16-98

**IN THE MATTER OF ACCEPTING RIGHT-OF-WAY FROM THE DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS FOR LEWIS CENTER ROAD:**

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

SUPPLEMENTAL AGREEMENT NO. ONE

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

**TO
ALUM CREEK LAKE DELAWARE COUNTY, OHIO
CONTRACT NO. DACW69-2-89-0508**

THIS SUPPLEMENTAL AGREEMENT entered into by and between THE SECRETARY OF THE ARMY, (hereinafter referenced to as the Secretary), and DELAWARE COUNTY, OHIO, a political subdivision of the State of Ohio, (hereinafter referred to as the grantee).

WITNESSETH THAT:

WHEREAS, the exhibit for the above referenced outgrant for a perpetual road right-of-way excluded a 0.49 acre area of Tract No. 130 that is part of the right-of-way needed to operate, maintain, and improve the road; and

WHEREAS, the Secretary and the grantee desire that the area of the original outgrant be expanded to include the above parcel,

NOW, THEREFORE, it is mutually agreed between the Secretary and the grantee that the said outgrant be and the same is hereby amended as follows:

That the attached Exhibit A-1 be added to the said outgrant.

The designated amendment to said outgrant shall henceforth be considered a part of said outgrant as fully and completely as if the instrument were rewritten and the terms incorporated therein.

The said outgrant is hereby modified in the above particulars only and all other provisions and conditions thereof shall remain binding and in full force and effect.

EXHIBIT A-1

Situated in State of Ohio, County of Delaware, Township of Orange, being part of Farm Lot 8 in the South half of Quarter Township 1, Township 3, Range 18, United States Military Lands and being part of a parcel of land conveyed to the United States of America and recorded in the Delaware County Recorder's Office and being more particularly described as follows:

Commencing from a point at the intersection of Old Lewis Center Road (Old CR-106) and Bale Kenyon Road (TR-107), said intersection also being a common corner to Farm Lot 4 and Farm Lot 8 and being 69.90 feet left of proposed centerline Station 50+9 1.06 Bale Kenyon Road (TR-107);

Thence North 50° 19' 08" East, a distance of 36.15 feet to the intersection of the northerly existing right of way line of Old Lewis Center Road (Old CR-106) with the easterly existing right of way line of Bale Kenyon Road (TR-107) to a point 42.94 feet left of proposed centerline Station 51+ 15.14 Bale Kenyon Road (TR-107) and being the TRUE POINT OF BEGINNING;

Thence North 05° 46' 02" West, a distance of 72.36 feet leaving the northerly existing right of way line Old Lewis Center Road (Old CR-106) and along the easterly existing right of way line of Bale Kenyon Road (TR-107) to a point 52.84 feet left of proposed centerline Station 51 +86.82 Bale Kenyon Road (TR-107);

Thence South 79° 29' 30" East, a distance of 590.48 feet leaving the easterly existing right of way line of Bale Kenyon Road (TR-107) and along the southerly existing right of way line of Relocated Lewis Center Road (CR-106) to a point 70.36 feet right of proposed centerline Station 114+06.53 Relocated Lewis Center Road (CR-106);

Thence South 54° 56' 05" East, a distance of 9.92 feet continuing along the southerly existing right of way line of Relocated Lewis Center Road (CR-106) to a point 74.36 feet right of proposed centerline Station 114+ 15.61 Relocated Lewis Center Road (CR-106);

Thence North 85° 55' 37" West, a distance of 582.90 feet along the northerly existing right of way line of Old Lewis Center Road (Old CR-106) to the TRUE POINT OF BEGINNING and containing 0.505 acres, more or less, of which 0.000 acres are within the present road occupied. Subject to all legal easements, agreements and right of way of record.

Of the above described tract, 0.505 acres, more or less, are located within Auditor's Parcel No. 31814001002000. The basis of bearing for this description is based on project (ground) coordinates values and are relative to State

Plane Coordinates Ohio North Zone NAD 83 (NSRS 2007) by a Combined Scale Factor (CSF) = 1.00002135 and is based on a mean latitude of 40° 10' 57.022" North and an elevation of 867.335 feet. Coordinate values are from an actual GPS survey made in 2011 by Benchmark Surveying & Mapping Co., Inc. To obtain grid coordinates, multiply the project distance by the CSF.

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

This description was prepared by Tony W. Meacham , Ohio Professional Surveyor No. 7799 from an actual field survey performed in 2013 by Korda/Nemeth Engineering, Inc.

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

12

RESOLUTION NO. 16-99

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

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

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

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

Permit #	Applicant	Location	Type of Work
U16-009	Columbia Gas	Orange Center Dr.	Tie into existing gas main
U16-010	Time Warner Cable	Merchant Road	Place cable in ROW
U16-011	Time Warner Cable	Manning Parkway	Place cable in ROW
U16-012	Del-Co Water	Bean Oller Road	Install waterline in ROW
U16-013	Del-Co Water	Manning Parkway	Water main construction
U16-014	Del-Co Water	Clark Shaw Road	Install waterline in ROW
U16-015	Columbia Gas	Home Road	Relocate Gas Main

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

13

RESOLUTION NO. 16-100

IN THE MATTER OF REVISING THE PREQUALIFICATION PROCEDURE FOR PROFESSIONAL DESIGN SERVICES FOR DELAWARE COUNTY FACILITIES MANAGEMENT:

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

WHEREAS, the Delaware County Facilities Management utilizes a qualifications-based selection procedure (“The Procedure”) for Professional Design Services, and,

WHEREAS, County staff recommends various revisions in order to update and simplify The Procedure, and

WHEREAS, the Manager of Facilities recommends the following revisions be made to The Procedure.

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

The Board hereby approves and implements a revised Procedure to pre-qualify professional design firms and to procure professional design services, known as the following:

**DELAWARE COUNTY FACILITIES MANAGEMENT
PREQUALIFICATION AND QUALIFICATIONS-BASED SELECTION PROCEDURE
FOR PROFESSIONAL DESIGN SERVICES WITH AN ESTIMATED DESIGN FEE UNDER
\$50,000.00**

Rev. Date _____

TABLE OF CONTENTS:

Article 1: Introduction
Article 2: Classifications of Professional Design Contracts
Article 3: Requested Professional Design Services

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

Article 4:	Sub-consultants
Article 5:	Instructions for Prequalification Submittals
Article 6:	Notification of Prequalification Status
Article 7:	Expiration of Prequalification Status
Article 8:	Projects with an Estimated Professional Design Fee Under \$50,000.00
Article 9:	Projects with an Estimated Professional Design Fee Equal to or Exceeding \$50,000.00

ARTICLE 1: INTRODUCTION

This procedure outlines the process Delaware County Facilities Management (DCFM) will use to receive Statements of Qualifications (SOQ'S) in order to prequalify professional design firms for projects with an estimated design fee under \$50,000.00, as well as announce professional design contracts for projects.

ARTICLE 2: CLASSIFICATIONS OF PROFESSIONAL DESIGN CONTRACTS

Professional design contracts will be classified under two categories:

1. Projects which have an estimated professional design fee of less than fifty-thousand dollars (\$50,000.00). See Article 8 for detailed information.
2. Projects which have an estimated professional design fee greater than or equal to fifty-thousand dollars (\$50,000.00). See Article 9 for detailed information.

ARTICLE 3: REQUESTED PROFESSIONAL DESIGN SERVICES

As defined under O.R.C. 153.65 (C) "professional design services" means services within the scope of practice of an architect or landscape architect registered under Chapter 4703. of the Revised Code or a professional engineer or surveyor registered under Chapter 4733. of the Revised Code.

The following professional design services, but not limited to, are requested for prequalification:

- Architectural Design
- Landscape Architecture
- Electrical Engineering
- Mechanical Engineering
- Structural Engineering
- General Site Civil Engineering Design
- Surveying
- Construction Management/Inspection
- Geotechnical Engineering
- Floodplain Analysis

ARTICLE 4: SUB-CONSULTANTS

A firm may employ sub-consultants for various disciplines (i.e. Electrical Design, Geotechnical Design, etc.). All sub-consultants shall be independently prequalified ES in accordance with the procedures described in Article 5 of this notice. Sub consultants shall not be listed as partnering firms for prequalification submittals. For specific projects publicly announced by DCFM, partnering or teaming of firms is permissible provided that all firms are independently prequalified with DCFM.

ARTICLE 5: INSTRUCTIONS FOR PREQUALIFICATION SUBMITTALS

SOQ'S shall include, but are not limited to, the following:

1. Firm name, address, telephone number.
2. Contact name for all correspondences, and contact's email.
3. Year established, size of firm, and former firm names or ownership, if applicable.
4. List of all professional design services to be considered for prequalification.
5. Names of principals of the firm with a brief explanation of relative experience and professional registrations.

**COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016**

6. Names, qualifications, and experience of key personnel, including other engineers and field personnel, to be assigned to projects.
7. List of completed projects which the firm has participated in. Include key personnel and client contact information for references.
8. An outline of the firm's Quality Assurance or Quality Management Program.
9. Brief description of the firm's equipment and facilities.
10. Copies of letters of recommendations from at least three (3) other public or private agencies reflecting the firm's recent past performance.
11. List of claims or lawsuits with any public authority over the last five years.

In order to have your firm reviewed for prequalification, send one (1) hard copy and one (1) PDF electronic copy of your current SOQ to the following address:

Delaware County Facilities Management
Attn: Manager of Facilities
1405 US Rte. 23 North
Delaware, Ohio 43015

SOQ'S will be evaluated for prequalification as they are received by the Manager of Facilities.

ARTICLE 6: NOTIFICATION OF PREQUALIFICATION STATUS

DCFM will provide written notice to a firm if it is awarded prequalification status.

DCFM will not "short list" a minimum number of prequalified firms. DCFM reserves the right to deny a firm prequalification based on past performance, lack of sufficient demonstrated experience in the requisite areas of prequalification or failure to provide all the requested information.

ARTICLE 7: EXPIRATION OF PREQUALIFICATION STATUS

In accordance with ORC, 153.71, a firm's prequalification status will expire one year after the notification date. To become eligible for projects after a firm's prequalification status has expired, the firm must submit a new SOQ and be awarded prequalification status as before.

It shall be the firm's responsibility to monitor when its prequalification status is due to expire.

DCFM will publicly solicit requests for updated SOQ's annually on their website.

Any significant changes in Items 1 through 10 of Article 5 may affect a firm's prequalification status. It is each firm's responsibility to provide DCFM with current information.

ARTICLE 8: PROJECTS WITH AN ESTIMATED PROFESSIONAL DESIGN FEE UNDER \$50,000.00

For specific projects with an estimated professional design fee under \$50,000.00, DCFM may enter into a contract with a firm based on the provisions of ORC 153.69(B) and 153.71. The process is as follows:

- A. The Manager of Facilities, the County Administrator or his designee, and the designee of the Board of Commissioners shall select a single design professional or firm among those with prequalification status as the most qualified for the project. Design professionals and firms prequalified with the Delaware County Division of Environmental Services (DCDES) may be considered. Interviews may be required.
- B. DCFM and the selected design professional or firm shall comply with Division (B) of section 153.69 of the Revised Code with respect to the negotiation of a contract. Contract negotiations shall be directed toward:
 1. Ensuring that the professional design firm and the agency have a mutual understanding of the essential requirements involved in providing the required services;
 2. Determining that the firm will make available the necessary personnel, equipment, and facilities to perform the services within the required time;
 3. Agreeing upon compensation which is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the services.

COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016

- C. Upon failure to negotiate a contract with the selected firm, DCFM shall inform the firm in writing of the termination of negotiations and may enter into negotiations with another firm from among those with prequalification status. If negotiations again fail, the same procedure may be followed until a contract is negotiated.

DCFM, at its discretion, may utilize the process described under Article 9 of this selection procedure for any project with an estimated design fee under \$50,000.00.

ARTICLE 9: PROJECTS WITH A PROFESSIONAL DESIGN FEE EQUAL TO OR EXCEEDING \$50,000.00

For specific projects having an estimated professional design fee equal to or exceeding \$50,000.00, DCFM uses a Qualifications Based Selection Process conforming to the requirements of Ohio Revised Code Sections 153.65 to 153.71. DCFM is not prequalifying design firms for these projects. DCFM shall issue a Request for Proposals (RFP) for the specific project. Prequalified Firms must submit a proposal for the specific projects and shall include the firm’s Statement of Qualifications to assure compliance with ORC-153.67. Detailed requirements and procedures for these proposals will be described in the RFP issued for the project and approved by the Board of County Commissioners.

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

14

ADMINISTRATOR REPORTS

Seiji Kille, Interim County Administrator/Fiscal Services Director

-No reports

15

COMMISSIONERS’ COMMITTEES REPORTS

Commissioner Benton

- Will be participating in an Ohio Wesleyan a mock convention this weekend
- Congratulations to Bob Lamb on being a Board member at MODE (Mid-Ohio Development Exchange)
- Auditor Kaitsa has sent a draft of the five year plan

Commissioner Merrell

-Will be assisting the Board of Elections today in their presentation at Rotary

Commissioner Lewis

-No reports

16

RESOLUTION NO. 16-101

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF EMPLOYMENT; COMPENDATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL; TO CONSIDER THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSES; FOR PENDING OR IMMINENT LITAGATION; FOR COLLECTIVE BARGAINING:

It was moved by Mr. Merrell, seconded by Mr. Benton to adjourn into Executive Session at 9:48 AM.

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

***Commissioner Merrell was absent due to a previous engagement.**

RESOLUTION NO. 16-102

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Benton, seconded by Mrs. Lewis to adjourn out of Executive Session at 11:32 AM.

Vote on Motion Mr. Benton Aye Mr. Merrell Absent Mrs. Lewis Aye

17 OTHER /18 RECESS/RECONVENE

19

RESOLUTION NO. 16-103

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

COMMISSIONERS JOURNAL NO. 64 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD FEBRUARY 1, 2016

It was moved by Mr. Merrell, seconded by Mr. Benton to adjourn into Executive Session at 1:30 PM.

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

RESOLUTION NO. 16-104

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Merrell, seconded by Mr. Benton to adjourn out of Executive Session at 7:30PM.

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

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners