

COMMISSIONERS JOURNAL NO. 66 - DELAWARE COUNTY  
 MINUTES FROM REGULAR MEETING HELD DECEMBER 12, 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**

1:30 PM Viewing For Consideration Of The Libertydale Drainage Improvement Petition

**1**  
**RESOLUTION NO. 16-1252**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD DECEMBER 8, 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 December 8, 2016; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.11 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the electronic record of proceedings at the previous meeting.

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

**2**  
**PUBLIC COMMENT**

**3**  
**ELECTED OFFICIAL COMMENT**

**4**  
**RESOLUTION NO. 16-1253**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1209:**

It was moved by Mr. Benton, seconded by Mr. Merrell to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1209 and Purchase Orders as listed below:

PR Number	Vendor Name	Line Description	Line Account	Amount
R1605887	ADVANTAGE ADOPTION & FOSTER CARE LTD	RESIDENTIAL TREATMENT	22511607-5342	\$20,000.00
R1605905	MT BUSINESS TECHNOLOGIES INC	MAINTENANCE CONTRACT	22411605-5325	\$6,000.00
R1605907	MODERN OFFICE METHODS INC	COPIER	22411605-5325	\$6,000.00
R1605915	VERONA LLC	RETURN OF UNUSED INSPECTION FEES: VERONA SECTION 1	66211902-5319	\$8,013.75

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

**5**  
**RESOLUTION NO. 16-1254**

**IN THE MATTER OF A TRANSFER LIQUOR LICENSE REQUEST FROM KOHINOOR INDIAN CUISINE, LLC TO ASIAN TRAFFIC TECHNOLOGY, LTD AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:**

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

Whereas, the Ohio Division of Liquor Control has notified both the Delaware County Board of Commissioners and the Orange Township Trustees that a transfer of a liquor license has been requested from Kohinoor Indian Cuisine, LLC to Asian Traffic Technologies, LTS (D1, D2, D3, D3A and D6 license permits) located at 76 Powell Road & Patio, Lewis Center, OH 43035 and

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

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

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

**6**

**RESOLUTION NO. 16-1255**

**IN THE MATTER OF GRANTING THE ANNEXATION PETITION OF 1.7023 ACRES OF LAND IN DELAWARE TOWNSHIP TO THE CITY OF DELAWARE:**

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

Whereas, on November 14, 2016, the Clerk to the Board of the Delaware County Commissioners received an annexation petition filed by Michael R. Shade, Agent for the petitioners, of 1.7023 acres, more or less, in Delaware Township to the City of Delaware; and

Whereas, ORC Section 709.023-Expedited Type 2 Annexation Petition; Petitions By All Property Owners With Or Without Consent of Municipality & Township(s) – If the Municipality or Township does not file an objection within 25 days after filing of annexation, the Board at its next regular session shall enter upon its journal a resolution granting the proposed annexation; and

Whereas, 25 days have passed and the Clerk of the Board has not received an objection from the City of Delaware or the Township of Delaware;

Therefore, Be It Resolved, the Delaware County Board of Commissioners grants the annexation petition request to annex 1.7023 acres, more or less, in Delaware Township to the City of Delaware.

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

**7**

**RESOLUTION NO. 16-1256**

**IN THE MATTER OF RECOGNIZING STEPHEN FINNEY FOR HIS YEARS OF SERVICES AS A DELAWARE BOARD OF COMMISSIONERS' REPRESENTATIVES TO THE DELAWARE COUNTY BOARD OF DEVELOPMENTAL DISABILITIES:**

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

WHEREAS, Stephen Finney began his service as a Delaware County Board Of Developmental Disabilities Board Member in March 2004; and

WHEREAS, Stephen Finney accomplishments during his terms include:

- Serving as Board Secretary in 2006 and 2007
- Serving as Board Vice President in 2008, 2009, and 2010
- Serving as Board President from 2011 through 2016
- Board Delegate for the OACB Conference and participated in special committees to help achieve a better quality of life for individuals with developmental disabilities; and

WHEREAS, during his terms, Steve, was an active and dedicated advocate for the individuals and families served by Delaware County Board of Developmental Disabilities, and was instrumental in expounding the importance of Independent Providers and Private Duty Nursing; and

WHEREAS, Steve's commitment to individuals with developmental disabilities extends beyond serving on DCBDD's board. Steve is also involved with Westerville Special Olympics and has served as a member of their Board for many years.

THEREFORE the Board of Commissioners of Delaware County wishes to express its sincere appreciation for the contributions made by Stephen Finney as a Delaware Board Of Commissioners' Representatives To The Delaware County Board Of Developmental Disabilities.

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

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**8****RESOLUTION NO. 16-1257**

**IN THE MATTER OF APPROVING REAL ESTATE ACQUISITION SERVICES AGREEMENT  
BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND ROURKE  
ACQUISITION SERVICES, INC.:**

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

Whereas, the County Engineer recommends approval of an agreement with Rourke Acquisition Services, Inc., for real estate acquisition services;

Now, Therefore, Be It Resolved, that the Delaware County Board of Commissioners approves the agreement with Rourke Acquisition Services, Inc., for real estate acquisition services as follows:

**DELAWARE COUNTY, OHIO**  
**Real Estate Acquisition Services Agreement**

**Section 1 – Parties to the Agreement**

This Agreement is made and entered into this 12th day of December, 2016 by and between the Delaware County Board of Commissioners, Delaware County, Ohio (“County”), and the firm Rourke Acquisition Services, Inc., 1361 Haines Avenue, Columbus, Ohio 43212 (“Consultant”).

**Section 2 – Contract Administrator**

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

**Section 3 – Basic Services of Consultant**

The duties of the Consultant shall encompass the following tasks within Delaware County (“Services”):

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

**Section 4 – Payment for Professional Services**

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

**Section 5 – Payment**

- 5.1 Notwithstanding any provision in this contract to the contrary, the maximum obligation of the County under this contract is limited to the amount of \$75,000. Unless the County appropriates and authorizes the expenditure of additional funds pursuant to proper modification of this contract, the Consultant's duties and obligations to perform additional services under this contract shall be considered ended December 31, 2017 or when the amount of \$75,000, as described previously, has been invoiced and paid to the Consultant (whichever comes first) in accordance with the provisions of this Section. Payment of invoices submitted to the County by the Consultant shall be made by the County within thirty (30) days of the date the County receives the invoice. If the maximum obligation of the County provided herein is changed properly, then the new amount will control the continuation of the duties and obligations of the Consultant to perform additional services.
- 5.2 County shall provide all criteria and full information as to County's requirement for the Project; designate a person to act with authority on County's behalf in respect of all aspects of the Consultant's submissions; and give prompt written notice to Consultant whenever County observes or otherwise becomes aware of any defect in the Consultant's work product.

**Section 6 – Time of Schedule and Completion**

- 6.1 The Consultant shall provide a written, detailed cost proposal for each project at the request of the County prior to Services being performed.
- 6.2 After notification from the County to proceed, the Consultant shall, to the extent possible, schedule

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activities to meet specific project dates as requested by the County.

**Section 7 – Insurance**

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

**Section 8 – Indemnification**

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

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

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

**Section 9 – Termination of Agreement**

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

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

In the unforeseen event that substantial changes to the Services as defined in Section 3 are required during performance of Services under this Agreement, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall not be valid unless approved by both parties in writing.

**Section 11 – Ownership of Documents**

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

**Section 12 – Change of Key Consultant Staff**

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

**Section 13 – Miscellaneous Terms & Conditions**

- 13.1 **Prohibited Interests:** Consultant agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the

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proceeds thereof. Consultant further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this project, without the prior express written consent of County. For the duration of this Agreement and for two (2) years after the completion date of this project, the Consultant shall not represent a third party or perform services comparable to those set forth herein for a third party if the County is acquiring an interest in real property from that third party or a client of that third party, whether by direct negotiation or via formal appropriation and whether the acquisition is for this or another project. The parties mutually acknowledge that a violation of this subsection by Consultant would result in damages to the County that are difficult or impossible to ascertain or remedy. In the event of such a violation, the Consultant hereby consents to and shall not challenge the County obtaining injunctive relief to prevent or terminate the violation, and Consultant shall, as liquidated damages and not as a penalty, be required to repay to the County twenty-five percent (25%) of all fees paid to Consultant pursuant to this Agreement.

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

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

- 13.3 Entire Agreement: This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Consultant, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.
- 13.4 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 13.5 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.
- 13.6 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 13.7 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 13.8 Findings for Recovery: Consultant certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.
- 13.9 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

Consultant further certifies that neither it nor any subcontractor, or person acting on behalf of it or any

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subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

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

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

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

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

**9**  
**RESOLUTION NO. 16-1258**

**IN THE MATTER OF APPROVING OWNER’S AGREEMENT FOR COURTYARDS AT SOUTH SECTION LINE ROAD, PHASES 1 & 2:**

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

Whereas, the Engineer recommends approving the Owner’s Agreement for Courtyards at South Section Line Road, Phases 1 & 2;

Now, Therefore, Be It Resolved, that the Delaware County Board of Commissioners approves the Owner’s Agreement for Courtyards at South Section Line Road, Phases 1 & 2.

**OWNER’S AGREEMENT  
 FOR  
 DRAINAGE IMPROVEMENTS**

**THIS AGREEMENT** made and entered into this 12<sup>th</sup> day of December 2016 by and between the **Delaware County Board of Commissioners**, hereinafter called the **COUNTY**, and **Epcon Communities, Inc.**, hereinafter called the **OWNER**, as evidenced by the Engineering and Construction Plan entitled “**Courtyards at South Section Line Road, Phases 1&2**”, hereinafter called the **PLAN**, with this agreement being an approval condition of the County Engineer, and is governed by the following considerations, to wit:

- 1) The **OWNER** is to construct, install or otherwise make all of the improvements as shown and set forth to be performed and completed on the **PLAN**, which is a part of this **AGREEMENT**.
- 2) The **OWNER** shall pay the entire cost and expenses of said improvements.
- 3) The **OWNER** is to provide an irrevocable letter of credit or other approved financial warranties in the amount of **THREE HUNDRED NINETY-EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$398,500)** payable to the **COUNTY** to insure the faithful performance of this **AGREEMENT** and the completion of all of the said improvements in accordance with the current “**Delaware County Engineering and Surveying Standards for Subdivision Development**” and the current “**Subdivision Regulations of Delaware County, Ohio**”.
- 4) The **OWNER** shall deposit **THIRTY-ONE THOUSAND NINE HUNDRED DOLLARS (\$31,900)**, made payable to the Delaware County Engineer, estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **thirty percent (30%)** of the original amount deposited, the **OWNER** shall replenish the account, upon notice by the **Delaware County Engineer**. Upon completion and acceptance of the construction, the remaining amount in the fund shall be returned to the **OWNER**.
- 5) The **OWNER** is to complete all construction to the satisfaction of the **COUNTY** as evidenced by an approval letter from the **Delaware County Engineer** and formal acceptance via resolution by the **Board of County Commissioners**. Bond release will be contingent upon satisfactory completion of all items in Exhibit C of the approved plans, to include permanent stabilization.

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- 6) Upon approval and acceptance of the improvements, all structures covered under Exhibit C of the approved plan will be placed on Delaware County's Ditch Maintenance Program.
- 7) The **OWNER** shall hold the **COUNTY** free and harmless from any and all claims for damages of every nature arising or growing out of the construction of the said improvements.
- 8) The **OWNER** will at all times during the construction of said improvements maintain through traffic on the public roadway and keep the same free of unreasonable hazards to the public. Said roadway shall not be closed to traffic except as approved by the **Delaware County Engineer**. Construction signs, barricades and lights shall be placed as needed on the job site in accordance with the **Ohio Department of Transportation "Uniform Traffic Control Devices"** and **"Traffic Control for Construction and Maintenance"**.
- 9) The **OWNER** will at all times during the construction of said improvements maintain the job site in accordance with the conditions outlined within **The Ohio Environmental Protection Agency "General Permit Authorization For Storm Water Discharges Associated With Construction Activity Located Within Portions of the Olentangy Watershed Under the National Pollutant Discharge Elimination System"** and maintain drainage free of unreasonable hazards to the public. Any permit noncompliance constitutes a violation of ORC Chapter 6111 and is grounds for enforcement action.
- 10) The **OWNER** further agrees that any violation of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **Delaware County Engineer** shall have the right to stop work forthwith and use the surety for the completion of the improvement.
- 11) If the **OWNER** should become unable to carry out the provisions of this **AGREEMENT**, the **OWNER'S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.
- 12) Upon approval and acceptance of the improvements, the original copy of the **PLAN** shall become the property of the **COUNTY** and shall be filed in the office of the **Delaware County Engineer**.

In consideration whereof, the **COUNTY** hereby grants to the **OWNER** or his agent the right and privilege to make the said improvements stipulated herein.

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

**10**

**RESOLUTION NO. 16-1259**

**IN THE MATTER OF APPROVING OWNER'S AGREEMENT FOR THE WOODS OF DORNOCH SECTION 5:**

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

Whereas, the Engineer recommends approving the Owner's Agreement for The Woods of Dornoch Section 5;

Now, Therefore, Be It Resolved, that the Delaware County Board of Commissioners approves the Owner's Agreement for The Woods of Dornoch Section 5:

**OWNER'S AGREEMENT**  
**PROJECT NUMBER: 16004**

**THIS AGREEMENT**, executed on this 12th day of December 2016 between **ROCKFORD HOMES**, hereinafter called '**OWNER**' and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **THE WOODS OF DORNOCH SECTION 5**, further identified as Project Number 16004 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

**OPTIONS:**

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

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

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and**

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**Surveying Standards and any supplements thereto.** The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

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

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

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **FORTY THREE THOUSAND DOLLARS (\$43,000)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

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

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

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

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

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

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

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

**EXHIBIT "A"**

CONSTRUCTION COST ESTIMATE	\$710,548.11
CONSTRUCTION BOND AMOUNT	\$ N/A
MAINTENANCE BOND AMOUNT	\$ 71,050
INSPECTION FEE DEPOSIT	\$ 43,000

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

**11**

**RESOLUTION NO. 16-1260**

**IN THE MATTER OF APPROVING OWNER'S AGREEMENT FOR ROADWAY IMPROVEMENTS PLAN FOR PIATT ROAD AND STORM SEWER AND GRADING PLAN FOR OLENTANGY LOCAL SCHOOL DISTRICT FOURTH HIGH SCHOOL:**



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

Whereas, The Engineer recommends approving the Owner’s Agreement For Roadway Improvements Plan for Piatt Road and Storm Sewer and Grading Plan for Olentangy Local School District Fourth High School;

Now, Therefore, Be It Resolved, that the Delaware County Board of Commissioners approve the Owner’s Agreement for Roadway Improvements Plan for Piatt Road and Storm Sewer and Grading Plan for Olentangy Local School District Fourth High School:

**OWNER’S AGREEMENT**  
**PROJECT NUMBER:**

**THIS AGREEMENT**, executed on this 12<sup>th</sup> day of December, 2016 between the **BOARD OF EDUCATION OF THE OLENTANGY LOCAL SCHOOL DISTRICT**, hereinafter called ‘**OWNER**’ and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the **PROJECT** defined herein as all public street and stormwater improvements associated with plans entitled *Roadway Improvements Plan for Piatt Road and Storm Sewer and Grading Plan for Olentangy Local School District Fourth High School*, is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

**All public improvement construction** as contemplated by the plans and specifications for the **PROJECT** shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

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

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

**Upon completion of construction**, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

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

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

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

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid.

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

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

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

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

**12**  
**RESOLUTION NO. 16-1261**

**IN THE MATTER OF AWARDDING A BID AND APPROVING A CONTRACT FOR THE PROJECT KNOWN AS DEL-CR 13-4.04, WORTHINGTON-BIG WALNUT ROAD INTERSECTION PROJECT:**

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

**DEL-CR13-4.04, Worthington-Big Walnut Intersection Project  
Bid Opening of December 1, 2016**

Whereas, as the result of the above referenced bid opening, the County Engineer recommends that a bid award be made to Double Z Construction Company, the low bidder for the project; and

Whereas, the County Engineer recommends approval of the Contract between the Delaware County Commissioners and Double Z Construction Company for DEL-CR 13-4.04, Worthington-Big Walnut Road Intersection Project (the "Project");

Now, Therefore, Be It Resolved that the Board of Commissioners of Delaware County awards the bid to and approves the following contract with Double Z Construction Company for the Project:

**CONTRACT**

THIS AGREEMENT is made this 12<sup>th</sup> day of December, 2016 by and between **Double Z Construction, 2550 Harrison Road, Columbus, OH 43204** hereinafter called the "Contractor" and the Delaware County Commissioners, hereinafter called the "Owner".

The Contractor and the Owner for the considerations stated herein mutually agree as follows:

**ARTICLE 1. Statement of Work**

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services, and perform and complete all work required for the construction of the improvements embraced in the project named "**DEL-CR 13-4.04, Worthington-Big Walnut Intersection**", and required supplemental work for the project all in strict accordance with the Contract Documents.

**ARTICLE 2. The Contract Price**

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed **Two Million Three Hundred Seventy Seven Thousand Eight Hundred Eight Four Dollars and Twenty-Seven Cents. (\$2,377,884.27)**, subject to additions and deductions as provided in the Contract Documents.

**ARTICLE 3. Contract**

The executed Contract Documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation to Bid
- d. Instructions to Bidders
- e. Signed copy of bid
- f. Work Specifications (including all plans, drawings, etc.)
- g. Specifications – General Provisions
- h. Federal and State Requirements

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed in two original copies on the day and year first above written.

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

**13  
RESOLUTION NO. 16-1262**

**IN THE MATTER OF AWARDING THE BID AND APPROVING THE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND B&K LEHNER EXCAVATING FOR THE PROJECT KNOWN AS WINDING CREEK DRAINAGE IMPROVEMENT PROJECT:**

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

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**Winding Creek Drainage Improvement Project  
Bid Opening of November 15, 2016:**

As the result of the above referenced bid opening, The Engineer recommends that a bid award be made to B&K Lehner Excavating, the low bidder for the project per the Bid Tabulation.

**CONTRACT**

THIS AGREEMENT is made this 12<sup>th</sup> day of December, 2016 by and between B&K Lehner Excavating LLC, 2356 Troy Road, Delaware, Ohio 43015, hereinafter called the "Contractor" and the Delaware County Board of Commissioners, hereinafter called the "Owner".

The Contractor and the Owner for the considerations stated herein mutually agree as follows:

**ARTICLE 1. Statement of Work**

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services, and perform and complete all work required for the construction of the improvements embraced in the project named "Winding Creek Drainage Improvement Project" and required supplemental work for the project all in strict accordance with the Contract Documents.

**ARTICLE 2. The Contract Price**

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed Sixty-Nine Thousand Eight Hundred Seventy-Two Dollars and Sixty-Three Cents (\$69,872.63), subject to additions and deductions as provided in the Contract Documents.

**ARTICLE 3. Contract**

The executed Contract Documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation to Bid
- d. Instructions to Bidders
- e. Signed copy of bid
- f. Work Specifications (including all plans, drawings, etc.)
- g. Specifications – General Provisions
- h. Federal and State Requirements

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed in three original copies on the day and year first above written.

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

**14**

**RESOLUTION NO. 16-1263**

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

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

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

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

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Permit #	Applicant	Location	Type of Work
U16-209	AEP	Sunbury Road	Relocate facilities
U16-210	AEP	S. Old State Road	Relocate poles
U16-211	Suburban Natural Gas	Glade at Highland Lakes	Lay gas main
U16-212	Consolidated Electric	Bowtown Road	Replace poles

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

**15**

**RESOLUTION NO. 16-1264**

**IN THE MATTER OF APPROVING A QUITCLAIM DEED TO THE CITY OF DELAWARE FOR THE TRANSFER OF PROPERTY INCIDENTAL TO THE DEVELOPMENT OF THE SENIOR SERVICES FACILITY PROPERTY:**

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

WHEREAS, on June 1, 2006, the Delaware County Board of Commissioners (the “Board”) and the City of Delaware entered into a pre-annexation agreement for the Council for Older Adults senior services facility, now known as Sourcepoint (the “Agreement”); and

WHEREAS, pursuant to the Agreement, the Board agreed to transfer certain portions of the subject property to the City of Delaware, and the City of Delaware agreed to transfer certain portions of the subject property to the Board; and

WHEREAS, the transfers have heretofore not been made, and both the Board and the City of Delaware desire to satisfy the remaining obligations of the Agreement;

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

Section 1. The Board hereby approves, and authorizes the President of the Board to execute, the quitclaim deed as set forth herein.

Section 2. The Board hereby directs the Clerk of the Board to cause delivery of a certified copy of this Resolution upon the City of Delaware.

**QUIT CLAIM DEED**

KNOW ALL MEN BY THESE PRESENTS THAT the Board of Commissioners of Delaware County, Ohio, the Grantor herein, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, convey, release, and forever quitclaim to the City of Delaware, Ohio, and its successors, and assigns, the Grantee herein, all right, title, and interest in fee simple in the real property described in Exhibit A, attached hereto and fully incorporated herein, being portions of the real property Grantor acquired by that certain deed of record in Office of the Delaware County Recorder, Official Record Volume 655, Page 983.

To have and to hold said property unto the Grantee, except: (a) easements, restrictions, conditions, and covenants of record; (b) all legal highways; (c) zoning and building laws, ordinances, rules, and regulations; and (d) any and all taxes and assessments not yet due and payable.

The Grantor has executed this instrument on this 12th day of December, 2016.

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

**16**

**RESOLUTION NO. 16-1265**

**IN THE MATTER OF APPROVING A SERVICE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COUNTY COMMISSIONERS AND FISHEL HASS KIM ALBRECHT LLP:**

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

The Acting County Administrator/ Director of Administrative Services recommends approval of the service contract between The Delaware County Board of County Commissioners and Fishel Hass Kim Albrecht LLP;

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Therefore Be It Resolved, that the Board of Commissioners approve the service contract between The Delaware County Board of County Commissioners and Fishel Hass Kim Albrecht LLP:

**CONTRACT FOR SERVICES FOR DELAWARE COUNTY, OHIO**

THIS AGREEMENT, made this 12<sup>th</sup> day of December, 2016, by and between the Delaware County Board of County Commissioners, hereinafter "County" and Fishel Hass Kim Albrecht Downey LLP, Columbus, Ohio, hereinafter "Attorneys."

**WITNESSETH:**

WHEREAS, the County is desirous of securing the services of the Attorneys to assist and represent the County in matters of human resource personnel management, civil service, and public sector issues, labor relations, and negotiations, such other and further matters that may affect or come before the County and as directed by the County; and

WHEREAS, the results of the decisions regarding such matters have a very significant fiscal and operational impact on the County; and

WHEREAS, the County has determined that certain legal, technical, and professional assistance will enable them to participate more effectively in these processes; and

WHEREAS, Fishel Hass Kim Albrecht Downey LLP, is experienced and willing to perform the above services, wherein there is an agreement specifying the rights and duties of each party;

NOW, THEREFORE, in consideration of the mutual covenants herein, the parties agree as follows.

**ARTICLE I SCOPE OF WORK**

The Attorneys will perform services in assisting the County as may be instructed by the County, including advice and services in order for the County to carry out their human resource management, civil service administration, labor relations programs and other matters. Such services to the County include:

A. To provide necessary assistance, research, and analysis with respect to the specific issues that develop in matters that come before the County and to advise and/or represent the County in matters as directed by the County;

B. To advise the County as to the implications of both economic and non-economic issues raised in both formal and informal bargaining sessions, along with the implications of the existing personnel practices and collective bargaining agreements, if any;

C. To advise the County and participate in both formal and informal bargaining sessions with the representatives of the various employee organizations that may represent employees with the County; and

D. To provide any other necessary representation to the County's management personnel and elected officials throughout specific negotiating periods and, at the request of the County, on other matters relating to the County's labor relations program, civil service, or as otherwise directed.

**ARTICLE II CONSIDERATION AND TERM OF CONTRACT**

The compensation of the Attorneys shall be on the basis of an hourly rate of one hundred ninety dollars (\$190) per hour for all time expended by Partners on behalf of the County, and one hundred seventy-five dollars (\$175) per hour for all time expended by Associates on behalf of the County. The term of the contract shall be for a period beginning January 1, 2017 and ending December 31, 2017. The Attorneys shall be compensated for all necessary and reasonable costs incurred exclusive of normal administrative costs. The Attorneys shall be compensated for all actual hours of work performed for the County including those hours for consultation, assistance, research, and preparation.

The Attorneys shall bill for services and costs on a monthly basis with compensation to be payable within thirty (30) calendar days after billing. The Attorneys shall provide the County with monthly billings setting forth, in itemized detail, all time charges and reasons therefore, along with all necessarily incurred disbursements and expenses and reasons therefore.

This Agreement may be canceled by either party upon notice, in writing, delivered upon the party thirty (30) days prior to the effective date of cancellation. If such cancellation should be by the County, the County will be obligated to pay for the amount of work completed by the Attorneys. The parties further agree that should the Attorneys become unable for any reason to complete such work called for by virtue of this Agreement, that such work as the Attorneys have completed to the date of their inability to continue the terms of this Agreement shall become the property of the County as full discharge of Attorneys' liability hereunder without obligation for additional payment.

**ARTICLE III CONTRACT CONSTRUCTION AND ADMINISTRATION**

The parties expressly agree that this Agreement shall not be assigned by either party. The Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced under the laws

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of Ohio. The obligations of the County under this Agreement shall be subject to the applicable provisions of the Ohio Revised Code.

The Agreement constitutes the entire understanding between the parties and shall not be modified in any manner except by an instrument in writing executed by the parties.

If any term or provision of this Agreement or the application thereof to any person or circumstances should, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be effected thereby, and each remaining term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

Notwithstanding any provisions herein contained, it is expressly understood and agreed that the County shall not be construed or held to be a partner, associate, or joint venturer of the Attorneys in the conduct of the provisions of this Agreement. The Attorneys shall at all times have the status of an independent contractor without the right or authority to impose tort or contract liability on the County for contracts entered into by the Attorneys with third parties.

The County agrees to make available to the Attorneys all necessary records in the custody of the County and the assistance of all appropriate department employees, as the Attorneys may need for carrying out the work under this Agreement within legal limitations.

The parties agree that subsequent to the stated ending date of this Agreement, the Agreement and its terms shall remain in effect and automatically renew for successive thirty (30) day periods unless either party cancels this Agreement through the procedures stated herein.

**ARTICLE IV MISCELLANEOUS TERMS & CONDITIONS**

Non-Discrimination: The Attorneys hereby certify that they are—and shall, for the life of this Agreement, remain—in compliance with all applicable Federal, State, and Local laws, rules, and regulations in regard to equal opportunity employment and non-discrimination. In the event the Attorneys are determined, by the final order of a court or appropriate administrative agency, to be in violation of any applicable Federal, State, or Local law, rule, or regulation in regard to equal opportunity employment or non-discrimination, this Agreement may be immediately terminated, in whole or in part, and Attorneys may be ruled ineligible for future contracts with the County.

Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all disputes arising from this Contract shall be filed in and heard before the courts of Delaware County, Ohio.

Professional Liability Insurance: Throughout the life of this Agreement, the Attorneys agree to maintain, current and without lapse, professional liability insurance in an amount adequate to protect it and the County against any and all liability arising from the professional services provided under the Agreement. At any time throughout the life of the Agreement the County may request proof of such insurance, which shall be promptly provided upon request.

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

**17**  
-Administrator Ahmed covered budget cut directions to the Commissioners (Seiji Kille, Assistant County Administrator/Fiscal Services Director, was absent)

**18**  
**ADMINISTRATOR REPORTS**  
-Commissioners received notice that the Delaware County Child Support Enforcement Agency received the “Best Overall Performance” award for a Medium Caseload county

**19**  
**COMMISSIONERS’ COMMITTEES REPORTS**

**Commissioner Benton**  
-Participated In Helping At The People In Need Annual Event (Wife Is On The Board)  
-The DKMM Full Board Meeting Is Tuesday  
-Source Point Event Wednesday  
-Attend A MORPC Event Last Week

**Commissioner Merrell**  
-Attended The Annual Fundraiser “What Do You Think It Is Worth” Breakfast  
-attend a MORPC event last week  
-Before the DKMM full board meeting on Tuesday, is the executive Board Meeting  
-Will Be Attending, With Jane Hawes (Communication Manager), The Big Walnut Government Fair

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Event On Tuesday  
 -Strand Board Meeting  
 -Possible Future Idea Of Farms And Economic Development

Commissioner Lewis  
 -Attended People In Need Annual Event (Husband, Is On The Board, And Since They Both Speak Spanish Helped With Communications)

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RESOLUTION NO. 16-1266

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT, COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL AND FOR PENDING OR IMMINENT LITIGATION:

It was moved by Mr. Merrell, seconded by Mr. Benton to adjourn into Executive Session at 9:57AM.

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

RESOLUTION NO. 16-1267

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Merrell, seconded by Mr. Benton to adjourn out of Executive Session at 11:55AM.

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

RECESS 10:55AM/RECONVENE 1:30PM  
 (IN THE VICINITY BETWEEN 2885 AND 2865 LEXINGTON DRIVE, POWELL, OHIO 43065)

1:30 PM VIEWING FOR CONSIDERATION OF THE LIBERTYDALE WATERSHED AREA DRAINAGE PETITION

On Monday December 12, 2016 at 1:30PM in the vicinity between 2885 and 2865 Lexington Drive, Powell, Ohio 43065 The Delaware County Commissioners viewed the watershed area with staff members from the Delaware County Engineer’s Office and the Delaware County Soil and Water Conservation District.

**Commissioners Present: Barb Lewis, President; Jeff Benton, Vice President and Gary Merrell, Commissioner**

On **September 15, 2016**, a drainage petition for the Libertydale watershed was filed with the Board of County Commissioners to: repair, replace, or alter the existing improvement as required and to maintain the improvement on engineer plan as requested by this petition. In Delaware County, Liberty Township, in Libertydale Section 1 and 2 generally following the existing course and terrain of the improvement shown on engineer plan.

NOTE: the first hearing on the petition is scheduled for **Thursday March 9, 2017, at 10:00AM**

The Commissioners:

- Looked At Main Drainage Basin -36” storm
- Back of Property on Libertydale, Area at end of Subdivision that backs-up (3 feet plus) due to CSX Railroad debris flow is quick but has blocked outlet
- Walked Property behind Jamestown Following Water;
- viewed maps of area
- currently no major issues are known to exist;
- the infrastructure in this area would have been reviewed and approved by the County Engineer at the time of planning, but predates maintenance program.
- projects since 1998 are automatically placed on County Drainage Maintenance Program
- this is a landowner initiated process and detailed surveys follow if the project moves past the first hearing
- if approved the storm water infrastructure will be placed on the County Drainage Maintenance Program
- if approved money pooled only for this project; assessments placed on build-able lots current and future
- 4 Factors Determine Possible Assessment: Acres Benefited, Land Use, Percent Of Improvement Used; Remote Factor

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

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**SIGN-IN SHEET FOR DECEMBER 12, 2016**

**1:30 PM VIEWING FOR CONSIDERATION OF THE  
 LIBERTYDALE WATERSHED AREA DRAINAGE  
 PETITION**

	NAME	ADDRESS
1	Nico Franau	2855 Lexington Dr, Powell
2	BRET BACON	SWCD
3	Joey Hurford	SWCD
4	Matt Larson	SWCD
5	Brett Bergfeld	County Eng Office
6	Jeff Benton	DEL COUNTY
7	Gary Merrell	Del. County Com
8	Barb Lewis	" "
9	Kevin Moore	2888 Lexington Dr
10		
11		

There being no further business, the meeting adjourned.

\_\_\_\_\_  
 Gary Merrell

\_\_\_\_\_  
 Barb Lewis

\_\_\_\_\_  
 Jeff Benton