

COMMISSIONERS JOURNAL NO. 65 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 26, 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

11:00 AM Viewing For A New Road From Cheshire Road To Berlin Station Road (Extension of Piatt Road /Township Road 99)

1
RESOLUTION NO. 16-512
aIN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD MAY 23, 2016:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on May 23, 2016; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 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. 16-513
IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0525:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0525 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
Ohio Guidestone	Job and Family Program service	22511607-5342	\$20,000.00

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

5
RESOLUTION NO. 16-514
IN THE MATTER OF AUTHORIZING THE USE OF A PROCUREMENT CARDS FOR THE BOARD OF ELECTIONS:

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

WHEREAS, pursuant to Ohio Revised Code Section 301.29, the Board of Commissioners of Delaware County by Resolution No. 04-1193 dated September 30th, 2004, adopted a policy for the use of County Procurement Cards. In addition, The Board of Commissioners of Delaware County by Resolution No. 11-1040 dated October 3rd, 2011, adopted amendments to the Policies and Procedures for the county procurement card program; and

WHEREAS, the appointing authority for the procurement card being the Delaware County Board of Elections Board has adopted a policy in accordance with the policy adopted by the Delaware County Board of Commissioners for the use of the card to pay for specific classes of work related expenses, without submitting a monthly estimate of the expenses, pursuant ORC 301.29 (F)(2).

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WHEREAS, the cardholders are aware of and have read the policy and are aware of the disciplinary action for misuse of the card and are aware of the responsibility associated with being a card holder and;

WHEREAS, the use of the purchasing card will follow the established procurement policy adopted by the Delaware County Board of Elections Board and;

NOW THEREFORE BE IT RESOLVED,

1. That the Delaware County Board of Elections Board authorizes the use of the following procurement cards to the limits indicated and for specific work related expenses designated in the Procurement Card Policy without submitting a monthly estimate of expenses:

Appointing Authority: Delaware County Board of Elections
Office/Department: Board of Elections

New:

Name on Card: Caroline F. Young
Department Coordinator: Brenda Manley
Daily spending per card: \$ 5,000.00
Monthly spending per card: \$10,000.00
Single transaction limit: \$ 5,000.00
Daily number of transactions per card: 10
Monthly number of transactions per card: 50

Amended:

Name on Card: Richard Helwig
Department Coordinator: Brenda Manley
Daily spending per card: \$5,000.00
Monthly spending per card: \$7,500.00
Single transaction limit: \$5,000.00
Daily number of transactions per card: 10
Monthly number of transactions per card: 50

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

6
RESOLUTION NO. 16-515

IN THE MATTER OF APPROVING THE 2016 LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM (LAEPP) COOPERATIVE AGREEMENT BETWEEN THE OHIO DEPARTMENT OF AGRICULTURE AND THE DELAWARE COUNTY COMMISSIONERS:

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

**2016 LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM (LAEPP)
COOPERATIVE AGREEMENT
BETWEEN
THE OHIO DEPARTMENT OF AGRICULTURE
AND
DELAWARE COUNTY COMMISSIONERS**

This Cooperative Agreement (hereinafter "Agreement"), effective as of the 26th day of May 2016, is between the DELAWARE COUNTY COMMISSIONERS, 101 North Sandusky Street; Delaware, OH 43015 (hereinafter "Local Sponsor") and the OHIO DEPARTMENT OF AGRICULTURE, 8995 East Main Street, Reynoldsburg, OH 43068 (hereinafter "ODA") for the implementation of Local Agricultural Easement Purchase Program ("LAEPP") as authorized under Ohio Revised Code ("ORC") § 901.21, et. seq.

RECITALS

ORC § 901.21 authorizes the Director of Agriculture to facilitate funding received from the Clean Ohio fund for the purpose of purchasing agricultural easements in conjunction with eligible governmental and non-profit entities for the purpose of protecting the agricultural uses of eligible land by limiting the non-agricultural uses of the land. To be eligible, the farm land must meet the criteria and further the purposes as provided in ORC § 901.22 and Ohio Administrative Code ("OAC") § 901-2-01, et seq.

WHEREAS, the Local Sponsor and ODA have mutual interests in maintaining land in agricultural production and preventing the conversion of agricultural lands to non-agricultural uses;

WHEREAS, ODA administers the LAEPP through its Office of Farmland Preservation; and

WHEREAS, Local Sponsor administers a farmland protection program and is a certified local sponsor for the

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purposes of the LAEPP with opportunities to acquire agricultural easements from landowners ("Landowners" or "Landowner") within the County of Delaware in the State of Ohio, and ODA and Local Sponsor have agreed to combine their resources to assure that such areas are protected from conversion to nonagricultural uses.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

AGREEMENT

I. BENEFITS

1.1 The funding allocated to the Local Sponsor by ODA in this Agreement will be used for the protection of Ohio farm lands against conversion to non-agricultural use.

II. SCOPE OF WORK

2.1 The Local Sponsor shall be responsible for the duties and obligations set forth in "Exhibit A - Scope of Work," attached hereto and incorporated herein by reference, in connection with the use of ODA funds identified in Section IV of this Agreement for the acquisition of agricultural easements on the real estate ("Property" or "Properties") described in the attached "Exhibit B - Property/Funds," attached hereto and incorporated herein by reference. "Exhibit B - Property/Funds" shall be amended from time to time as Properties are selected in accordance with "Exhibit A - Scope of Work." For the purposes of this Agreement, "agricultural easement" shall be defined as provided in ORC § 901.21, et seq. Local Sponsor hereby represents and warrants that it will comply with all applicable federal and state laws, specifically including but not limited to OAC § 901-2-01, et seq. in performing its described obligations herein.

2.2 Local Sponsor represents and warrants it has the necessary background, training, and skills to perform the required responsibilities and obligations under this Agreement and will provide its best efforts in the performance of the Scope of Work of this Agreement. Best efforts shall be defined as being efforts performed in a workmanlike manner according to the highest professional standard for the purpose intended. There will be no breach of this covenant if Local Sponsor is prevented from maintaining this standard by causes wholly beyond its control and without any default on its part. Local Sponsor further represents and warrants that it has no outstanding final judgments against it by the State, including tax liabilities; and agrees that any payments provided to the Local Sponsor by the State pursuant to this Agreement may be applied against such liabilities currently owing or incurred in the future.

2.3 Local Sponsor warrants it is not listed with the Secretary of State for unfair labor practices, pursuant to ORC § 121.23, and is or shall become a registered vendor with the State.

2.4 All deeds will be drafted by ODA. Local Sponsor shall ensure that no changes are made to the deed at closing without the express knowledge and the prior written permission of ODA.

2.5 The closing ("Closing") for the agricultural easements in connection with each Property shall occur on a time and date mutually agreed to by the parties, but in no event later than June 30, 2017. Local Sponsor may receive an extension to this deadline with the prior written approval of ODA.

2.6 ODA may, from time to time as it deems appropriate, communicate specific instructions and requests to the Local Sponsor concerning the performance of the Scope of Work described in this Agreement, including the performance of Closing Instructions, an example of which is provided in "Exhibit C - ODA Closing Instructions," which is attached hereto and incorporated herein by reference. Upon such notice, the Local Sponsor shall comply with such instructions and fulfill such requests to the satisfaction of ODA. It is expressly understood by the parties that these instructions and requests are for the sole purpose of performing the specific tasks requested to ensure satisfactory completion of the Scope of Work described in this Agreement. The Local Sponsor shall retain responsibility for the management of the Scope of Work, including the exclusive right to control or direct the manner or means by which the work described herein is performed. ODA retains the right to ensure that the work of the Local Sponsor is in conformity with the terms and conditions of the Agreement. Local Sponsor is to accept direction only from ODA in the performance of work contained in this Agreement and set forth in "Exhibit A - Scope of Work." and "Exhibit C - ODA Closing Instructions," unless explicitly waived in writing by ODA.

2.7 Nothing in this Agreement obligates ODA to complete the acquisition of an agricultural easement. There may be problems or issues which in the sole opinion of ODA require modifications, additions, or deletions to "Exhibit B - Property/Funds" depending on the ability to obtain good and clear title and local input regarding the implementation of an agricultural easement. Additions to "Exhibit B - Property/Funds" must have the written pre-approval from ODA. The additions and deletions must be made by a formal written amendment to this Agreement and must contain the same deadlines for closing for the acquisition of the agricultural easements and the request for payment.

III. TIME OF PERFORMANCE

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3.1 The services as stated in "Exhibit A - Scope of Work," shall be concluded by the Local Sponsor on or before June 30, 2017. Prior to the expiration of this Agreement, the parties may mutually agree to renew this Agreement as indicated in Section 3.1(b) below.

a. This Agreement shall remain in effect until the work described in "Exhibit A - Scope of Work," is completed to the satisfaction of ODA or until terminated as provided in Article VIII, Termination of Local Sponsor's Services, whichever is sooner. However, in no event will this Agreement continue beyond June 30, 2017, unless renewed as provided for herein.

b. As the current General Assembly cannot commit a future General Assembly to expenditure, this Agreement shall expire no later than June 30, 2017. This contract may be renewed, at ODA's option, for a period of one (1) year upon the same terms contained herein.

c. It is expressly agreed by the parties that none of the rights, duties, and obligations herein shall be binding on either party if award of this Agreement would be contrary to the terms of ORC §3517.13, ORC § 127.16, or ORC § 102.

IV. ODA'S OBLIGATION TO FUND

4.1 Subject to the terms and conditions of this Agreement, upon execution of this Agreement, ODA shall obligate the sum of \$263,506.00 (Two Hundred Sixty-Three Thousand Five Hundred Six and 00/100 Dollars) for the acquisition by Local Sponsor of agricultural easements for the parcels approved by the Director of ODA and added by amendment to "Exhibit B - Property/Funds."

4.2 ODA's contribution for the acquisition of each agricultural easement to be acquired by the Local Sponsor shall be up to but not more than seventy-five percent (75%) of the points-based appraised value of the subject agricultural easement as provided in the Landowner Program Application.

4.3 If agricultural easements for all properties listed on "Exhibit B - Property/Funds" are not closed, or payment for the agricultural easement is not requested by the mutually agreed closing date as provided in "Exhibit A - Scope of Work," any remaining funds may be released from this obligation unless a written request to extend the closing or payment date is sent to ODA 30 days or less before such date, and approved in writing by ODA.

V. LOCAL SPONSOR CONTRIBUTION AND RESPONSIBILITIES

5.1 Local Sponsor must disburse one hundred percent (100%) of the payment, minus any cost or expense permitted by OAC § 901-2 et seq, representing the agricultural easement purchase price, to the landowner at the time of Closing, as that term is hereinafter defined. Local Sponsor shall pay all costs of the agricultural easement procurement and will operate and manage each agricultural easement in accordance with the Local Sponsor's program, this Agreement, and any relevant federal or state laws, regulations or codes.

5.2 Local Sponsor shall not use ODA funds to acquire an easement on a property in which the Local Sponsor employee or board member, with decision-making involvement in matters related to easement acquisition and management, or such employee or board member's immediate family member or household member has a property interest. Local Sponsor agrees to generally conduct itself in a manner so as to protect the integrity of agricultural easements which it holds and avoid the appearance of impropriety or actual conflicts of interests in its acquisition and management of agricultural easements.

5.3 Local Sponsor agrees that it will not at any time, when the Local Sponsor is named as a Grantee in the agricultural easement, seek to acquire the remaining fee interest in the Property or otherwise enter into a partnership or joint venture wherein a partner has a fee interest in the Property.

5.4 When an agricultural easement violation is reported to Local Sponsor by ODA or when observed by Local Sponsor, after appropriate administrative and appeal rights, Local Sponsor shall enforce the terms and conditions of the agricultural easement pursuant to all available enforcement procedures, including legal and equitable remedies. In the event that Local Sponsor should decide to utilize any legal or equitable remedies involving the filing of a lawsuit, such use shall be subject to the mutual consent of the parties prior to filing. The Local Sponsor agrees to completely and fully support the ODA, and work with ODA in the enforcement of this Agreement and any agricultural easement, as well as any agreement with a Landowner arising out of this Agreement. Failure to do so shall be a default by the Local Sponsor of this Agreement.

5.5 Local Sponsor agrees to include ODA in any public news releases, events, brochures, fact sheets, or any other information distributed to the media ("Media Release") related to the acquisition of an agricultural easement on the Property listed in "Exhibit B - Property/Funds" acquired with ODA funds under this Agreement. Local Sponsor agrees to provide any Media Release to ODA for review and comment at least three (3) business days prior to its publication.

5.6 Local Sponsor agrees to comply with ODA guidelines and requirements regarding the disclosure of any confidential and potentially sensitive information about governmental and landowner issues, and such information shall not be disclosed without the prior written consent of ODA.

5.7 If Local Sponsor enters into a Cooperative Agreement with the United States Department of

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Agriculture - Natural Resources Conservation Service (USDA-NRCS) to receive matching funds under its Agricultural Conservation Easement Program - Agricultural Land Easement (ACEP-ALE) program, Local Sponsor is responsible for completion of all requested documents and services outlined in Cooperative Agreement with NRC S.

5.8 Any ODA funds received by Local Sponsor under this Agreement may not be utilized for reimbursement by Local Sponsor under any federal or state program, including ACEP-ALE.

VI. PAYMENT AND CERTIFICATION OF FUNDS

6.1 The Local Sponsor shall notify ODA when the funds for the agricultural easement are to be paid. Funds shall be paid to Local Sponsor via an escrow agreement in the form substantially as provided in "Exhibit H - Escrow Agreement" and approved by ODA with the title company as arranged by Local Sponsor. Local Sponsor shall, upon receipt of the funds from ODA, deposit and endorse over the funds to the title agent pursuant to the escrow agreement. Such escrow agreement shall specifically provide that 1) ODA is a third party beneficiary of the escrow agreement; 2) funds shall be returned to ODA if not disbursed to Landowner within 90 calendar days of funds by title agent unless otherwise agreed in writing by ODA; and 3) any other requirements as specified by ODA. Local Sponsor shall provide ODA notice of the scheduled Closing not less than 90 calendar days prior to said Closing to ensure timely delivery of the funds. In the event that funds are requested and placed with the title company in escrow, and that said funds are not disbursed at Closing within 90 calendar days of such deposit, the use of said funds shall be de-obligated and returned to ODA by the title agent unless the title agent has received an amendment to the escrow agreement which consents to holding the funds longer than 90 days. In the event that any funds sent to the Local Sponsor are not endorsed or otherwise provided to the title agent pursuant to the requirements of this paragraph within 5 days of receipt, such check shall be returned to ODA unless written permission is provided by ODA to continue to hold the check. Any periods of time longer than 90 calendar days to hold the funds shall require prior written amendment of this Agreement by the parties.

6.2 It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all applicable statutory provisions of the ORC, including but not limited to ORC § 126.07, have been complied with, and until such time as all necessary funds are available, encumbered and forthcoming from the appropriate state agencies or responsible third party entities, and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio.

VII. AGRICULTURAL EASEMENT REQUIREMENTS

7.1 The Local Sponsor shall ensure that agricultural easements acquired under this Agreement meet the following requirements:

- a. Run with the land in perpetuity.
- b. Protect agricultural use and related conservation values by limiting nonagricultural uses of the land and specify prohibited uses along with permitted uses;
- c. Provide for the administration, management, and enforcement of the agricultural easement by the Local Sponsor or its successors;
- d. Include a provision that if this Easement is extinguished, terminated or condemned, in whole or in part, Grantor shall reimburse the State Grantee for the amount equal to the proportionate share of the fair market value of the Protected Property unencumbered by this Easement as required by ORC § 901.22(A)(2)(b), and which is further specified in the terms of that certain Deed of Agricultural easement; and
- e. All other provisions as requested by ODA.

7.2 The form of any deed of agricultural easement used under this Agreement shall be approved and provided by ODA. Any revisions or modifications thereto must be approved by ODA in writing prior to the Closing.

VIII. TERMINATION OF LOCAL SPONSOR'S SERVICES

8.1 ODA and Local Sponsor may mutually agree to terminate this Agreement at any time. ODA shall be entitled, by written or oral notice, to cancel this Agreement in its entirety or in part, for breach of any of the terms, and to have all other rights against Local Sponsor by reason of Local Sponsor's breach. A breach shall mean, but shall not be restricted to, any one or more of the following events:

- a. Local Sponsor fails to perform the services by the date required or if no date is specified, in a timely manner;
- b. Local Sponsor breaches any representation and warranty, or fails to perform or comply with any term of this Agreement;
- c. Local Sponsor makes any general assignment for the benefits of creditors;
- d. In ODA's sole opinion, Local Sponsor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
- e. Local Sponsor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization or relief from debtors; or

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f. Any receiver, trustee or similar official is appointed for Local Sponsor or any of Local Sponsor's property.

8.2 Upon notice of termination, Local Sponsor shall cease all work on the terminated activities under this Agreement, terminate all subcontracts relating to the terminated activities, take all necessary steps to limit disbursements and minimize costs, and if requested by ODA, furnish a report, as of the date of receipt of notice of termination, describing the status of all work under this Agreement, including, without limitation, results, conclusions resulting therefrom, and any other matters ODA requires. If the Local Sponsor materially fails to comply with the terms of this Agreement, ODA reserves the right to wholly or partially recapture funds provided hereunder in accordance with applicable regulations.

8.3 ODA cannot make commitments in excess of funds authorized by law or made administratively available. If ODA cannot fulfill its obligations under this Agreement because of insufficient funds, this Agreement will automatically terminate with no further obligation by ODA. The Local Sponsor understands and agrees that no action arising out of or related to this Agreement may be brought by the Local Sponsor more than one (1) year after the cause of action accrued, regardless of the form of action.

8.4 In the event this Agreement is terminated prior to its completion, Local Sponsor shall deliver to ODA all work products and documents which have been prepared by Local Sponsor in the course of providing the Scope of Work under this Agreement. All such materials shall become and shall remain the property of ODA, to be used in such manner and for such purpose as ODA may choose.

8.5 Local Sponsor agrees to waive any right to, and shall make no claim for, additional compensation against ODA by reason of such termination.

IX. RELATIONSHIP OF PARTIES

9.1 ODA and Local Sponsor agree that Local Sponsor shall be engaged by ODA solely on an independent contractor basis, and Local Sponsor shall therefore be responsible for all of its own business expenses, including, but not limited to, computers, phone service and office space. Local Sponsor will also be responsible for all licenses, permits, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers' Compensation and Unemployment Compensation coverage, if any. Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent. It is fully understood and agreed that the Local Sponsor is an independent contractor and is not an agent, servant or employee of ODA or the State of Ohio.

IX. RELATED AGREEMENTS

10.1 The Scope of Work contemplated in this Agreement is to be performed by Local Sponsor, who may subcontract without ODA's approval for the purchase of articles, supplies, components, or special mechanical services which are required for its satisfactory completion. All work subcontracted shall be at Local Sponsor's expense.

XI. CONFLICTS OF INTEREST AND ETHICS COMPLIANCE

No personnel of Local Sponsor or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this Agreement is being carried out, and who exercise any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work. This includes the involvement of any personnel of Local Sponsor to place an easement on a property in which a person who is an immediate family member or household member of an employee or board member, with decision-making involvement in matters related to easement acquisition and management, has a property interest. Further, the Local Sponsor agrees to generally conduct itself in a manner so as to protect the integrity of Agricultural Easements which it holds as well as avoid the appearance of impropriety or actual conflicts of interests in its acquisition and management of agricultural easements, and shall implement a conflict of interest policy as approved by ODA.

11.2 Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to ODA in writing. Thereafter, he or she shall not participate in any action affecting the work under this Agreement, unless ODA shall determine in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

11.3 Local Sponsor represents, warrants, and certifies that it and its employees engaged in the administration or performance of this Agreement are knowledgeable of and understand the Ohio Ethics and Conflicts of Interest laws. Local Sponsor further represents, warrants, and certifies that neither Local Sponsor nor any of its employees will do any act that is inconsistent with such laws.

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11.4 Charitable organizations shall continue to meet the requirements specified in OAC § 901-2-04 and § 901-2-07.

XII. RIGHTS IN DATA AND COPYRIGHTS/PUBLIC USE

12.1 ODA shall have unrestricted authority to reproduce, distribute and use (in whole or in part) any reports, data or materials prepared by Local Sponsor pursuant to this Agreement. No such documents or other materials produced (in whole or in part) with funds provided to Local Sponsor by ODA shall be subject to copyright by Local Sponsor in the United States or any other country.

12.2 Local Sponsor agrees that all deliverables or original works created under this Agreement shall be made freely available to the general public to the extent permitted or required by law until and unless specified otherwise by ODA. Any requests for such materials received by Local Sponsor should be referred to ODA.

XIII. CONFIDENTIALITY

13.1 Subject to ORC § 121.22 and § 149.43, Local Sponsor shall not discuss or disclose any information or material obtained pursuant to its obligations under this Agreement without the prior written consent of ODA.

13.2 All provisions of this Agreement relating to "confidentiality" shall remain binding upon Local Sponsor in the event this Agreement is terminated.

XIV. CAMPAIGN CONTRIBUTIONS

14.1 Local Sponsor hereby certifies that neither Local Sponsor nor any of Local Sponsor's partners, officers, directors, shareholders nor the spouses of any such person have made contributions in excess of the limitations specified in ORC § 3517.13(I) and (J).

XV. LIABILITY

15.1 Each party to this Agreement shall be responsible for any breach of this Agreement, or negligent acts or omissions arising out of or in connection with this Agreement, or any other agreement entered into as a result of this Agreement, as determined by a court of competent jurisdiction, or as the parties may otherwise mutually agree. Nothing in this Agreement shall impute or transfer any such responsibility from one party to the other party.

15.2 Each party is responsible for paying its own costs and attorney's fees that arise from defending any claims brought under the terms of this Agreement.

15.3 In no event shall any party to this Agreement be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits.

15.4 If Local Sponsor enters into a Cooperative Agreement with the United States Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) to receive matching funds under its Agricultural Conservation Easement Program - Agricultural Land Easement (ACEP-ALE) program, and to which ODA shall be obligated to act as party to or secondary beneficiary to that certain Cooperative Agreement and associated rights and responsibilities, Local Sponsor shall be responsible for any and all obligations which arise under or which are related to that Cooperative Agreement.

XVI. REPORTS AND NOTICES

16.1 All reports, notices, copies, requests, consents, approvals and other communication required or permitted to be given pursuant to the terms of this Agreement shall be in writing and shall be deemed to have been properly given if hand delivered or sent by U.S. registered or certified mail, postage prepaid; or email with proof of delivery and read receipt:

a. with respect to ODA:
Ohio Department of Agriculture
Office of Farmland Preservation
8995 East Main Street
Reynoldsburg, Ohio 43068-3342
Attn: Executive Director, Farmland Preservation
Telephone: 614/728-6210
Email: farmlandpres@agri.ohio.gov

b. with respect to Local Sponsor:
Delaware County Commissioners c/o
Delaware Soil and Water and Conservation District
557 Sunbury Road

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Suite A
Delaware, 01143015-8656
Attn: Scott Stephens
Telephone: 740/368-1921
Email: scott-stephensdelawareswcd.org

16.2 Any and all notices and other documents and communications required to be given pursuant to this Agreement shall be deemed duly given: (a) upon actual delivery, if delivery is by hand or courier service; (b) upon receipt by the transmitting party of confirmation or answer back if delivery is by facsimile or electronic means; or (c) upon the third day following delivery into the U.S. mail if delivery is by regular U.S. mail. Each such notice shall be sent to the respective party at the address indicated first above or at any other address as the respective party may designate by notice delivered pursuant hereto.

XVII. MISCELLANEOUS

17.1 Counterparts. This Agreement may be executed in any number of counterparts, each of which is to be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

17.2 Entire Agreement/Waiver. This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This Agreement supersedes all prior and contemporaneous letters, correspondences, discussions and agreements among the parties with respect to all matters contained herein. A waiver by any party of any breach or default by another party, or failure of either party to enforce any provision of this Agreement or any course of conduct or industry standard shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder. Any provision of this document found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Agreement.

17.3 Governing Law. This Agreement and the rights of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Ohio. The parties agree to venue in the Ohio courts located in Franklin County, Ohio, and both parties irrevocably waive any objections to convenience of forum. In the event that this Agreement should become subject to the jurisdiction of the Court of Claims, the parties agree that such jurisdiction shall be binding and take precedence over any other forum selection clauses of this Agreement.

17.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties. Neither this Agreement nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part without the prior written consent of ODA.

17.5 Record Keeping. During the performance of the services required by this Agreement and for a period of three years after its completion, Local Sponsor shall maintain auditable records of all charges pertaining to this Agreement and shall make such records available to ODA as ODA may reasonably require.

17.6 Nondiscrimination. Pursuant to ORC § 125.111, Local Sponsor agrees that Local Sponsor, any subcontractor, and any person acting on behalf of Local Sponsor or subcontractor, will not discriminate, by reason of race, color, religion, sex, age, disability as defined in ORC § 4112.01, national origin, sexual orientation, military status, or ancestry against any citizen of this state in the hiring of any person qualified and available to perform the work under this Agreement and shall post notices regarding this provision. Local Sponsor further agrees that Local Sponsor, any subcontractor, and any person acting on behalf of Local Sponsor or subcontractor shall not, in any manner, 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 ORC § 4112.01, national origin, sexual orientation, military status, or ancestry.

17.7 Compliance with Laws. Local Sponsor, in the execution of its duties and obligations under this Agreement, agrees to comply with all applicable federal, state, and local laws, rules, regulations and ordinances. Local Sponsor affirms that it has all of the approvals, licenses, or other qualifications needed to conduct business in Ohio and all are current. If at any time during the Agreement period Local Sponsor, for any reason, becomes disqualified from conducting business in the State of Ohio, Local Sponsor will immediately notify ODA in writing and will immediately cease performance of Agreement activities.

17.8 Drug Free Workplace. Local Sponsor agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that any of its employees or permitted subcontractors engaged in the work being performed hereunder do not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

17.9 Findings for Recovery. Local Sponsor warrants that it is not subject to an "unresolved" finding for recovery under ORC § 9.24. If this warranty is deemed to be false, this Agreement is void ab initio and the Local Sponsor must immediately repay to the ODA any funds paid under this Agreement.

17.10 Headings. The headings in this Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Agreement.

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17.11 Severability. The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless, be binding and enforceable.

17.12 Debarment. Local Sponsor represents and warrants that it is not debarred from consideration for contract awards by the Director of ODA of Administrative Services, pursuant to either ORC § 153.02 or ORC § 125.25. If this representation and warranty is found to be false, this Agreement is void ab initio and Local Sponsor shall immediately repay to ODA any funds paid under this Agreement.

17.13 Executive Order 2011-12K Compliance. The Local Sponsor, including its officers and employees, hereby affirms to have read and understands Executive Order 2011-12K and agrees to abide by those requirements in the performance of this Agreement. Local Sponsor shall perform no services required under this Agreement outside the United States and agrees to immediately notify the State of any Change or shift in the location(s) of services performed by the Local Sponsor or its subcontractors under this Agreement, and no services shall be changed or shifted to a location(s) that are outside the United States. By signing this Agreement, Local Sponsor certifies that it is in, and will remain in, compliance with Executive Order 2011-12K and will not assign or subcontract the work under this Agreement to an entity outside the United States. Local Sponsor's representative has completed and signed the Affirmation and Disclosure Form available at <http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/EO%202011-12K.pdf> and will return it to ODA along with this Agreement.

17.14 Execution. This Agreement is not binding upon ODA unless executed in full.

17.15 Antitrust Agreement. Local Sponsor agrees to assign to ODA all state and federal antitrust claims and causes of action that relate to all goods and services provided for in this Agreement.

17.16 Conflict. In the event of any conflict between the terms and provisions of the body of this Agreement and any exhibit hereto, the terms and provisions of the body of this Agreement shall control.

17.17 Delay. ODA shall be excused from failures or delays in delivery or performance hereunder if such failure or delay is attributable to causes beyond the reasonable control of ODA which makes such performance or delivery commercially impractical and such failure or delay could not have prevented through reasonable precautions. In the event of any such delay, the time of delivery or performance or time of payment shall be extended for a period of time equal to the time lost by reason of such delay.

17.18 Court of Claims. Under ORC Chapter 2743 the State of Ohio has waived its immunity from liability and consented to be sued and have its liability determined in its Court of Claims in accordance with the same rules of law applicable to suits between private parties, except to the extent the determination of the State of Ohio's liability is subject to limitations set forth in ORC Chapter 2743.

A facsimile signature or other similar electronic reproduction of a signature shall have the force and effect of an original signature, and in the absence of an original signature, shall constitute the original signature. IN WITNESS WHEREOF, the parties have executed this Agreement by and through their duly authorized agents as of the Effective Date.

LOCAL SPONSOR Date:
By:
Printed Name:
Delaware County Commissioners 101 North Sandusky Street
Delaware, OH 43015

OHIO DEPARTMENT OF AGRICULTURE Date:
By:
David T. Daniels Director
Approved: Date:
By:
Timothy G. Schirmer Senior Staff Counsel
Ohio Department of Agriculture 8995 East Main Street
Reynoldsburg, Ohio 43068-3342

This instrument was prepared by: Ohio Department of Agriculture 8995 East Main Street Reynoldsburg, Ohio 43068-3342 (Copies of exhibits available in the Commissioners' Office and SWCD' office until no longer of administrative value).

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

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RESOLUTION ASSIGNING AUTHORITY TO DAVID DOMBROSKY, DIRECTOR DELAWARE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, TO ACT AS THE DELAWARE COUNTY BOARD OF COMMISSIONERS' DESIGNEE FOR APPROVING INTER-COUNTY ADJUSTMENTS OF ALLOCATED FUNDS:

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

WHEREAS, Ohio Administrative Code Section 5101:9-6-82 provides for the inter-county adjustment of any state or federal county family services agency allocation; and

WHEREAS, Counties have requested such adjustments to best meet the needs of their constituents, due to the limited allowable uses of each fund and the nuances of the random moment sampling process on a county's funding stream; and

WHEREAS, Any unspent allocations within a county at the end of a fiscal year revert back to the state for use by the State Department of Job and Family Services; and

WHEREAS, A county family services agency must make such inter-county adjustment request to the Ohio Department of Job and Family Services, and include with such request a resolution authorizing such from that county's board of county commissioners; and

WHEREAS, in accordance with Ohio Administrative Code Section 5101:9-6-82(F)(2)(b), a board of county commissioners may pass a resolution assigning authority to another party to serve as their designee and therefore grant that party authority to sign the inter-county adjustment agreement on behalf of the county for a specific period of time;

THEREFORE BE IT RESOLVED, that the Delaware County Board of Commissioners hereby assigns authority to David Dombrosky, Director Delaware County Department of Job and Family Services, through December 31, 2017, to serve as the Delaware County Board of Commissioners' designee, and thereby grants David Dombrosky, the authority to sign inter-county adjustment agreements on behalf of Delaware County until December 31, 2017.

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

**8
RESOLUTION NO. 16-517**

IN THE MATTER OF APPROVING AN ADVANCE OF FUNDS FOR HELP ME GROW GENERAL REVENUE:

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

ADVANCE From	To	
70161603-8500	70161606-8400	
FCFC General/Advances Out	Help Me Grow General Revenue/Advances In	\$ 60,000.00

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

**9
RESOLUTION NO. 16-518**

IN THE MATTER OF AWARDED THE BID TO L B CLEANING COMPANY, LLC FOR ITB #16-02 JANITORIAL SERVICES FOR DELAWARE COUNTY:

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

WHEREAS, Delaware County received bids for janitorial services for the Delaware County Offices on May 3, 2016, and;

WHEREAS, after carefully reviewing the bid received, the bid submitted by L B Cleaning Company, LLC has been determined to be the lowest, best bid for janitorial services.

NOW THEREFORE BE IT RESOLVED, that the board of Commissioners of Delaware County, State of Ohio, award the bid to L B Cleaning Company, LLC for ITB #16-02 Janitorial Services for Delaware County.

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

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RESOLUTION NO. 16-519

**IN THE MATTER OF THE DELAWARE COUNTY BOARD OF COMMISSIONERS APPOINTING
A COUNTY PREVENTION SPECIALIST TO THE OHIO CHILDREN’S TRUST FUND CENTRAL
OHIO CHILD ABUSE AND CHILD NEGLECT REGIONAL PREVENTION COUNCIL:**

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

WHEREAS, pursuant to section 3109.172 of the Revised Code, the Delaware County Board of Commissioners may appoint two county prevention specialists to the Ohio Children’s Trust Fund Regional Prevention Council; and

WHEREAS, Delaware County Board of Commissioners Resolution NO. 16-49 appointed Stephanie Scribner, Council Coordinator Delaware County Family and Children First Council, acting in her capacity as administrator for the Delaware County Family and Children First Council and Sue Ware, Assistant Director Delaware County Department of Job and Family Services, acting in her capacity as administrator for Delaware County’s Children’s Services; and

WHEREAS, Sue Ware is no longer with the Delaware County Department of Job and Family Services therefore one of Delaware County’s appointments to the County Prevention Specialist To The Ohio Children’s Trust Fund Central Ohio Child Abuse And Child Neglect Regional Prevention Council is now vacant; and

WHEREAS, the Delaware County Family and Children First Council recommends that the following individual be considered to fill the vacancy for the county’s second available appointment for a prevention specialist to represent Delaware County for appointment to the yet-to-be formed Central Ohio Child Abuse and Child Neglect Regional Prevention Council:

-Shelia Hiddleson, Health Commissioner Delaware General Health District, Acting in capacity as Chairperson for Delaware County Family and Children First Council;

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

Section 1. The Board hereby appoints Shelia Hiddleson, Health Commissioner Delaware General Health District, Acting in capacity as Chairperson for Delaware County Family and Children First Council, as a county prevention specialist to represent Delaware County.

Shelia Hiddleson,
Health Commissioner
Delaware General Health District
5 West Winter Street
Delaware, Ohio 43015
740-368-1700
Email: shiddleson@delawarehealth.org

Section 2. In accordance with OAC 5101:5-1-03(C), the Clerk is directed to submit a copy of this Resolution, along with a resume, curriculum vitae, or short biography of the appointee named in Sections 1 hereof, to the Ohio Children’s Trust Fund for confirmation of the appointment.

Section 3. The appointment approved herein shall be effective upon confirmation by the Ohio Children’s Trust Fund and shall be for a period of two years, with the term to be specified in the appointment confirmation.

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

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RESOLUTION NO. 16-520

**IN THE MATTER OF APPROVING AN ENGAGEMENT LETTER TO DESIGNATE JONATHAN
DOWNES AND ZASHIN AND RICH CO. L.P.A. AS THE DELAWARE COUNTY BOARD OF
COMMISSIONERS' EMPLOYER REPRESENTATIVE PURSUANT TO R.C. 4117.04:**

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

The Assistant County Administrator/ Director of Administrative Services recommends approval of the engagement letter To Designate Jonathan Downes And Zashin And Rich Co. L.P.A. As The Delaware County Board Of Commissioners' Employer Representative Pursuant To R.C. 4117.04.;

Therefore Be It Resolved, that the Board of Commissioners approve the engagement letter To Designate Jonathan Downes And Zashin And Rich Co. L.P.A. As The Delaware County Board Of Commissioners' Employer Representative Pursuant To R.C. 4117.04:

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May 4, 2016

Delaware County Board of County Commissioners
Attn: Dawn Huston, Assistant County Administrator
101 North Sandusky Street
Delaware, OH 43015-1732

RE: Delaware County Commissioners

Dear Dawn:

We are pleased for the opportunity to represent the Delaware County Board of County Commissioners' interests in the union contract negotiations for the Delaware County Environmental Services and Delaware County DJFS and as may otherwise be directed by the County.

The terms of this engagement letter and the attached Standard Terms of Engagement will govern our representation. Absent an express written agreement to the contrary, the terms of our engagement set forth in this letter and the Standard Terms of Engagement will apply to matters which you request our Firm to undertake.

Our fees are based on the time devoted by each attorney, law clerk, paralegal, and other legal assistants at their respective hourly rates in effect at the time the services are performed. Pursuant to our agreement, Zashin & Rich will bill for attorneys at the hourly rate of \$195 and paralegals, clerks, and other legal assistants at the reduced hourly rate of \$125. These rates will be effective until December 31, 2016.

In addition to our fees, we include payments for disbursements and other charges incurred in performing services as more particularly described in the Standard Terms of Engagement. Fees, disbursements, and other charges will be billed monthly.

Please review the terms of this engagement letter carefully, as well as the terms set forth in the Standard Terms of Engagement. If you have any questions, please contact us.

On behalf of Zashin & Rich Co., L.P.A., I thank you for the privilege of representing the County and look forward to serving your interests. Very truly yours, ZASHIN & RICH CO., L.P.A. Jonathan J. Downes

Accepted for the Delaware County Board of County Commissioners
Signature _____ Print Name: _____ Date: _____

STANDARD TERMS OF ENGAGEMENT

This is a supplement to our engagement letter dated May 4, 2016. The purpose of this document is to set out additional terms of our agreement to provide legal services. Because these additional terms of engagement are a part of our agreement to provide legal services, you should review them carefully and should promptly communicate to us any questions concerning this document. We suggest that you retain this statement of additional terms along with our engagement letter for your records.

Scope of Representation

We will at all times act on your behalf to the best of our ability. Any expressions on our part concerning the outcome of the representation, or any other legal matters, are based on our professional judgment and are not guarantees. Such expressions, even when described as opinions, are necessarily limited by our knowledge of the facts and are based on our views of the state of the law at the time they are expressed. In retaining us, you recognize that all legal matters involve risks. We cannot and have not made any promises or guarantees to you about the outcome of the representation, and nothing in these terms of engagement shall be construed as such a promise or guarantee.

Upon accepting this engagement on your behalf, we agree to do the following: 1) provide legal counsel in accordance with these terms of engagement in reliance upon information and guidance provided by you; and 2) keep you reasonably informed about the status and progress of the matters we are handling for you.

To enable us to provide effective representation, you agree to do the following: 1) disclose to us, fully and accurately and on a timely basis, all facts and documents that are or might be material or that we may request; 2) keep us apprised on a timely basis of all developments relating to the matters we are handling for you that are or might be material; 3) attend meetings, conferences, and other proceedings when it is reasonable for you to do so, and where it may be required by a court or other tribunal; and 4) otherwise cooperate fully with us.

It is our policy that the person or entity that we represent is the person or entity that is identified in our engagement letter and does not include any affiliates of such person or entity (i.e., if you are a corporation or partnership, any parents, subsidiaries, employees, officers, directors, shareholders, or partners of the corporation or partnership, or commonly owned corporations or partnerships; or, if you are a trade association, any members of the trade association). Accordingly, for conflict of interest purposes, we may represent another client with interests adverse to any such affiliate without obtaining your consent.

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It is our further policy that our representation is limited to performance of the services described in the engagement letter and does not include representation of you or your interests in any other matter.

After the completion of the matter, changes may occur in the applicable laws or regulations that could have an impact upon your future rights and liabilities. We always strive to keep our clients updated on matters on which we have been retained. However, unless you engage us after completion of the matter to provide additional advice on issues arising from the matter, the firm has no continuing obligation to advise you with respect to future legal developments.

If, during the course of our engagement, we send you a letter or other written communication advising you about a Federal tax issue, you may notice a statement toward the end saying that our advice may not be relied upon for the purpose of avoiding penalties that may be imposed. (That legend will appear on every e-mail or fax that we send even if there is no tax issue involved.) This does not mean that we have not carefully considered the advice we sent to you. Rather, is intended to enable us to render that advice in a cost efficient manner. Rules recently adopted by the Treasury Department require that in the absence of such a legend, any tax advice must be given only in a full-blown, formal legal opinion. Like all law firms, if we were to issue a formal opinion, we would need to follow certain prescribed procedures. In most cases, the cost to our clients would exceed the value received if we were to follow those procedures. In any case where we think that a formal opinion may be appropriate, we will discuss the matter with you.

When We Bill

We will send you a bill each month for the services performed during the previous month. This bill will also include out-of-pocket expenses. These are described below.

We want our clients to be satisfied with both the quality and cost of our services. We therefore encourage our clients to discuss with us any questions relating to fees for our services. We will make every effort to provide you with bills in a format that meets your needs.

How Fees Will Be Set

We will keep accurate records of the time we devote to your work, including conferences (both in person and over the telephone), negotiations, factual and legal research and analysis, document preparation and revision, travel on your behalf, and other related matters. We record our time in units of one tenth of any hour.

The hourly rates of our lawyers are adjusted annually to reflect current levels of legal experience, changes in overhead costs, and other factors. We are often requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter. Whenever possible, we will furnish such an estimate based upon our professional judgment, but always with a clear understanding that it is not a maximum or fixed-fee quotation.

Retainers

If we have agreed to a retainer, it is further agreed that we have a security interest in that deposit. Retainers are usually considered to be unearned advances. They are placed into trust accounts, usually placed in pooled interest-bearing trust accounts governed by rules adopted by the bar associations in the jurisdictions in which we practice. All accruing interest is paid to a charitable fund established by those bar associations. The need to replenish the retainer is a condition of our continued work and is set forth in the Engagement Letter itself.

Disbursements and Other Charges

In addition to our fees, we will be entitled to payment or reimbursement for disbursements and other charges incurred in performing services such as photocopying, messenger and delivery, overnight delivery and air freight, computerized research, videotape recording, travel (including mileage, parking, air fare, lodging, meals, and ground transportation), long distance telephone, telecopying, word processing in special circumstances, courts costs, and filing fees. To the extent we directly provide any of these services, we reserve the right to adjust the amount we charge at any time or from time to time, and the charge will approximate our cost. Unless special arrangements are made, fees and expenses of consultants and professionals (such as experts, investigators, witnesses, and court reporters) and other large disbursements will not be paid by our firm and will be the responsibility of, and billed directly to, you or you will be asked to advance to us an estimate of those costs.

Payment of Invoices

Our invoices are payable within 30 days of receipt. Any amounts not paid within 30 days will be subject to a late charge at the monthly rate of one-percent (1%). In the event that a bill remains unpaid past the due date, the firm may discontinue services. If we represent you in a pending litigation, we may seek to withdraw as your counsel. Whether or not we elect to discontinue representation, if collection activities become necessary, we will be entitled to seek reasonable attorneys' fees and costs of collection.

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Conflicts of Interest

It is unavoidable that from time to time conflicts of interest develop between or among our clients, or between clients, or former clients, and prospective clients we wish to represent. In these situations, we are required, if we are authorized to do so, to disclose the conflicts to our clients, former clients, and prospective clients and consult with them and to obtain the clients' or former clients' consents before we may proceed. We wish to confirm that you agree that you will promptly and in good faith consider our requests for consent.

Termination

You shall have the right at any time to terminate our services and representation upon written notice. Such termination shall not, however, relieve you of the obligation to pay for all services rendered and disbursements and other charges made or incurred on your behalf prior to the date of termination.

We reserve the right upon reasonable notice to cease performing work and to withdraw from the representation (a) with your consent, (b) for good cause, or (c) for any other reason permitted or required by law. Good cause may include your failure to honor the terms of the engagement letter, your failure to pay amounts billed in a timely manner, your failure to furnish deposits for fees and costs or to otherwise provide a requested advance for fees and costs, or any fact or circumstance that would in our view, impair an effective attorney-client relationship or would render our continuing representation unlawful, unethical or unreasonably burdensome. If we elect to do so, you must take all steps necessary to free us of any obligation to perform further, including the execution of any documents (including forms for substitution of counsel) necessary to complete our withdrawal, and we will be entitled to be paid for all services rendered and disbursements and other charges made or incurred on your behalf prior to the date of withdrawal.

Record Retention

At the conclusion of a matter we often undertake to review the file and discard extra copies of documents. We then send the balance of the file on that matter to an off-site facility for storage at our expense, unless a client requests us to deliver the file to it. To minimize the file storage expense, we reserve the right, subject to your contrary direction, to retain files for only ten years and to destroy all older files to the extent practicable; provided that we use our reasonable efforts to review old files and retain original legal instruments such as notes, leases, mortgages, deeds, stock certificates, marital equitable distribution agreements and other items of obvious value. If you wish to handle the disposition of files in a different manner, please let us know. Otherwise, we will proceed as set forth above.

Communications and Confidentiality

In the course of our representation of you, we have a duty to preserve the confidentiality of our communications with you and other information relating to the representation. However, you and we need to recognize that all means of communication are, to some degree, susceptible to misdirection, delay or interception. E-mail and cellular telephone communications present special risks of inadvertent disclosure. However, because of the countervailing speed, efficiency, and convenience of these methods of communication, we have adopted them as part of the normal course of our operations. Unless you instruct us to the contrary, we will assume that you consent to our use of e-mail and cell phone communications in representing you.

Marketing Matters

Our firm has a public web site that may identify some of our clients and publicly disclosed transactions and other legal matters we have handled. In addition, we develop various marketing, advertising, and informational materials from time to time that contain similar information. You agree that we may publicly identify you as a client of Zashin & Rich Co., L.P.A.

Insurance

You agree to immediately determine whether insurance coverage is or may be available with respect to the subject matter of the engagement and to promptly provide notice to any insurer that may provide coverage. If an insurer pays any portion of our charges, you agree that you will remain responsible for payment of any amounts billed by us but not paid by the insurer, unless we have agreed otherwise in writing.

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

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RESOLUTION NO. 16-521

IN THE MATTER OF APPROVING THE SANITARY SEWER SUBDIVIDER'S AGREEMENTS FOR OLENTANGY FALLS SECTION 4 AND FOR OLENTANGY FALLS SECTION 5:

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

WHEREAS, the Executive Director recommends approval of the Sanitary Subdivider's Agreements;

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THEREFORE, BE IT RESOLVED that the Board of Commissioners approve the Sanitary Subdivider's Agreements for Olentangy Falls Section 4A and for Olentangy Falls Section 5:

SUBDIVIDER'S AGREEMENT
DELAWARE COUNTY SANITARY ENGINEER

SECTION I: INTRODUCTION

This Agreement is entered into on this 26th day of May 2016, by and between **OLENTANGY FALLS, LTD**, hereinafter called "Subdivider", and the Delaware County Board of Commissioners (hereinafter called "County Commissioners" or "County") as evidenced by the **OLENTANGY FALLS SECTION 4A** Subdivision Plat filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, and is governed by the following considerations and conditions, to wit:

The Subdivider is to construct, install or otherwise make all public improvements (the "Improvements") shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for **OLENTANGY FALLS SECTION 4A**, dated **June 29, 2015**, and approved by the County on **July 16, 2015**, all of which are a part of this Agreement. The Subdivider shall pay the entire cost and expense of the Improvements.

SECTION II: CAPACITY

There are **7** single family residential equivalent connections approved for Olentangy Falls Section 4A with this Agreement.

Capacity shall be reserved for one year from the date of this Agreement, unless the County Commissioners grant an extension in writing. Capacity is not guaranteed until the final Subdivision Plat is recorded. If the final Subdivision Plat is not recorded prior to expiration of the reservation deadline as set forth herein, the Subdivider agrees and acknowledges that capacity shall not be guaranteed.

SECTION III: FINANCIAL WARRANTY

OPTIONS:

1. Should the Subdivider elect to record the plat prior to beginning construction, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$40,300.00**) which is acceptable to the County Commissioners to insure faithful performance of this Agreement and the completion of all Improvements in accordance with the Subdivision Regulations of Delaware County, Ohio.
2. Should the Subdivider elect to proceed with construction prior to recording the plat, no approved financial warranties are necessary until such time as Subdivider elects to record the plat. At that time, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction remaining to be completed as determined by the Delaware County Sanitary Engineer.

The Subdivider hereby elects to use Option 2 for this project.

Initials _____

Date _____

The Subdivider shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the Delaware County Sanitary Engineer a five (5) year maintenance bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The Subdivider further agrees that any violations of or noncompliance with any of the provisions and stipulations of this Agreement shall constitute a breach of contract, and the County shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the Improvements for **OLENTANGY FALLS SECTION 4A**.

SECTION IV: FEES

It is further agreed that upon execution of this Agreement, the Subdivider shall pay the Delaware County Sanitary Engineer three and one-half percent (3½%) of the estimated construction cost of the Improvements for plan review of **OLENTANGY FALLS SECTION 4A** (**\$1,410.50**). The Subdivider shall also deposit with the Delaware County Sanitary Engineer the sum of **\$3,450.00** estimated to be necessary to pay the cost of inspection for **OLENTANGY FALLS SECTION 4A** by the Delaware County Sanitary Engineer. The Delaware County Sanitary Engineer shall in his or her sole discretion inspect, as necessary, the Improvements being installed or constructed by the Subdivider and shall keep accurate records of the time spent by his or her employees and agents in such inspections for which the Delaware County Sanitary Engineer shall be reimbursed from charges against the deposit. At such time as the fund has been depleted to a level of \$600.00 or less, as a result of charges against the fund at the rate of:

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

for time spent by the Delaware County Sanitary Engineer or his or her staff, the Subdivider shall make an additional deposit of \$600.00 to the fund. Upon completion of all Improvements provided herein and acceptance of Improvements by the County, any unused portions of the inspection fund shall be repaid to the Subdivider less an amount equal to \$0.75 per foot of sewer which will be deducted to cover re-inspection.

In addition to the charges above, the Subdivider shall pay the cost of any third party inspection services for **OLENTANGY FALLS SECTION 4, PHASE A** as required by the County.

SECTION V: CONSTRUCTION

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

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

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

If, due to unforeseen circumstances during construction activities, the Subdivider must install any of the Improvements to a different location than shown on the approved and signed construction plans, the Subdivider shall request a revision to the construction plans and the Delaware County Sanitary Engineer shall evaluate this request. If the request for a revision is approved in writing by the Delaware County Sanitary Engineer, then the Subdivider shall provide and record a revised, permanent, exclusive sanitary easement prior to the County's acceptance of the sewer. The language and dimensions of the revised, permanent, exclusive sanitary easements shall be subject to the approval of the Delaware County Sanitary Engineer.

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

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

SECTION VI: EASEMENTS

The Subdivider shall provide to the County all necessary easements or rights-of-way required to complete the Improvements, all of which shall be obtained at the expense of the Subdivider. All Improvements, including, but not limited to, public sanitary sewers, force mains, manholes, and private laterals to offsite properties shall be located within a recorded, permanent, exclusive sanitary easement on file at the Delaware County Recorder's Office, the language of which shall be subject to approval by the Delaware County Sanitary Engineer. The dimensions of all easements shall be as shown on the approved engineering drawings. If any onsite easement or necessary right of way is not to be recorded as part of a subdivision plat, such easements and rights-of-way shall be recorded and provided to the Delaware County Sanitary Engineer before a preconstruction meeting will be permitted and before construction may begin on the Improvements. All offsite easements must be recorded prior to signing the plans unless otherwise permitted, in writing, by the Delaware County Sanitary Engineer.

SECTION VII: COMPLETION OF CONSTRUCTION

The County shall, upon certification in writing from the Delaware County Sanitary Engineer that all construction is complete according to the plans and specifications, by Resolution, accept the Improvements described herein and accept and assume operations and maintenance of the Improvements.

The Subdivider shall within thirty (30) days following completion of construction of the Improvements, and prior to final acceptance, furnish to the County as required:

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- (1) "As built" drawings of the Improvements which plans shall become the property of the County and shall remain in the office of the Delaware County Sanitary Engineer and Delaware County Engineer and/or the City of Powell. The drawings shall be on reproducible Mylar (full size), two paper copies (one full size & one 11"x17"), and a Compact Diskette with the plans in .DWG format & .PDF format. If each or any Section/Phase/Part is accepted separately, SUBDIVIDER agrees to provide as built drawings for each Section/Phase/Part as requested and one complete set of as built drawings for the **OLENTANGY FALLS SECTION 4, PHASE A** Sanitary Sewer Improvement Plan with the last final acceptance.
- (2) An Excel spreadsheet, from a template as provided by the Delaware County Sanitary Engineer, shall accompany the plan submittal showing the locations of the manholes in Ohio State Plane North Coordinates NAD 1983 (NAVD 1988 datum) and other miscellaneous project data.
- (3) An itemized statement showing the cost of the Improvements.
- (4) An Affidavit or waiver of lien from all contractors associated with the project that all material and labor costs have been paid. The Subdivider shall indemnify and hold harmless the County from expenses or claims for labor or materials incident to the construction of the Improvements.
- (5) Documentation showing the required sanitary easements.

Should the Subdivider become unable to carry out the provisions of this Agreement, the Subdivider's heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this Agreement. Notwithstanding any other provision of this Agreement, the County shall have no obligation to construct any improvements contemplated herein, and any construction thereof on the part of the County shall be strictly permissive and within the County's sole discretion.

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

After the acceptance of the Improvements, the capacity charge **and any surcharges** shall be paid by the applicant upon request to the Delaware County Sanitary Engineer for a tap permit to connect to the sanitary sewer.

SECTION VIII: SIGNATURES

IN CONSIDERATION WHEREOF, the County Commissioners hereby grant the Subdivider or its agent the right and privilege to make the Improvements stipulated herein and as shown on the approved plans.

SUBDIVIDER'S AGREEMENT

DELAWARE COUNTY SANITARY ENGINEER

SECTION I: INTRODUCTION

This Agreement is entered into on this 26th day of May 2016, by and between **OLENTANGY FALLS, LTD**, hereinafter called "Subdivider", and the Delaware County Board of Commissioners (hereinafter called "County Commissioners" or "County") as evidenced by the **OLENTANGY FALLS SECTION 5** Subdivision Plat filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, and is governed by the following considerations and conditions, to wit:

The Subdivider is to construct, install or otherwise make all public improvements (the "Improvements") shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for **OLENTANGY FALLS SECTION 5**, dated **June 29, 2015**, and approved by the County on **July 16, 2015**, all of which are a part of this Agreement. The Subdivider shall pay the entire cost and expense of the Improvements.

SECTION II: CAPACITY

There are **20** single family residential equivalent connections approved for Olentangy Falls Section 5 with this Agreement.

Capacity shall be reserved for one year from the date of this Agreement, unless the County Commissioners grant an extension in writing. Capacity is not guaranteed until the final Subdivision Plat is recorded. If the final Subdivision Plat is not recorded prior to expiration of the reservation deadline as set forth herein, the Subdivider agrees and acknowledges that capacity shall not be guaranteed.

SECTION III: FINANCIAL WARRANTY

OPTIONS:

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- 1) Should the Subdivider elect to record the plat prior to beginning construction, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$219,300.00**) which is acceptable to the County Commissioners to insure faithful performance of this Agreement and the completion of all Improvements in accordance with the Subdivision Regulations of Delaware County, Ohio.
2. Should the Subdivider elect to proceed with construction prior to recording the plat, no approved financial warranties are necessary until such time as Subdivider elects to record the plat. At that time, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction remaining to be completed as determined by the Delaware County Sanitary Engineer.

The Subdivider hereby elects to use Option 2 for this project.

Initials _____

Date _____

The Subdivider shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the Delaware County Sanitary Engineer a five (5) year maintenance bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The Subdivider further agrees that any violations of or noncompliance with any of the provisions and stipulations of this Agreement shall constitute a breach of contract, and the County shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the Improvements for **OLENTANGY FALLS SECTION 5**.

SECTION IV: FEES

It is further agreed that upon execution of this Agreement, the Subdivider shall pay the Delaware County Sanitary Engineer three and one-half percent (3½%) of the estimated construction cost of the Improvements for plan review of **OLENTANGY FALLS SECTION 5 (\$7,675.50)**. The Subdivider shall also deposit with the Delaware County Sanitary Engineer the sum of **\$18,675.00** estimated to be necessary to pay the cost of inspection for **OLENTANGY FALLS SECTION 4A** by the Delaware County Sanitary Engineer. The Delaware County Sanitary Engineer shall in his or her sole discretion inspect, as necessary, the Improvements being installed or constructed by the Subdivider and shall keep accurate records of the time spent by his or her employees and agents in such inspections for which the Delaware County Sanitary Engineer shall be reimbursed from charges against the deposit. At such time as the fund has been depleted to a level of \$600.00 or less, as a result of charges against the fund at the rate of:

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

for time spent by the Delaware County Sanitary Engineer or his or her staff, the Subdivider shall make an additional deposit of \$600.00 to the fund. Upon completion of all Improvements provided herein and acceptance of Improvements by the County, any unused portions of the inspection fund shall be repaid to the Subdivider less an amount equal to \$0.75 per foot of sewer which will be deducted to cover re-inspection.

In addition to the charges above, the Subdivider shall pay the cost of any third party inspection services for **OLENTANGY FALLS SECTION 5** as required by the County.

SECTION V: CONSTRUCTION

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

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

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

If, due to unforeseen circumstances during construction activities, the Subdivider must install any of the Improvements to a different location than shown on the approved and signed construction plans, the Subdivider shall request a revision to the construction plans and the Delaware County Sanitary Engineer shall evaluate this request. If the request for a revision is approved in writing by the Delaware County Sanitary

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Engineer, then the Subdivider shall provide and record a revised, permanent, exclusive sanitary easement prior to the County's acceptance of the sewer. The language and dimensions of the revised, permanent, exclusive sanitary easements shall be subject to the approval of the Delaware County Sanitary Engineer.

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

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

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5. Documentation showing the required sanitary easements.

Should the Subdivider become unable to carry out the provisions of this Agreement, the Subdivider's heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this Agreement. Notwithstanding any other provision of this Agreement, the County shall have no obligation to construct any improvements contemplated herein, and any construction thereof on the part of the County shall be strictly permissive and within the County's sole discretion.

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SECTION VIII: SIGNATURES

IN CONSIDERATION WHEREOF, the County Commissioners hereby grant the Subdivider or its agent the right and privilege to make the Improvements stipulated herein and as shown on the approved plans.

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

13**ADMINISTRATOR REPORTS****Ferzan Ahmed, County Administrator**

-The bonding for the new courthouse facilities has finished. The county saved around \$677,000 in refinancing the existing bonds.

-There will be a new HR Coordinator starting next week.

-This afternoon will be heading to the Fairgrounds to discuss the transfer of property with the new fair director.

-Was made aware of Senate Bill 308 by the Director of the county's CSEA, which would streamline the process for the Child Support Enforcement Agency to compel mothers to pay child support.

-Director Patrick Brandt (Emergency Communications) is a great example of ownership and empowerment. He saw from start (June 25, 2015) to near finish (awaiting the Governor's signature) of House Bill 277 which would eliminate double taxation for citizens.

-Director Brandt thanked Representative Margaret Ann Ruhl who asked questions to help identify the communities that are affected by this and Representative Andrew Brenner for testifying on the bill's behalf on the House floor. Thank you also to Senator Bacon for testifying on the bill's behalf on the Senate floor. A big thank you to Trustee King (Washington Township), Mr. McDaniels (City of Dublin) for their letters of support; to Chief Wilson (BST&G) and Chief Pijanowski for attending the hearings. "It's a great day in Delaware County".

14**COMMISSIONERS' COMMITTEES REPORTS****Commissioner Merrell**

-Attending and spoke at the IKEA groundbreaking ceremony yesterday. This is a great example of different entities working together to let a great project happen.

Commissioner Lewis

-Attended a Stepping Up Initiative Mapping discussion on Tuesday and Wednesday. There were about 40 people from different backgrounds at the meeting. Priority for Change topics were: transitional housing for those coming out of jail, transportation, bed availability, the ability to identify mental illnesses before entering the jail

-Lean-6 Sigma course started yesterday. The Sanitary Engineer and Human Resources departments participated

Commissioner Benton

-Attended a Community Action meeting Tuesday. Community Action currently consists of three counties and would like to include three more counties (Shelby, Champaign and Logan) whose Community Action organizations went under

-Memorial Day weekend is this weekend. There will be a ceremony at noon on Monday to dedicate Veteran's Plaza located at the YMCA

-Will be attending a meeting at the Columbus Zoo next Tuesday

-The 40 under 40 dinner was held this week. Bob Lamb, Director of Economic Development, was honored

16**RECESS/RECONVENE IN THE FIELD 11:20AM****VIEWING FOR CONSIDERATION OF ESTABLISHMENT OF A NEW ROAD FROM CHESHIRE ROAD TO BERLIN STATION ROAD**

On Thursday May 26, 2016, (near the Cheshire Elementary School, 2681 Gregory Road, Delaware, Ohio 43015) The Delaware County Board of Commissioners viewed the proposed construction area of the new extension of Piatt Road from its current terminus at Cheshire Road in a northerly direction for a distance of approximately 1.11 miles to a point in Berlin Station Road in the northeastern corner of the School Site (Olentangy).

Commissioners Present: Barb Lewis, President; Jeff Benton, Vice President and Gary Merrell, Commissioner
Delaware County Engineer's Office: Rob Riley, Chief Deputy Engineer

NOTE: the hearing on the road improvement is scheduled for Thursday June 2, 2016, at 9:45am

Delaware County is considering extension of Piatt Road from its current terminus at Cheshire Road in a northerly direction for a distance of approximately 1.11 miles to a point in Berlin Station Road in the

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northeastern corner of the proposed High School Site.

The process of establishment of a new county road begins with a viewing of the location of the proposed road by the Board of County Commissioners followed by a hearing to consider moving forward with the road improvement.

Design of the proposed improvement has not begun, therefore, information relating to the design of the road is limited at this time. If Delaware County moves forward with the improvement, the County Engineer will conduct additional public involvement to provide more detailed information to affected property owners as design moves progresses.

- design phase has not started; two years phase if approved to move forward
- roundabouts are possible
- funding has not been determined at this time

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

SIGN-IN SHEET FOR MAY 26, 2016

11:00 AM Viewing proposed improvement: extend Piatt Road from its current terminus at Cheshire Road in a northerly direction for a distance of approximately 1.11 miles to a point in Berlin Station Road in the northeastern corner of the School Site;

	NAME	ADDRESS
1	Judge Wahman	Clerk Commissioner
2	Paul Lewis	Commissioner
3	Jeff Bentz	COMMISSIONER
4	Gail Hawes	Delaware Co.
5	Samuel Duvors	Commissioner
6	Rob Riley	County Engineer
7	CHET HEID	BERLIN ZONING INSPECTOR
8	AARON ROLL	2791 Gregory Rd
9	Julia Roll	2747 Gregory Rd
10	Tom Roll	2747 Gregory Roll
11	Francis W. Lawrence	2405 Berlin Station Road
12	Martha Davis	1950 Lackey Old State Rd
13	David Gindner	2823 Lyming Ln Rd Galsen 43220
14	David Davis	1950 Lackey Old State Rd
15	Chuck Orth	Rt 4 - 148 W Schrock Rd Westboro
16	MARK RAIFF	5873 BAYSIDE BRIDGE DR. GALENA 43021
17	Bibbata Sherman	1469 AFRICA RD GALENA 43021
18	Don Sherman	" "
19	Frank Peirson	4451 Scenic Creek Dr Powell
20		

There being no further business, the meeting adjourned.

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Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners