

COMMISSIONERS JOURNAL NO. 65 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD JUNE 23, 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. 16-603

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JUNE 20, 2016:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on June 20, 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. 16-604

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0622, MEMO TRANSFERS IN BATCH NUMBERS MTAPR0622 AND PROCUREMENT CARD PAYMENTS IN BATCH NUMBER PCAPR0622:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0622, memo transfers in batch numbers MTAPR0622, Procurement Card Payments in batch number PCAPR0622 and Purchase Orders as listed below:

PR	Vendor Name	Line Description	Account	Amount	Line
R1603946	MCKAY,MARGARET JEANNA	PROFESSIONAL SERVICES PASS	22511607 - 5350	\$ 6,780.00	0001
R1603949	SIMCO ELECTRIC INC	LED LIGHT CHANGE OUT COMMISSIONER OFFICE	10011102 - 5328	\$ 11,984.00	0001
R1603952	EAST JORDAN IRON WORKS INC	MANHOLE ADJUSTING RINGS NEEDED TO RAISE MANHOLES	66211903 - 5292	\$ 10,000.00	0001
R1603952	EAST JORDAN IRON WORKS INC	MANHOLE ADJUSTING RINGS NEEDED TO RAISE MANHOLES	66211904 - 5292	\$ 10,000.00	0002
R1603952	EAST JORDAN IRON WORKS INC	MANHOLE ADJUSTING RINGS NEEDED TO RAISE MANHOLES	66211911 - 5292	\$ 15,000.00	0003
R1603958	MONTROSE GROUP LLC,THE	TWO	21011113 - 5301	\$ 20,000.00	0001
R1603959	NORTH CENTRAL JOBS FOR OHIO GRADUATES	JOG TRAINING ALTERNATIVE EDUCATION	22311611 - 5348	\$ 70,000.00	0001

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R1603974	EATON CORP	911 - UPS SYSTEM	41711436 - 5450	\$ 45,800.00	0001
R1603975	SIMCO ELECTRIC INC	911 - WIRING FOR NEW UPS	41711436 - 5450	\$ 7,564.00	0001
R1603977	BOARD OF DEVELOPMENTAL DISABILITIES	HELP ME GROW 7 1 16-6 30 17	70161606 - 5348	\$254,502.65	0001

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

5

RESOLUTION NO. 16-605

IN THE MATTER OF APPROVING THE ALPHA GROUP OF DELAWARE’S PAYMENT OF CAPITAL REPAIRS TO 1000 ALPHA DRIVE FROM THE CAPITAL ACCOUNT ESTABLISHED IN THE LEASE AGREEMENT FOR SAID PROPERTY:

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

WHEREAS, on July 1, 2010, the Delaware County Board of Commissioners (the “Board”) adopted Resolution No. 10-861, approving a lease agreement between the Board and the Alpha Group of Delaware, Inc. (“Alpha”) for the property known as 1000 Alpha Drive, Delaware, Ohio (the “Leased Premises”); and

WHEREAS, the lease agreement provides for the establishment of a capital account for the payment of capital improvements or repairs to the Leased Premises that cost \$5,000.00 or more, subject to approval by the Board; and

WHEREAS, Alpha has obtained quotes to replace one AC Unit on the Leased Premises, with the preferred quote in an amount more than \$5,000.00; and

WHEREAS, Alpha is seeking the Board’s approval to proceed with the repair by utilizing the capital account;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves Alpha’s payment of capital repairs to replace one AC Unit at the Leased Premises from the capital account established in the lease agreement in the estimated amount of \$7,600.

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

OTHER BUSINESS:

RESOLUTION NO. 16-606

IN THE MATTER OF TERMINATING THE AGREEMENT WITH PREMIER HEALTH CARE SERVICE INC. AND DELAWARE COUNTY:

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

Whereas; the Emergency Medical Services Department Director recommends terminating the agreement between Premier Health Care Services Inc. and the Delaware County Board of Commissioners, to provide physician medical direction to Delaware County Emergency Communications and EMS Department.

Therefore Be it resolved, the Board of Commissioners terminate the agreement between Premier Health Care Services Inc. and the Delaware County Board of Commissioners, effective July 23, 2016.

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

6

RESOLUTION NO. 16-607

IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND THE OHIO STATE UNIVERSITY FOR EMERGENCY SERVICE PHYSICIAN MEDICAL DIRECTOR SERVICES:

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

Whereas, the Director of Emergency Medical Services recommends approval of Agreement Between the Delaware County Board of Commissioners and The Ohio State University for Emergency Service Physician Medical Director Services;

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Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the Agreement between the Delaware County Board of Commissioners and The Ohio State University for Emergency Service Physician Medical Director Services.

**MEDICAL DIRECTOR AGREEMENT
Between
THE OHIO STATE UNIVERSITY
and the Delaware County Board of Commissioners**

This MEDICAL DIRECTOR AGREEMENT (“Agreement”) is entered into on this 1st day of July, 2016 (“Effective Date”) by and between the Delaware County Board of Commissioners on behalf of Delaware County Emergency Medical Services and Delaware County Emergency Communications (the “County”) and The Ohio State University on behalf of its Department of Emergency Medicine (“OSU”).

RECITALS

WHEREAS, the County operates an Emergency Medical Services Agency, offering emergency medical services to its community; and

WHEREAS, the County operates a 9-1-1 emergency communications department, through which emergency medical services are coordinated for first responders; and

WHEREAS, the County desires to retain physicians with experience and expertise in managing Emergency Medical Services; and

WHEREAS, OSU is uniquely qualified to provide certain Medical Director Services (as defined in this Agreement and its Exhibits) through its physician employee who has also been appointed to the faculty of the College of Medicine; and

WHEREAS, the County desires to engage OSU to provide Medical Director Services to and on behalf of the County, and OSU desires to accept such engagement upon the terms and conditions set forth in the Agreement.

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

1. Services.

1.1 Medical Director Services. Subject to the County’s approval, OSU shall designate one of its Physicians to act as the Medical Director of the County (“Medical Director”), including performing the duties set forth in Exhibit A, as may be amended by the County from time to time, (the “Medical Director Services”) or as otherwise specified in this Agreement, and the County hereby accepts such engagement. OSU shall designate Ashish Panchal, MD, to act as Medical Director of the County in such a manner as to conform to all regulatory requirements. The Medical Director shall coordinate his activities under this Agreement with the County Chief of EMS and Director of Emergency Communications or their respective designees (“Management”). The Medical Director will meet with the Management on a regular basis which shall include an annual performance review. The Medical Director shall devote 6% of his effort to providing the Medical Director Services, not to exceed ninety-six (96) hours on an annual basis.

1.2 Compliance with Laws and Standards. OSU shall cause its Physician to provide the Services in a competent and qualified manner in accordance with the applicable standard of care. Physician shall comply with: (i) all federal, state and local laws applicable to the Services; and (ii) the policies and procedures of the County. Medical Director's performance of the Services in accordance with this Agreement shall be evaluated on an ongoing basis by the County.

1.3 Administrative Decisions. OSU and Medical Director acknowledge that all final decisions as to funds, staffing, operations, budgets, and other administrative matters at the County shall be within the sole authority of the County.

1.4 Medical and Business Records. OSU shall cause its Physician to maintain full and complete documentation in the County’s records in a manner consistent with the policies and procedures of the County and applicable state and federal laws.

1.5 Replacement of Physician. Physician supplied by OSU hereunder shall be satisfactory to the County, in their reasonable discretion. If, at the request of the County, or due to the death, permanent disability, resignation or loss of any professional license of a Physician, or if a Physician ceases to be an employee or independent contractor of OSU or has Medical Staff privileges terminated or suspended, OSU shall make all reasonable efforts to replace the Physician within a reasonable time, mutually agreed upon by the County and OSU, with another physician employed or contracted with OSU as long as the replacement Physician meets all the representations and warranties stated in §2 of this Agreement. Prior to such

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replacement, however, OSU shall seek approval from the County for the replacement physician who thereafter shall perform the Services noted in this Agreement and be referred to as the Physician hereunder.

2. Duties of OSU

During the term of this Agreement, OSU shall ensure that Physician providing Services under this Agreement continuously satisfies the following requirements:

2.1 Maintain a valid license to practice Medicine in the State of Ohio and registration with the Drug Enforcement Agency;

2.2 Be Board certified or Board eligible in Emergency Medicine; and

3. Duties of the County – Patient Records, Space, Equipment, Personnel.

3.1 Space, Equipment, Personnel. The County will make available for the use of Physician such space, equipment, utilities and personnel as are reasonably necessary to enable Physician to perform Physician's duties pursuant to this Agreement.

3.2 Patient and Financial Records. All medical, administrative and financial records pertaining to County business or patients treated within the scope of services provided hereunder, including but not limited to charts, x-rays, medical reports, fees, billings and payment of fees, shall at all times be the property of the County or its designee.

4. Compensation.

In consideration for providing the Services, the County shall compensate OSU as follows:

4.1 Medical Director Services. In consideration for performance of the Medical Director Services, the County shall pay OSU \$130.21 per hour with an annual rate not to exceed twelve thousand five hundred dollars (\$12,500) on an annual basis. All time must be documented with a description of the Medical Director Services provided in the form attached as Exhibit B, as may be amended from time to time ("Time Record"). No compensation shall be paid to OSU for Medical Director Services until the Medical Director completes and submits the Time Record. All amounts under this Agreement will be payable on a monthly basis, within thirty (30) days of receipt of a completed Time Record from the Medical Director.

5. Professional Services.

OSU and its Medical Director understand and agree that this Agreement is intended to provide the services, which are administrative duties and responsibilities only. The County is not compensating OSU or its Medical Director to provide professional health care services on behalf of the County. If OSU's Medical Director does provide professional health care services to patients, separate and apart from his duties under this Agreement, the Physician shall separately bill the applicable patient's payors for such services, consistent with Payor and Federal health care program requirements.

6. Insurance and Acknowledgement of Own Acts.

6.1 Liability Insurance. During the term of this Agreement, OSU agrees maintain insurance or self-insurance for Professional Liability. The amount and terms of such coverage shall be determined by OSU in its sole discretion. Each party shall provide the other party with prompt written notice of any material events, patient or parent complaint that expressly names a Physician employed by OSU, and any threatened or actual notice of a legal action that arises out of or is related to the Medical Director Services and shall cooperate in the investigation and defense of same.

6.2 Party's Responsibility. Both OSU and the County are liable for their own acts and omissions, regardless of insurance coverage or lack of insurance coverage.

6.3 Acknowledgment of Own Acts. Each party shall be responsible for its own acts and omissions and for all liability, claims, losses, damages or expenses, caused, or alleged to have been caused, by that party or by its employees in the performance or omission of any act or responsibility of that party under, pursuant to or in connection with this Agreement. In the event that a claim is made against more than one party, it is the intent of the parties to cooperate in the defense of said claim and use best efforts to cause their insurers to do likewise. However, the parties shall have the right to take any and all actions they believe necessary to protect their respective interests. Neither party to the Agreement shall be liable for any negligent wrongful act, either of errors or omissions, chargeable to the other, unless law imposes such liability. Each party to this Agreement must seek its own legal representative and bear its own costs, including judgments, in any litigation that may arise from the performance of this Agreement.

7. Term and Termination.

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7.1 Term. This Agreement shall commence on the Effective Date or the date upon which both parties have executed this Agreement (the "Commencement Date"), unless earlier terminated pursuant to §7.2. The term of the Agreement shall be one (1) year (the "Term").

7.2 Termination of Agreement. This Agreement shall be terminated:

- (i) Immediately upon mutual agreement of the parties;
- (ii) Immediately upon the death or permanent disability of Physician, unless OSU replaces Physician with another physician who is employed by OSU and who is acceptable to the County. For the purposes of this Agreement, permanent disability will be deemed to be the inability to perform the Services hereunder for any period of ninety (90) days out of any one hundred twenty (120) day period;
- (iii) By either party upon written notice to the other upon any breach by the other party of any term or condition of this Agreement; provided, however, the other party shall have thirty (30) days to cure such breach; or
- (iv) Notwithstanding anything to the contrary in this Agreement, either party shall have the right to terminate this Agreement at any time without cause upon thirty (30) days written notice to the other party.

The parties agree and acknowledge if this Agreement is terminated within the first year of the Commencement Date pursuant to this §7.2, the parties shall not enter into another agreement with each other for the Services prior to first anniversary of the Commencement Date of the Agreement. Further, the parties agree and acknowledge compensation for the Services may not be increased prior to the first anniversary of the Commencement Date of this Agreement.

8. Access to Books, Documents and Records.

If applicable, the parties shall comply with the provisions of Section 1861(v)(1)(i) of the Social Security Act (as amended) and any regulations promulgated there under, and shall make available, upon written request of the Comptroller General of the United States or the Secretary of The Department of Health and Human Services or any of their duly authorized representatives, any books, documents, and records that are necessary to verify the nature and extent of costs incurred by either party under this Agreement.

9. Notices.

Notices or communications required or permitted to be given under this Agreement shall be given by, and be deemed given when, (i) delivered by personal delivery; (ii) deposited in U.S. first class mail, postage prepaid; or (iii) sent by telecopy or electronic mail with confirmation of receipt, addressed to the address set forth below or to such other address as either party may designate in writing to the other party from time to time:

To the County:

Delaware
County EMS
Attn: Chief
10 Court Street
Delaware, Ohio 43015

Delaware County Emergency Communications Attn: Director
10 Court Street
Delaware, Ohio 43015

To OSU:

OSU Wexner Medical Center
Department of Emergency
Medicine Greg Archual, MBA

Administrator – Department of Emergency
Medicine COO – OSU Emergency Medicine
795 Prior Hall
Columbus, Ohio 43210

With a copy to:

Office of Legal Services

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650 Ackerman Rd. Suite 200
Columbus, OH 43202
Attn: Associate General Counsel

Delaware County Prosecuting
Attorney 140 North Sandusky
Street, 3rd Floor
P.O. Box 8006
Delaware,
Ohio 43015

10. Relationship of Parties.

OSU and Physician are retained only for the purposes and to the extent set forth in the Agreement and it is expressly understood and agreed by the parties hereto that OSU and Physician are engaged hereunder as independent contractors. As an independent contractor, neither the Physician, OSU, nor any physician with OSU shall be entitled to any pension, health or similar benefits that the County may make available to its employees from time to time. Nothing contained herein shall be construed as making Physician an employee of the County. OSU shall be responsible for the filing and payment of all federal, state and local taxes or contributions imposed or required under unemployment insurance, social security and income tax laws.

11. Entire Agreement and Amendments.

The parties agree that this Agreement constitutes the entire agreement among them with respect to the subject matter hereof, and that any and all prior discussions, negotiations, commitments, and understandings relating thereto are hereby superseded and merged herein. The terms and provisions of this Agreement shall not be changed, amended, waived, modified, or terminated in any respect whatsoever except by a written instrument executed by the parties hereto.

Either party may request a modification of this Agreement by written notice in the event of a change in or interpretation of a law, regulation or administrative policy by any governmental entity that materially affects the terms of this Agreement, or that may adversely affect the Medicare/Medicaid provider status of either party. Any requested modification shall be drafted to reasonably accommodate the change in law.

12. Miscellaneous.

This Agreement may not be assigned by either party without the prior written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. The failure of either party to exercise any right, or to insist upon strict compliance with the terms by the other party, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict compliance with all of the terms of this Agreement. Should any provision or portion of this Agreement be held unenforceable or invalid for any reason, the remaining provisions or portion of this Agreement shall continue in full force and effect. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

13. Confidentiality and Proprietary Information.

Documents made or compiled by the County or made available to the Medical Director during the term of this Agreement concerning the business of the County shall be the property of the County and such documents shall be delivered to the County on the termination of this Agreement or at any other time upon specific request by the County. The Physician shall not use for his own benefit or for the benefit of others, or divulge to others, any information, knowledge or data of a confidential or proprietary nature or otherwise not readily available to members of the general public including, without limitation, business practices, charge or fee schedules, budgets, expenses, purchasing agreements, third-party plans and payor agreements, except with the specific prior written consent of the County.

The parties hereto have executed this Agreement as of the Commencement Date, and by signing hereby agree to the terms and conditions as outlined above

**EXHIBIT A
MEDICAL DIRECTOR DUTIES AND RESPONSIBILITIES**

DCEMS Physician Medical Director:

1. Physician shall be qualified to practice medicine in the State of Ohio. This Agreement is expressly subject to successful maintenance of licensure, and such membership and privileges, as may be applicable to Physician providing service hereunder.
2. Physician shall evaluate and see to improve the quality of prehospital care.
3. Physician shall review patient records and discuss with prehospital and hospital personnel as needed.

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4. Physician shall assure that a mechanism exists to evaluate skills competency of prehospital personnel to Delaware County EMS.
5. Physician shall report deficiencies or opportunities to improve prehospital patient care to the Command Staff of DCEMS.
6. Physician shall assure that a mechanism exists for prompt medical director review of cases involving radio delay/failure or potential patient care deficiencies.
7. Physician shall assure that a mechanism exists to educate and remediate prehospital personnel who are found to need improvement in their patient care skills.
8. Physician shall review draft DCEMS standard operating guidelines and patient care guidelines, and provide feedback in a timely manner.
9. Physician shall participate in continuing education opportunities with the prehospital personnel.
10. Other medical duties as mutually agreed upon with the Director of EMS.

Delcomm Physician Medical Director:

1. Physician shall be qualified to practice medicine in the State of Ohio. This Agreement is expressly subject to successful maintenance of licensure, and such membership and privileges, as may be applicable to Physician providing service hereunder.
2. Physician shall evaluate and seek to improve the quality of telephone prehospital care.
3. Physician shall review call records and discuss with 911 personnel as needed.
4. Physician shall assure that a mechanism exists to evaluate skills competency of emergency medical dispatch personnel of Delaware County 911.
5. Physician shall report deficiencies or opportunities to improve dispatch life support care to the Director of Emergency Communications
6. Physician shall assure that a mechanism exists for prompt medical director review of cases involving radio delay/failure or potential patient care deficiencies.
7. Physician shall assure that a mechanism exists to educate and remediate dispatch life support personnel who are found to need improvement in their skills.
8. Physician shall review draft Delaware County Emergency Communications standard operating guidelines pertaining to pre-arrival instructions, and provide feedback in a timely manner.
9. Physician shall participate in continuing education opportunities with the dispatch life support personnel.
10. Other medical duties as mutually agreed upon with the Director of Emergency Communications.

EXHIBIT B

Physician Activity Log

Physician Name: Date: Activity Description: Hours:

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

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RESOLUTION NO. 16-608

IN THE MATTER OF AUTHORIZING THE USE OF DELAWARE COUNTY COMMISSIONER FUNDS TO ASSIST IN FUNDING THE PURCHASE OF COFFEE, MEALS, REFRESHMENTS, AND OTHER AMENITIES FOR A SUMMIT MEETING FOR THE ECONOMIC DEVELOPMENT STRATEGIC ACTION PLAN:

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

WHEREAS, The Ohio Attorney General Opinion No. 82-006 addresses the issue Expenditure of Public Funds for Proper “Public Purpose”; and

WHEREAS, The October 20, 2003, State Auditor’s ruling on payment of Expenditures Of Public Funds For Proper “Public Purpose” states that for persons who are employees or non-employees of the County, the Commissioners must pre-approve expenditures for the purchase of coffee, meals, refreshments and other amenities; and

WHEREAS, the Delaware County Economic Development Department will be holding a summit meeting for local businesses for purposes of engagement on the Economic Development Strategic Action Plan and coffee, meal, and refreshments will need to be provided.

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

Section 1. That the Delaware County Board of Commissioners hereby authorizes the use of Economic Development funds in an amount not to exceed \$300.00, to assist in funding the purchase of coffee, meals, refreshments and other amenities for the summit meeting.

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

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RESOLUTION NO. 16-609

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

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

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

WHEREAS, the Delaware County Board of Commissioners (the “Board”) appoints members to the Delaware-Morrow Mental Health and Recovery Services Board for both expired and unexpired terms; and

WHEREAS, two vacancies will exist for terms that will commence on July 1, 2016 and expire on June 30, 2020;

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

Section 1. The Board hereby appoints Melinda Rich and re-appoints Jane McCray as members of the Delaware-Morrow County Mental Health & Recovery Services Board to the terms commencing on July 1, 2016 and expiring on June 30, 2020.

Section 2. The appointments approved herein shall be effective on July 1, 2016.

Vote on Motion	Mr. Merrell	Aye	Mrs. Lewis	Aye	Mr. Benton	Aye
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RESOLUTION NO. 16-610

IN THE MATTER OF APPOINTING MEMBERS TO THE DELAWARE COUNTY FINANCE AUTHORITY BOARD OF DIRECTORS:

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

WHEREAS, on April 24, 2006, the Delaware County Board of Commissioners (the “Board of Commissioners”) adopted Resolution No. 06-506, creating the Delaware County Port Authority, pursuant to section 4582.22 of the Revised Code, which was later renamed as the Delaware County Finance Authority in Resolution No. 13-973; and

WHEREAS, the Board of Commissioners shall make appointments to the Delaware County Finance Authority Board of Directors, pursuant to Resolution No. 06-506 and section 4582.27 of the Revised Code; and

WHEREAS, there is currently a vacancy in a term for one member of the Board of Directors expiring on December 31, 2019; and

WHEREAS, the Board of Commissioners approved, via Resolution No. 16-490, the addition of two additional members to the Board of Directors to make a total of seven members;

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

Section 1. The Board of Commissioners hereby approves the appointment of Judd Scott for the unexpired term ending on December 31, 2019, Suzanne Dulaney for the term ending on December 31, 2018 and Don Rankey for the term ending on December 31, 2020.

Section 2. The appointments approved herein shall be effective on June 23, 2016.

Vote on Motion	Mrs. Lewis	Aye	Mr. Merrell	Aye	Mr. Benton	Aye
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10

RESOLUTION NO. 16-611

APPROVING THE THIRD AMENDED AND RESTATED SUBDIVIDER’S AGREEMENT WITH DONALD R. KENNEY FOR THE SCIOTO RESERVE GOLF CLUB COMMUNITY SUBDIVISION:

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

THIRD AMENDED AND RESTATED SUBDIVIDER’S AGREEMENT

THIS THIRD AMENDED AND RESTATED SUBDIVIDER’S AGREEMENT (the “Agreement”) executed on July 23, 2016, by and between **DONALD R. KENNEY**, an individual (the “Subdivider”) and the **BOARD OF**

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COMMISSIONERS of Delaware County, Ohio (the "County") is governed by the following considerations and conditions, to wit:

WHEREAS, the Subdivider is the developer of the Scioto Reserve Golf Club Community Subdivision in the County (the "Subdivision"), which Subdivision consists of single family residences, a golf course, a golf course clubhouse, and related facilities.

WHEREAS, the Subdivider and the County entered into a Subdivider's Agreement as of July 26, 1999 (the "Initial Subdivider's Agreement") governing their mutual commitments and obligations with respect to public infrastructure improvements necessary to provide sewer service for said Subdivision.

WHEREAS, the Subdivider and the County entered into an Amended and Restated Subdivider's Agreement as of October 1, 2013 (the "First Amended and Restated Subdivider's Agreement") amending and restating the Initial Subdivider's Agreement in its entirety to accommodate and support anticipated growth in the Subdivision, namely the addition of 195 single-family home lots bordering the eastern edge of existing Subdivision boundaries to be developed in the area shown on Exhibit A attached hereto as the "Proposed 119 Units," the "Proposed 38 Units," and the "Proposed 38 Units" (hereinafter collectively, the "First Subdivision Addition") and the addition of the remaining properties bordering the eastern edge of existing Subdivision boundaries also shown on Exhibit A and identified thereon as "Upstream Tributary Area" (hereinafter collectively, the "Upstream Tributary Area").

WHEREAS, the Subdivider and the County entered into a Second Amended and Restated Subdivider's Agreement as of May 28, 2015 (the "Second Amended and Restated Subdivider's Agreement") amending and restating the First Amended and Restated Subdivider's Agreement in its entirety to accommodate and support anticipated growth in the Subdivision, namely the addition of 65 single-family condominium homes, 1 single family unit, and approximately 1 unit for a condominium development clubhouse, all bordering the western edge of existing Subdivision boundaries to be developed in the area shown on Exhibit B attached hereto (hereinafter collectively the "Second Subdivision Addition").

WHEREAS, the Subdivider and the County wish to amend and restate the Second Amended and Restated Subdivider's Agreement at this time in its entirety to reflect changes in the scope of the additional public infrastructure improvements and the future use of the Scioto Reserve Treatment Plant and to clarify the responsibilities of the County, the Subdivider, and Epcon Communities, Inc. or a related entity or Metro Development LLC or a related entity (the "Price Developer") as the developer of the Second Subdivision Addition with respect to additional public infrastructure improvements necessary to provide sewer service for the Second Subdivision Addition.

NOW, THEREFORE, in consideration of the mutual covenants here expressed, and for other valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

GENERAL TERMS OF AGREEMENT

The Subdivider and the County acknowledge and agree that the Second Amended and Restated Subdivider's Agreement is properly amended in writing by this Agreement. The Second Amended and Restated Subdivider's Agreement is hereby amended and replaced in its entirety and this Agreement shall replace the agreements of the Subdivider and the County contained within the Initial Subdivider's Agreement, the First Amended and Restated Subdivider's Agreement, and the Second Amended and Restated Subdivider's Agreement. This Agreement constitutes the entire agreement between the Subdivider and the County with respect to the matters covered herein and supersedes all prior agreements and understandings between the Subdivider and the County.

In connection with the development of the Subdivision, the Subdivider constructed and installed certain public infrastructure improvements consisting of a waste water reclamation and reuse system and treatment facility (the "Plant"), certain service lines, and other sewer system improvements necessary to serve the Subdivision (collectively, the "Original Improvements"), all pursuant to approved engineering drawings and specifications for the Original Improvements, which drawings and specifications are on file in the office of the County Sanitary Engineer. The Original Improvements and the Plant were designed to serve the Subdivision with a capacity sufficient to serve all of the lots in the Subdivision, the adjoining golf course, and the adjacent school, all in accordance with permits issued by the applicable governmental authorities.

In connection with the development of the First Subdivision Addition, the Subdivider is responsible for constructing and installing certain public infrastructure improvements consisting of certain service lines, and other sewer system improvements necessary to serve the First Subdivision Addition (the "First Subdivision Addition Improvements"), all pursuant to approved engineering drawings and specifications for the Original Improvements and the First Subdivision Addition Improvements, which drawings and specifications are on file in the office of the County Sanitary Engineer. It has been determined that the Plant has capacity sufficient to serve the First Subdivision Addition without improvements.

In connection with the development of the Second Subdivision Addition, the County shall permit and shall approve the connection of an additional sixty-seven (67) units to the Improvements (as defined herein), the Plant, and the Sewer System (as defined herein) as contemplated herein, and the Price Developer and not the Subdivider shall be responsible for constructing and installing (i) force main for the sixty-seven (67) unit project, (ii) gravity line for the

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sixty-seven (67) unit project, (iii) certain service lines for the sixty-seven (67) unit project, (iv) a new pump station for the sixty-seven (67) unit project, and (v) additional regional infrastructure improvements necessary to serve the associated regional tributary area outside the boundaries of the Second Subdivision Addition shown on Exhibit D attached hereto (the "Second Subdivision Addition Improvements").

The Original Improvements, the First Subdivision Addition Improvements, and the Second Subdivision Addition Improvements are referred to herein collectively as the "Improvements." The Improvements necessary to serve the Subdivision, the First Subdivision Addition, the Second Subdivision Addition, and the Upstream Tributary Area are referred to herein collectively as the "Sewer System," but the private lift station and force main within The Pointe at Scioto Reserve is excluded from the Sewer System.

The County shall own and operate the Improvements, the Plant, and the Sewer System. The Improvements, the Plant, and the Sewer System have been, or will be, publicly dedicated to the County, and the County has accepted, or will accept, the Improvements, the Plant, and the Sewer System and has assumed, or will assume, responsibility for the maintenance, use and operation of the Improvements, the Plant, and the Sewer System, all in accordance with the terms of this Agreement. The County may utilize its easements to access the Sewer System for upgrades and work deemed necessary by the County Sanitary Engineer to (i) provide proper maintenance, upgrade or repair of service or conveyance lines, and (ii) construct an effluent return line to provide effluent water from a source at times and in amounts necessary to maintain the golf course in the Subdivider's sole discretion; provided, that following any such construction, the County agrees to restore the golf course to its condition that existed prior to any such construction to the sole satisfaction of the Subdivider.

The County acknowledges and agrees that the Subdivider shall have the right to use the Improvements for the benefit of the Subdivision, the First Subdivision Addition, the Second Subdivision Addition, the Upstream Tributary Area. The Subdivider and the County agree that the Plant shall be permitted to serve the Subdivision, the First Subdivision Addition, the Second Subdivision Addition, and the Upstream Tributary Area, and that the flow from the Subdivision, the First Subdivision Addition, the Second Subdivision Addition, and the Upstream Tributary Area is within the maximum capacity of the Plant. The Subdivider and the County agree that, at its option, the County may expand the capacity of or otherwise upgrade or improve the Sewer System beyond its initial capacity and design, and that such expansion, upgrade, or improvement of the Improvements and the Sewer System shall be at the sole cost of the County. The County shall be entitled to establish and collect tap fees for all connections outside the Subdivision, the First Subdivision Addition, the Second Subdivision Addition, and the Upstream Tributary Area in order to reimburse the County for the cost of expanding, upgrading, or improving the Sewer System.

The Subdivider has been approved for sanitary sewer connections for single-family residences, golf course facilities, and schools (the "Taps") by the County Sanitary Engineer to connect with and use the Improvements. The Subdivider shall be issued sufficient Taps for the golf course clubhouse and school site located in the Subdivision by the County Sanitary Engineer. The Subdivider shall be issued an additional 195 single family residential Taps by the County Sanitary Engineer for the First Subdivision Addition to connect with and use the Improvements, and the Subdivider shall not otherwise be required to pay to the County any capacity fee, surcharge, improvement charge, or community development charge with respect to the 195 lots in the First Subdivision Addition to support additional County public infrastructure, except in the event the Subdivider is the builder or owner that requests a Tap into the Sewer System, whereupon the Subdivider may be charged the Surcharge as set forth in this Agreement. The Price Developer shall be issued an additional 67 Taps by the County Sanitary Engineer for the Second Subdivision Addition to connect with and use the Improvements, and the Subdivider shall not otherwise be required to pay to the County any capacity fee, surcharge, improvement charge, or community development charge with respect to the 67 units in the Second Subdivision Addition to support additional County public infrastructure, except in the event the Subdivider is the builder or owner that requests a Tap into the Sewer System, whereupon the Subdivider may be charged the base capacity fee and the Surcharge as set forth in this Agreement.

The Subdivider shall have the right to charge third parties for Taps within the Subdivision and First Subdivision Addition and to retain all fees charged by Subdivider to third parties for Taps within the Subdivision and First Subdivision Addition in order to reimburse Subdivider for the construction costs for the Improvements and the Sewer System. The County shall have the right to charge third parties for capacity fees and surcharges within the Upstream Tributary Area and the Second Subdivision Addition and to retain all fees charged by the County to third parties within the Upstream Tributary Area and the Second Subdivision Addition. The County Sanitary Engineer shall retain usage fees and any inspection fees charged to third parties for operation and maintenance expenses of the Improvements.

The Subdivider and the County agree that the County may, but is not required to, levy and collect a surcharge (the "First Subdivision Addition Surcharge") of up to One Thousand Five Hundred Dollars (\$1,500) on the owners of lots in the First Subdivision Addition in order to reimburse the County for any of the expenses that the County incurs in funding additional County public infrastructure, which levy may be made at the time a Tap into the Sewer System is requested for a lot by its builder or owner; provided, further, that the First Subdivision Addition Surcharge may only be charged to the owner of a lot once for each lot to be developed and it must be applied equally and uniformly to all lots in the First Subdivision Addition.

The Subdivider and the County agree that the County may, but is not required to, levy and collect a surcharge (the "Second Subdivision Addition Surcharge") of up to Two Thousand Five Hundred Dollars (\$2,500) on the owners of lots in the Second Subdivision Addition in order to reimburse the County for any of the expenses that the County

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incurs in funding additional County public infrastructure, which levy may be made at the time a Tap into the Sewer System is requested for a lot by its builder or owner; provided, further, that the Second Subdivision Addition Surcharge may only be charged to the owner of a lot once for each lot to be developed and it must be applied equally and uniformly to all lots in the Second Subdivision Addition.

CONSTRUCTION OF CERTAIN FIRST SUBDIVISION ADDITION IMPROVEMENTS

The Subdivider and the County agree that an affiliate of the Subdivider, Metro Development, LLC (“Metro”) will develop the area shown on Exhibit A attached hereto as the “Proposed 119 Units” south of Home Road and west of Steitz Road (the “Metro Area”). The Subdivider may construct, install or otherwise make any additional public infrastructure improvements necessary to serve the Metro Area and the Upstream Tributary Area south of Home Road (collectively, the “Metro Improvements”). The Metro Improvements necessary to serve the Metro Area and the Upstream Tributary Area south of Home Road shall constitute “First Subdivision Addition Improvements” for purposes of this Agreement and shall not constitute “New Improvements” for purposes of this Agreement. The Subdivider shall not be required to construct, install or otherwise make any additional infrastructure improvements to serve the First Subdivision Addition areas to be developed by Rockford Homes shown on Exhibit A attached hereto as the two areas of “Proposed 38 Units” north of Home Road and west of Steitz Road (the “Rockford Areas”) or the Upstream Tributary Area north of Home Road. Rockford Homes shall be responsible for all costs of additional infrastructure improvements necessary to serve the Rockford Areas, and the County shall make provision for the construction, dedication, acceptance, inspection, surety bonds, and other requirements for such additional infrastructure improvements in a separate agreement with Rockford Homes.

The Subdivider shall make the Metro Improvements to the Sewer System listed below and depicted in Exhibit A attached hereto:

- (i) As required by the Delaware County Sanitary Engineer, the Subdivider shall replace the pumps in the existing Scioto Reserve Section 1 pump station shown on Exhibit A attached hereto and complete all other necessary improvements or upgrades in order to provide pumping capacity sufficient to serve the Metro Area and the Upstream Tributary Area south of Home Road, and Subdivider shall not be obligated to make additional upgrades to the Scioto Reserve Section 1 pump station without an additional reasonable equitable contribution from the County to pay the actual costs of such additional upgrades.
- (ii) The Subdivider shall make upgrades to the existing service lines shown on Exhibit A attached hereto necessary to ensure adequate flow to serve the Metro Area and the Upstream Tributary Area south of Home Road per engineering design and construction plans approved by the County Sanitary Engineer.
- (iii) The Subdivider shall construct additional service lines within the Metro Area necessary to serve the Metro Area and the Upstream Tributary Area south of Home Road.

The Subdivider shall be required to provide the Metro Improvements listed above only to the extent that the Metro Improvements are necessary to make the Sewer System have a capacity sufficient to serve the Metro Area and the Upstream Tributary Area south of Home Road. The Subdivider shall file any plans and specifications or amendments or supplements thereto with the County in connection with Metro Improvements that serve the Metro Area and the Upstream Tributary Area south of Home Road.

All Metro Improvement construction for which Subdivider is responsible shall be performed within five (5) years from the date on which a permit to install is issued by the Ohio EPA, but extension of time may be granted if approved by the County.

The Subdivider shall have a competent representative who is familiar with the project on site during construction for all Metro Improvements for which Subdivider is responsible. 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 reasonable opinion of the County, his performance is deemed inadequate.

The Subdivider further agrees that for any Metro Improvements for which Subdivider is responsible 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 Metro Improvements.

The Subdivider shall execute a bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction for any Metro Improvements for which Subdivider is responsible which is acceptable to the County Commissioners to insure faithful performance of this Agreement and the completion of all Metro Improvements for which Subdivider is responsible in accordance with the approved engineering drawings and the Rules, Regulations, Procedures and General Specifications Governing Sanitary Sewerage in Delaware County, Ohio. The Subdivider shall pay the entire cost and expense of said Metro Improvements for which Subdivider is responsible.

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It is acknowledged and agreed by the County and the Subdivider that the Subdivider has previously deposited with the County Sanitary Engineer the sum of \$10,000.00 that was previously estimated to be necessary to pay the cost of inspections already undertaken by the County Sanitary Engineer. The County Sanitary Engineer shall in his or her sole discretion inspect, as necessary, the Metro 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 County Sanitary Engineer shall be reimbursed from charges against said deposit. At such time as said fund, as a result of charges against the same at the rate of \$75.00 per hour for time spent by said County Sanitary Engineer or his or her staff has been depleted to a level of less than \$1,000.00, the Subdivider shall make an additional deposit of \$1,000.00 to said fund. On completion of all Metro Improvements for which Subdivider is responsible as provided herein and acceptance of same by the County any unused portions of the inspection fund shall be repaid to the Subdivider.

Notwithstanding any provision of this Agreement, the Metro Improvements are subject to approval by the County of a separate subdivider agreement specific to the Metro Improvements. The County and Metro have entered into a separate subdivider agreement specific to the Metro Improvements.

COMPLETION, DEDICATION, AND ACCEPTANCE OF THE METRO IMPROVEMENTS

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

- (1) "As built" drawings of the Metro Improvements, which plans shall become the property of the County and shall remain in the office of the Delaware County Sanitary Engineer and Delaware County Engineer. The drawings shall be on reproducible MYLAR (full size), two paper copies (one full size & one 11x17), and a Compact Diskette with the plans in DWG format & PDF format;
- (2) An excel spreadsheet, from a template as provided by the Delaware County Sanitary Engineer, shall accompany the plan submittal showing the locations of the manholes in Ohio State Plane North Coordinates NAD 1983 (NAVD 1988 datum) and other miscellaneous project data; and
- (3) Documentation verifying that all required sanitary sewer easements have been recorded.

The Subdivider shall be responsible for defective materials and/or workmanship for a period of five (5) years after acceptance of the Metro Improvements for which the Subdivider is responsible by the County. The Subdivider shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the 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 shall within thirty (30) days of completion of construction, and prior to final acceptance, furnish to the County an itemized statement showing the cost of the Metro Improvements for which the Subdivider is responsible and an Affidavit that all material and labor costs have been paid. The Subdivider shall indemnify and hold harmless the County from expenses or claims for labor or materials incident to said construction of the Metro Improvements for which the Subdivider is responsible. All warranties for equipment installed as a part of the Metro Improvements for which the Subdivider is responsible shall be the same as new equipment warranties and shall be assigned to the County upon acceptance of the Metro Improvements.

The County shall, upon certification in writing from the County Sanitary Engineer that all construction is complete according to the plans and specifications then on file with the County, by Resolution accept the Metro Improvements for which the Subdivider is responsible described herein and accept and assume operations and maintenance of the same.

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

CONSTRUCTION OF THE SECOND SUBDIVISION ADDITION IMPROVEMENTS

The Subdivider and the County agree that the Price Developer will develop the Second Subdivision Addition area shown on Exhibit B attached hereto west of the Subdivision and east of South Section Line Road pursuant to agreements between the Subdivider and the Price Developer. The Subdivider shall reasonably cooperate with the County and the Authority in connection with the construction and installation of the Second Subdivision Addition Improvements to be located on the Second Subdivision Addition and otherwise in support of the Second Subdivision Addition. The Subdivider shall not be required to construct, install or otherwise make any Improvements to serve the Second Subdivision Addition area to be developed by the Price Developer shown on Exhibit B attached hereto. The County agrees to make provision for the construction, dedication, inspection, surety bonds, and other requirements for any Second Subdivision Addition Improvements and any additional regional infrastructure improvements in a separate agreement with the Price Developer, which separate agreement shall include the covenants and agreements contained in "CONSTRUCTION OF THE SECOND SUBDIVISION ADDITION IMPROVEMENTS."

The Price Developer will agree in a separate agreement with the County to be responsible for all costs of any

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additional infrastructure improvements necessary to serve the Second Subdivision Addition; provided, that if the County requires the Price Developer to construct any additional regional infrastructure improvements to serve the associated regional tributary area outside of the boundaries of the Second Subdivision Addition, as shown on Exhibit D attached hereto, then the County agrees to provide the Price Developer tap fee credits, surcharge credits, or other consideration to be given by the County to the Price Developer for the construction thereof.

The County agrees, within thirty (30) days of the submission of plans for the design of the pump station necessary to serve the Second Subdivision Addition, to determine in writing the extent of any additional regional infrastructure improvements necessary to serve the associated regional tributary area outside the boundaries of the Second Subdivision Addition shown on Exhibit D attached hereto and shall provide notice of such determination to the Price Developer.

The County agrees to obtain all right-of-way or property easements necessary for the construction of the Second Subdivision Addition Improvements other than those provided by the Price Developer. The Price Developer will agree in a separate agreement with the County to provide to the County (i) easements or rights-of-way necessary to connect the associated regional tributary area outside the boundaries of the Second Subdivision Addition shown on Exhibit D attached hereto to the Sewer System over the properties along South Section Line Road owned or controlled by the Price Developer, and (ii) easements or rights-of-way necessary for the County to construct a forcemain and effluent return line in the areas over the properties along South Section Line Road owned or controlled by the Price Developer shown on Exhibit B attached hereto. If the County is unable to obtain the necessary property easements necessary for the construction of the Second Subdivision Addition Improvements other than those provided by the Price Developer within forty-five (45) days of the date of executing a separate agreement with the Price Developer, the County agrees to permit any easements necessary for the construction of the Second Subdivision Addition Improvements to be located in the right-of-way; provided, however, the County shall first consult the Delaware County Engineer to minimize interference with existing road improvements and the use thereof by the traveling public. The County shall cooperate in good faith to obtain any easements or rights-of-way from other political subdivisions that are not in the County's possession at the time this Agreement is executed and that are agreed upon by the Price Developer and the County as necessary to complete, maintain, or repair the Second Subdivision Addition Improvements.

MISCELLANEOUS

The Subdivider and the County shall perform monitoring of the Original Improvements pursuant to Exhibit C attached hereto, in compliance with the Land Application Management Plan ("LAMP") issued by the Ohio Environmental Protection Agency on January 8, 2013, and applicable laws, rules, and regulations, as they may be amended from time to time. The County and the Subdivider agree that any and all watering easements that have been granted by the Subdivider to the County in connection with the LAMP, or any modification or replacement thereof, may be terminated upon (i) notification from the Ohio EPA that the terms and conditions of the LAMP, or any modification or replacement thereof, that require watering over the golf course have been terminated, and (ii) the consent of both of the County and the Subdivider.

The County has reserved all easements from the Subdivider necessary for the County to complete, maintain, and repair the Original Improvements and the First Subdivision Addition Improvements. The County has reserved easements from the Price Developer sufficient for the completion, maintenance, and repair of the Second Subdivision Addition Improvements. The County has reserved easements from the Subdivider depicted on the map attached hereto as Exhibit E sufficient for the County to construct an effluent return line to provide effluent water from a source at times and in amounts necessary to maintain the golf course in the Subdivider's sole discretion. The County agrees to provide Subdivider with the maximum quantity of effluent water from the Plant at times and in amounts necessary to maintain the golf course in Subdivider's sole discretion. The County will not take any action or give any consent to decommission the Plant without first constructing an effluent return line to provide effluent water from a source at times and in amounts necessary to maintain the golf course in the Subdivider's sole discretion. The County shall ensure that the effluent return line is in operation before decommissioning the Plant. If the Plant is ever decommissioned, the County agrees to provide Subdivider with the quantity of effluent water from the Lower Scioto Water Reclamation Facility at times and in amounts necessary to maintain the golf course in Subdivider's sole discretion. If the Plant is ever decommissioned, the Subdivider shall install a remote electronic monitoring device, which device shall be jointly designed and approved by Subdivider and the County, to monitor water levels in the irrigation impoundment.

The Subdivider shall develop a maintenance plan for the irrigation impoundment, which maintenance plan is subject to approval by the Ohio EPA. The Subdivider shall perform any and all maintenance of the irrigation impoundment as required by the Ohio EPA pursuant to the maintenance plan. If the Subdivider fails to maintain the irrigation impoundment in accordance with Ohio EPA requirements and the Ohio EPA issues a written violation notice to the County or the Subdivider, the Subdivider shall correct the maintenance failure within the time limit set forth in the EPA compliance schedule or, if no such schedule applies, 120 days from the date of the written violation notice (subject to reasonable adjustments to the work schedule depending on the time of year in which the written violation notice was given with the intent that no work should be required or expected during the three months of the winter season or when conditions are unsuitable to complete required improvements).

The Subdivider shall indemnify and hold harmless the County and all of its officials, employees and agents from all claims, suits, actions and proceeding 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 any contractor or

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subcontractor, or from any material, method or explosive used in said work, or by or on account of any accident caused by negligence or any other act or omission of any contractor of Subdivider, or his agents or employees, in connection with the construction of any Improvements for which Subdivider is responsible.

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.

IN CONSIDERATION WHEREOF, the County and the Subdivider hereby agree to the terms and conditions contained in this Agreement.

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

**11
RESOLUTION NO. 16-612**

APPROVING THE THIRD AMENDMENT TO THE AMENDED AND RESTATED INTERGOVERNMENTAL COOPERATION AGREEMENT WITH THE CONCORD/SCIOTO COMMUNITY AUTHORITY:

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

THIRD AMENDMENT TO THE AMENDED AND RESTATED INTERGOVERNMENTAL COOPERATION AGREEMENT

This Third Amendment to the Amended and Restated Intergovernmental Cooperation Agreement (the “Third Amendment”) dated as of June 23, 2016, is by and between the CONCORD/SCIOTO COMMUNITY AUTHORITY, 470 Olde Worthington Road, Suite 100, Westerville, Ohio 43082, a new community authority organized and existing under Chapter 349 of the Ohio Revised Code (the “Authority”), and the COUNTY OF DELAWARE, OHIO, 101 North Sandusky Street, Delaware, Ohio 43015, a political subdivision duly organized and validly existing under and by virtue of the laws of the State of Ohio (the “County”), and amends the Amended and Restated Intergovernmental Cooperation Agreement (the “Agreement”) between the Authority and the County dated October 1, 2013.

RECITALS:

WHEREAS, the Authority and the County have previously entered into the Agreement dated as of October 1, 2013, whereby the Authority has agreed, among other things, to design and construct, or cause to be designed and constructed, the O’Shaughnessy Pump Station; and

WHEREAS, the Authority and the County amended the Agreement by the First Amendment, dated December 2, 2013, to extend the timelines associated with the design and construction of the O’Shaughnessy Pump Station for the benefit of both the Authority and the County; and

WHEREAS, the Authority and the County amended the Agreement by the Second Amendment, dated May 28, 2015, to:

- (i) plan, design, and construct additional sanitary sewer improvements referred to in the Second Amendment as “Project #1” and “Project #2”; and
- (ii) adjust the timelines associated with the construction of the O’Shaughnessy Pump Station,

all as set forth in a certain Term Sheet agreed to by the County, the Authority, the Developer, and Donald R. Kenney; and

WHEREAS, the Authority and the County desire in this Third Amendment to amend the Agreement in order to:

- (i) redefine “Project #1” as follows: those sanitary sewer improvements set forth in the sanitary sewer plans for Clark-Shaw Trunk Sewer Project 1 approved by the Delaware County Board of Commissioners in Resolution No. 16-377 adopted on April 21, 2016, and as identified as “Project 1 Sewer Improvements” on the map attached hereto as Third Amendment – Exhibits B and E; and
- (ii) redefine “Project #2” as follows: those sanitary sewer improvements set forth in the sanitary sewer plans for Clark-Shaw Trunk Sewer Project 2 approved by the Delaware County Board of Commissioners in Resolution No. 16-377 adopted on April 21, 2016, and as identified as “Project 2 Sewer Improvements” on the map attached hereto as Third Amendment – Exhibits C and E; and
- (iii) plan, design, and construct additional sanitary sewer improvements consisting of the construction of a gravity sanitary sewer line through open space within the Scioto Reserve Subdivision, with the gravity sewer line being constructed between a manhole constructed under the Project #2 sanitary sewer improvements and an existing manhole at the southwest corner of the intersection of Scioto

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Chase Boulevard and Scioto Parkway with a pipe diameter of 12 inches and installed pipe depths varying from 6 feet to 20 feet, all of which pipe depths have been determined by the County to be sufficient to redirect sanitary flow from said manhole to the Project #1 and Project #2 sewers (collectively "Project #3") and as identified as "Project 3 Sewer Improvements" on the maps attached hereto as Third Amendment – Exhibits D and E; and

Project #1, Project #2, and Project #3 are referred to in this Third Amendment collectively as the "Third Amendment Improvements."

NOW, THEREFORE, in consideration of the foregoing and the promises of the parties hereto to be bound by the terms hereof and for other good and valuable consideration, the receipt of which is hereby mutually acknowledged, the Authority and the County agree to the foregoing and as follows:

Section I

Amendments to Section V.

Section V of the Agreement is hereby amended by deleting the first and second paragraphs of Section V, as amended by the Second Amendment, in their entirety and substituting the following language in their place:

The County and the Authority agree to revise Exhibit C to the Agreement effective as of this Third Amendment. The revised Exhibit C is attached hereto as Third Amendment – Exhibit A.

The County intends that the Treatment Facility, as it may be expanded by the Treatment Facility Expansion, will be the sole and exclusive wastewater treatment facility for the Service Area, and the County covenants that it shall not acquire, construct or install any other wastewater treatment facility, real property, lines, pumps, utility-related fixtures or other related fixtures and appurtenances serving the Service Area; provided, that the County may maintain any treatment plants or pump stations that existed at the time at which the Original Agreement was executed, but the County shall not expand the service area of any treatment plants or pump stations that existed at the time at which the Original Agreement was executed if such expansion would include service to territory within the Service Area. The preceding sentence shall remain in full force and effect until such time as the Treatment Facility, as it may be expanded by the Treatment Facility Expansion, has reached its full capacity, whereupon the County may acquire, construct or install other wastewater treatment facilities, real property, lines, pumps, utility-related fixtures or other related fixtures and appurtenances to serve the Service Area. Notwithstanding any other provision of this Agreement (except those provisions of this Agreement imposing requirements on property owners within the Service Area or regarding the ability of parcels to join or remain within the District), after obtaining the prior written consent of the Authority and without reducing the Service Area the County may (i) direct or redirect wastewater flow from pump stations, sanitary sewers, or force mains within the Service Area to be treated at County facilities other than the Treatment Facility and the Treatment Facility Expansion, if such direction or redirection is reasonably necessary to reserve capacity in the Treatment Facility (as expanded by the Treatment Facility Expansion), and (ii) expand the Service Area to include additional properties and direct or redirect wastewater flow from pump stations, sanitary sewers, or force mains outside of the Service Area serving such additional properties to be treated at the Treatment Facility and the Treatment Facility Expansion. The County may expand the Service Area. The County and the Authority agree that the County shall expand the Service Area to cover any areas within the area depicted as "Owner's Choice" on Exhibit C at the election of any property owner owning property outside of the Service Area but within the "Owner's Choice" area that desires to develop such property within such area and to receive sewer services from the Treatment Facility or any Supportive Improvements; provided, that any property owner so electing to receive sewer services from the Lower Scioto Water Reclamation Facility shall be subject to and shall pay both (i) the Surcharge for the Service Area in accordance with Section XIII hereof, and (ii) an additional surcharge in the amount of \$1,350 or such other amount as may be determined by the County from time to time. If the County expands the Service Area the County shall certify to the Authority an expanded Service Area map to replace the map attached hereto as Exhibit C.

Except as otherwise expressly set forth in this Agreement, the County agrees to oppose any attempt by any entity to provide sanitary sewer service within the Service Area as defined in this Agreement in such a manner as the County shall determine. Moreover, the County shall not concede any rights it now has to provide sanitary sewer service to the Service Area to any other sewer service provider without the express written consent of the Authority and the Developer. Other than the O'Shaughnessy Pump Station and other pump stations intended solely to convey wastewater to the Treatment Facility and approved by the Authority, the County shall not permit the construction of treatment plants or pump stations within the Service Area to provide wastewater treatment services by or on behalf of the County in addition to those treatment plants or pump stations that existed at the time at which the Original Agreement was executed, until such time as the Treatment Facility, as it may be expanded by the Treatment Facility Expansion, has reached its full capacity, and the County shall not expand the service area of any treatment plant or pump station if such expansion includes a portion of the Service Area. Notwithstanding the preceding sentence, after obtaining the prior written consent of the Authority and without reducing the Service Area the County may (i) direct or redirect wastewater flow from pump stations, sanitary sewers, or force mains

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within the Service Area to be treated at County facilities other than the Treatment Facility and the Treatment Facility Expansion, if such direction or redirection is reasonably necessary to reserve capacity in the Treatment Facility (as expanded by the Treatment Facility Expansion), and (ii) expand the Service Area to include additional properties and direct or redirect wastewater flow from pump stations, sanitary sewers, or force mains outside of the Service Area serving such additional properties to be treated at the Treatment Facility and the Treatment Facility Expansion. In addition, the County shall not reduce the Service Area or consent to the provision of wastewater treatment services in the Service Area by entities other than the County without the express written consent of the Authority and the Developer. This paragraph shall not bind the County with respect to territory within the Service Area annexed pursuant to any procedure set forth in Chapter 709 of the Ohio Revised Code in which the County is not vested with the discretion to deny the petition for annexation.

Section V of the Agreement is further amended by deleting the eighth paragraph of Section V, as amended by the Second Amendment, in its entirety and substituting the following language in its place:

Notwithstanding anything in this Agreement to the contrary, the County shall fix at \$5,900 all sanitary sewer tap fees applicable within the properties owned or controlled by the Developer or its affiliates identified on the map attached hereto as Third Amendment – Exhibit E, and such sanitary sewer tap fees shall remain fixed for a period of twelve (12) years from the date of the Third Amendment, whereupon the County may set sanitary sewer tap fees pursuant to the County's sewer tap collection fee policy then in effect as of the date of the tap.

Section II

Amendment to Section XIII.

Section XIII of the Agreement is amended by deleting the second paragraph of Section XIII, as added by the Second Amendment, in its entirety and substituting the following language in its place:

The County shall charge and collect the Surcharge on all sewer connections within the Clark Shaw Sanitary Surcharge Area as depicted on the map attached hereto as Third Amendment – Exhibit E. The County shall remit the proceeds of the Surcharge collected on properties within the Clark Shaw Sanitary Surcharge Area as depicted on the map attached hereto as Third Amendment – Exhibit E to the Authority in consideration for the Authority Contribution made by the Authority to pay the Authority's costs of the Third Amendment Improvements approved for payment. Such proceeds shall be paid to the Authority on a quarterly basis within fifteen (15) business days of the end of each calendar quarter until all Surcharge-Eligible Costs, including all financing costs of the Authority, all interest costs of the Authority, all capitalized interest costs of the Authority, and all Costs of Issuance of the Authority incurred in connection with financing such Surcharge-Eligible Costs, are paid in full. Notwithstanding the foregoing, the Authority and County agree that the County shall require the Surcharge for any buildings existing as of the date of the Original Agreement within the Clark Shaw Sanitary Surcharge Area that make new sewer connections but may, at the County's discretion, allow the Surcharge to be assessed by the County and placed on an individual property owner's tax duplicate for a period of up to 10 years. The County shall notify the Authority if any Surcharges are assessed by the County by placement on any property owner's tax duplicate. The County shall remit the proceeds of any assessed Surcharge to the Authority following the conclusion of the County Auditor's semi-annual tax settlement process and at the same time at which the County remits the Community Development Charge to the Authority. After all Surcharge-Eligible Costs, including all Costs of Issuance of the Authority in financing all Surcharge-Eligible Costs, have been paid in full, the County may continue charging the Surcharge on properties within the Clark Shaw Sanitary Surcharge Area as depicted on the map attached hereto as Third Amendment – Exhibit E and may use the proceeds of the Surcharge so collected for any lawful County purpose. For purposes of this Section XIII, "Surcharge-Eligible Costs" shall include (i) the actual amount paid by or on behalf of the Authority or the Developer to the contractor or contractors that construct the Third Amendment Improvements, (ii) the actual construction management fee for the Third Amendment Improvements identified in Section XIV-B, (iii) the costs of the Authority or the Developer in acquiring easements for the Third Amendment Improvements in accordance with Section XIV-B in an amount equal to \$397,500.00, and (iv) the costs of the Authority or the Developer in performing its obligations to design Sewer Improvements and Supportive Improvements as required under the Second Amendment in an amount equal to \$134,050.25, but "Surcharge-Eligible Costs" shall not include any other costs of the Authority or Developer in administering or designing the Third Amendment Improvements.

Section III

Amendment to Section XIV-B.

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The Agreement is hereby amended by deleting Section XIV-B, as added by the Second Amendment, in its entirety and substituting the following language in its place:

The County and the Authority agree that the descriptions of Project #1, Project #2, and Project #3 contained herein, and the depictions thereof on Third Amendment – Exhibits B, C, and D, are sufficient descriptions to incorporate each of Project #1, Project #2, and Project #3 as Sewer Improvements and Supportive Improvements for all purposes of the Agreement. A map depicting Project #1 is attached hereto as Third Amendment – Exhibit B and is hereby incorporated into the Agreement as if fully restated herein. A map depicting Project #2 is attached hereto as Third Amendment – Exhibit C and is hereby incorporated into the Agreement as if fully restated herein. A map depicting Project #3 is attached hereto as Third Amendment – Exhibit D and is hereby incorporated into the Agreement as if fully restated herein. The Clark Shaw Sanitary Surcharge Area is depicted on the map attached hereto as Third Amendment – Exhibit E. The County agrees not to amend or repeal Resolution No. 16-377 adopted on April 21, 2016 without the prior written consent of the Authority and the Developer.

The Third Amendment Improvements are designed in part to contemplate the decommissioning of the Clear Creek Pump Station and the diversion of wastewater flow from areas currently served by the Scioto Reserve treatment plant via a diversion sewer to be constructed as part of Project #3; therefore, the County and the Authority acknowledge and agree that the flow of wastewater into Project #2 as a result of decommissioning the Clear Creek Pump Station and the diversion of wastewater from areas to be served by Project #3 are specifically permitted without any additional approval by the Authority. Without reducing the parcels within the Clark Shaw Sanitary Surcharge Area as depicted on the map attached hereto as Third Amendment – Exhibit E, the County and the Authority may agree to add parcels to the Clark Shaw Sanitary Surcharge Area, which additional parcels may also be provided sewer service in accordance with the Agreement. The County and the Authority shall replace the map attached hereto as Third Amendment – Exhibit E if the Clark Shaw Sanitary Surcharge Area is enlarged by agreement. The County and the Authority agree that any approval or consent to be given by either party with respect to the Third Amendment Improvements shall not be unreasonably withheld from the other party. The Parties acknowledge and agree that the County may, in accordance with the Agreement, provide sewer service to any part of the Service Area not within the Clark Shaw Sanitary Surcharge Area without adding such parcels to the Clark Shaw Sanitary Surcharge Area, provided such service does not utilize Project #2 or Project #3.

All provisions in the Agreement pertaining to construction of Supportive Improvements shall apply to the Third Amendment Improvements except those provisions expressly contradicted by this Section XIV-B.

The Authority shall make or shall cause the Developer to make the sum of Four Million Five Hundred Thousand Dollars (\$4,500,000) available upon demand and in accordance with the terms and conditions of this Agreement to pay the Authority's costs of the Third Amendment Improvements approved for payment as an Authority Contribution (the "Authority Contribution"). The County shall make the sum of Four Million Dollars (\$4,000,000) (the "County Contribution") available upon demand of the Authority and in accordance with the terms and conditions of the Agreement to pay the Authority's costs of the Third Amendment Improvements approved for payment. If the sum of the costs of Project #1 and Project #3 exceeds the sum of (i) the County Contribution, plus (ii) the amount out of the Authority Contribution remaining upon completion of Project #2, if any, then the County will make an additional contribution (the "Additional County Contribution") to the Authority to pay the remaining costs of Project #1 and Project #3, except that prior to the County being required to pay the Additional County Contribution the Parties agree to participate in a one day value engineering session that will include contractor, construction manager, design engineer, and County. The session shall include review of potential changes and revisions to the project that do not change the intent of the project but reduce construction costs through evaluating different construction methods and practices. The Authority's obligation to pay approved amounts for the construction of Project #1 improvements and Project #3 improvements is limited to the sum of (A) the County Contribution, (B) any Additional County Contribution, and (C) the amount out of the Authority Contribution remaining upon completion of Project #2, if any. The Authority's obligation to pay approved amounts for the construction of Project #2 improvements is limited to the sum of (A) the Authority Contribution, and (B) the amount of the County Contribution and any Additional County Contribution remaining upon completion of Project #1 and Project #3, if any. Notwithstanding the foregoing provisions of this paragraph, if Project #2 is not complete and the Authority has been presented with approved payment applications for the construction of Project #1 and Project #3 in excess of the County Contribution, the County shall make one or more Additional County Contributions to pay such amounts until Project #2 is complete, at which time the County may seek reimbursement from the Authority for any Additional County Contributions made by the County prior to the completion of Project #2 if upon completion of Project #2 there are any amounts remaining out of the Authority Contribution. All costs of the Third Amendment Improvements in excess of the amounts made available by the County to the Authority pursuant to

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this paragraph, including the Authority Contribution, shall be costs of the Authority and shall be paid by or on behalf of the Authority or the Developer from any lawful source including, without limitation, the proceeds of any Surcharge charged by the County on the properties within the Clark Shaw Sanitary Surcharge Area as depicted on the map attached hereto as Third Amendment – Exhibit E.

The County will provide the Authority with all right-of-way or property easements necessary for the construction of the Third Amendment Improvements other than those easements related to Project #1 provided by the Developer. The County and the Authority acknowledge that the Developer has agreed to make property easements on real property owned or controlled by the Developer available to the Authority for the construction of Project #1, Project #2, and Project #3, including easements depicted on the map attached hereto as Third Amendment – Exhibit E which are necessary for the future construction of an effluent line, force main, and related sanitary sewer improvements. The County shall not charge the Authority or the Developer for any easement acquisition cost incurred by the County. If the County and the Authority are unable to obtain the necessary property easements within forty-five (45) days of execution of the Third Amendment, the County agrees to permit the easements to be located in the right-of-way; provided, however the County shall first consult the Delaware County Engineer to minimize interference with existing road improvements and the use thereof by the traveling public. The Parties acknowledge that all easements necessary for the construction of Project #2 have been acquired by the Authority and are shown on the approved plans for Project #2.

The Authority shall be responsible for the design for all Third Amendment Improvements; provided, that the Authority's responsibility to design the Third Amendment Improvements shall be limited to the design work provided to the Authority by the Developer. The County and the Authority agree that the Developer may hire design professionals to complete the design of the Third Amendment Improvements, it being the intention of the Authority and the County that as design work progresses the Developer will be responsible for payment of the costs of any design work for the Third Amendment Improvements. The Authority, through the Developer, will submit design work for the Third Amendment Improvements to the County within forty-five (45) calendar days of receiving all easements necessary for Project #1. The County agrees to review the design work for the Third Amendment Improvements within thirty (30) calendar days of receiving the design work. The County and the Authority, through the Developer, agree to have sequential review sessions each not more than fifteen (15) business days following the previous review session in order to review the design work and to obtain the County's approval for the design work. The County will reasonably cooperate with the Authority, the Developer, and their respective design professionals to resolve any comments to the design work in order to approve the design work without undue delay. Time being of the essence, the Parties may agree to approve the design work in phases, if necessary to expedite construction. The County agrees to waive all review fees for the Third Amendment Improvements. Once the design work for the Third Amendment Improvements has been approved, in whole or in part, by the Authority, the County, and any other regulatory agencies with jurisdiction to approve the Third Amendment Improvements, (i) the Authority will enter into one or more fixed price or lump sum contracts for Project #1, (ii) the Authority will enter into one or more fixed price or lump sum contracts for Project #2, and (iii) the Authority will enter into one or more fixed price or lump sum contracts for Project #3. The Authority shall notify the County in advance of the Authority's distribution of requests for proposals or bids for any construction contracts to be awarded for the Third Amendment Improvements to provide the County with an opportunity to inspect and provide comments on any contract documents, and the Authority shall notify the County of its intention to award construction contracts in advance of awarding any construction contracts for the Third Amendment Improvements. The Authority shall commence, or cause commencement of, construction of Project #1 within thirty (30) days of final approval of the design work and the issuance of a permit to install, and construction of Project #1 shall be completed within eighteen (18) months of commencement, which completion shall be subject to reasonable accommodations for delays caused by weather or force majeure. The Authority shall provide to the County any design work for any Sewer Improvements and Supportive Improvements for which the Authority was responsible under the Second Amendment to the extent that such design work is in the possession of the Authority.

The Authority shall be responsible for the construction of all Third Amendment Improvements. The Authority will enter into one or more Infrastructure Construction and Acquisition Agreements with the Developer in substantially the same form as the agreement attached hereto as Exhibit A, and will cause the Developer to undertake the construction of the Third Amendment Improvements through contractors hired by the Developer. The Developer may enter into individual construction contracts with contractors for one or more of the Third Amendment Improvements contemplated herein. The Developer will earn a Construction Management Fee equal to five percent (5%) of the costs of construction of Project #1, Project #2, and Project #3 as the Third Amendment Improvements are certified for payment. The County agrees to consider concurrent review of any Permit To Install approvals in order to expedite the construction of the Third Amendment Improvements, and the County agrees to expedite to the extent reasonably

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possible the preparation and submission of any Permit to Install for review by the Ohio Environmental Protection Agency. Pursuant to Section XIV hereof, the County shall be responsible for inspection of the construction of all the Third Amendment Improvements. The County agrees to waive all Sewer District inspection fees for the Third Amendment Improvements. Pursuant to Section XIV of the Agreement, the County is solely responsible for inspection of any contractor's work and verifying that the work conforms to the contract documents and information certified in each payment application for Project #1, for Project #2, or for Project #3. The Authority and the County agree that the Developer may hire an independent inspector other than the County to inspect the construction of any of the Third Amendment Improvements, and the costs of such inspector shall be borne solely by the Developer and shall not be included in the costs of the Third Amendment Improvements being paid by the County pursuant to the Third Amendment.

As construction work for Project #1, Project #2, and Project #3 progresses, the Authority will forward contractor payment applications to the County for the County's approval and payment. The County and the Authority agree that the County's obligation to pay approved amounts is limited to the total amount of the County Contribution, any Additional County Contribution, and any other amounts, including the proceeds of any Surcharges, made available by the County to the Authority in accordance with this Agreement. The payment application process shall be as set forth in Section XIV hereof as well as each Construction Agreement to be entered into between the Authority and the Developer for Project #1, Project #2, and Project #3, and the County has approved the form of the Construction Agreements to be entered into between the Authority and the Developer in accordance with Section VIII of this Agreement. Within fifteen (15) calendar days of receiving each payment application, the County shall approve or deny, in whole or in part, the certified application and issue payment to the Authority, subject only to the limit of the County Contribution plus any Additional County Contribution. If the County determines to deny a payment application in whole or in part, the Authority may hire a third-party engineer to evaluate the denial and to provide recommendations to the Authority and the County regarding the payment application. Upon approval and any required payment by the County, the Authority shall pay to the Developer the amount approved by the County subject to the limitations on the availability of funds contained in this Section XIV-B of this Agreement.

Upon completion, all of the Third Amendment Improvements will be dedicated to and accepted by the County, and the County agrees to accept the maintenance responsibility for any of the Third Amendment Improvements so dedicated and accepted. The County agrees to accept, manage, and assume responsibility for treating or disposing of any wastewater flow that is collected by the Third Amendment Improvements, and the O'Shaughnessy Pump Station, immediately upon dedication to and acceptance by the County. Furthermore, the County agrees to operate the Treatment Facility and to accept wastewater flow into the Treatment Facility for processing at such time as the County shall determine that the Treatment Facility is functionally capable of such operation and processing.

Section IV

Full Force and Effect of the Agreement

The Authority and the County agree that the Agreement remains in full force and effect, except as amended by the First Amendment, the Second Amendment, and this Third Amendment.

Section V

Binding Effect; Assignment

The Authority and the County, for themselves, their successors, executors, administrators, and assigns, agree to the full performance of the covenants contained in this Third Amendment. The Authority may not assign this Third Amendment absent prior written consent of the County.

Section VI

Amendment; Consent

This Third Amendment may be amended by written instrument signed by both parties; provided, however, that no amendment shall be effective without the written consent of the Developer so long as the Developer is not in default under any Infrastructure Construction Agreement then in effect.

Section VII

Remaining Provisions

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This Third Amendment shall be subject to all other provisions of the Agreement, which shall remain in full force and effect, unless specifically amended herein.

The County and the Authority have caused this Third Amendment to be executed in their respective names by their duly authorized representatives, all as of the date first written above.

THIRD AMENDMENT – EXHIBIT A
SERVICE AREA MAP

THIRD AMENDMENT – EXHIBIT B
PROJECT #1

THIRD AMENDMENT – EXHIBIT C
PROJECT #2

THIRD AMENDMENT – EXHIBIT D
PROJECT #3

THIRD AMENDMENT – EXHIBIT E
MAP SHOWING EASEMENTS, CLARK SHAW SANITARY SURCHARGE AREA, AND DEVELOPMENT AREAS IDENTIFIED IN THIRD AMENDMENT TO AMENDED AND RESTATED IGA

(Exhibits available in the Environmental Services Department until no longer of administrative value)

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

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RESOLUTION NO. 16-613

IN THE MATTER OF APPROVING A DECREASE OF APPROPRIATIONS AND SUPPLEMENTAL APPROPRIATIONS:

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

Decrease of Appropriations		
66711901-5301	Construction Fund/Contract Professional Services	315,000.00
66711901-5415	Construction Fund/Sewer Construction	1,800,000.00
66711907-5410	ACWRF Improvements/Building Improvements >\$25,000	720,000.00
66711908-5415	Liberty Sawmill Sewer Ext/Sewer Construction	4,400,000.00
66711909-5415	LSWRF Improvements/Sewer Construction	800,000.00
Supplemental Appropriations		
66711906-5410	OECC Motor Control Center Proj/Building Improvements >\$25,000	200,000.00
40311451-5328	Orange Centre Sec 1 Proj 0723/Maintenance & Repair Services	1,461.19

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

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ADMINISTRATOR REPORTS

- Ferzan Ahmed, County Administrator**
 -Sean Miller has been updating all throughout the storm.
 -A job well done to our JFS Workforce Development department for meeting all nine standards and getting eight of the nine with an exceptional rating.
 -The Courthouse is beginning to take shape out of the ground. Our Interim Facilities Manager says we are on track for the June 30, 2017 deadline.

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COMMISSIONERS' COMMITTEES REPORTS

- Commissioner Benton**
 -The Tanger Outlet is set to open tomorrow. Commissioner Lewis will be speaking at the ribbon cutting.

- Commissioner Merrell**
 -Toured the new outlet mall yesterday. It is a really nice space.
 -At noon today will be the official announcement from the City of Columbus for winning of the Smart City Challenge.
 -Area 7 will be meeting tomorrow. Director Dombrosky will be representing Delaware County.

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Commissioner Lewis

-Thank you to former Commissioner O'Brien for his help with the outlet mall.

-Attended a Community Action meeting yesterday.

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RESOLUTION NO. 16-614

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

It was moved by Mr. Merrell, seconded by Mr. Benton to adjourn into Executive Session at 9:50 AM.

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

RESOLUTION NO. 16-615

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 10:40 AM.

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

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners