

COMMISSIONERS JOURNAL NO. 66 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD APRIL 6, 2017

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

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

10:00 AM Public Hearing For Consideration Of The Radnor Township #2015-1 Watershed Drainage Improvement Petition

1
RESOLUTION NO. 17-324

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD APRIL 3, 2017:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on April 3, 2017; 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. 17-325

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0405:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0405 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
PNC Bank	Environmental Services Procurement Card	66211903-5200	\$5,376.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>	<u>Line</u>
R1703064	TENCARVA MACHINERY COMPANY	TRANSFER STATION PS UPGRADE PROJECT	68011916 - 5428	\$ 28,730.00	0001
R1703077	FOX RUN HOSPITAL	RESIDENTIAL TREATMENT	22511607 - 5342	\$ 85,000.00	0001
R1703080	EMERGENCY PLUMBING SERVICE LLC	REPAIR SERVICES - OECC	66211903 - 5328	\$ 10,000.00	0001
R1703094	HARRIS INDUSTRIAL SERVICES LLC	PLANT UPGRADES - TARTAN	66611906 - 5410	\$ 42,981.83	0001

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

5
RESOLUTION NO. 17-326

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

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The Administrative Services Department and the Facilities Department are requesting that Jon Melvin attend an Emerging Leaders in Today's Public Sector Training Course in Dublin, Ohio April 25, 2017, at the cost of \$200.00 (fund number 10011108).

The Child Support Enforcement Agency is requesting that Joyce Bowens attend an Emerging Leaders in Today's Public Sector class in Dublin, Ohio on April 25, 2017 at the cost of \$200.00 (fund number 10011108).

The Emergency Communications Department is requesting that Patrick Brandt and Bailey Cavinee attend an APCO Institute: 911 Communication Training Officer Course in Colorado August 12-17, 2017; at the cost of \$4,590.00 (fund number 21411306).

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

**6
RESOLUTION NO. 17-327**

IN THE MATTER OF AMENDING THE DOLLAR AMOUNTS OF THE PROCUREMENT CARD FOR THE COMMON PLEAS COURT:

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

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

WHEREAS, the appointing authority for the procurement card being the Court of Common Pleas, has adopted the procurement card policy for the use of the card to pay for specific classes of work related expenses, without submitting a monthly estimate of the expenses, pursuant ORC 301.29 (F)(2).

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners of Delaware County, State of Ohio, authorize the use of the following procurement cards to the limits indicated and for specific work related expenses designated in the Procurement Card Policy without submitting a monthly estimate of expenses:

Appointing Authority: Common Pleas Court
Office/Department: Common Pleas Court

Amended amounts:
Daily spending per card: \$5,000
Monthly spending per card: \$10,000
Single transaction limit: \$5,000
Daily number of transactions per card: 10
Monthly number of transactions per card: 50

Name on Card: Kristin Schultz

Department Coordinator: Brad Higgins

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

**7
RESOLUTION NO. 17-328**

IN THE MATTER OF CORRECTING SCRIVENER'S ERRORS IN RESOLUTION NOS. 15-1142 AND 17-174:

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

WHEREAS, on September 17, 2015, the Delaware County Board of Commissioners (the "Board") adopted Resolution No. 15-1141, approving the sanitary sewer improvement plans for the Northstar Development Water Reclamation Facility structural repairs; and

WHEREAS, Resolution Nos. 15-1142 and 17-174 erroneously refer to Resolution No. 15-1142 instead of 15-1141 when reciting the approval of the sanitary sewer improvement plans for the Northstar Development Water Reclamation Facility structural repairs; and

WHEREAS, the Board desires to correct its Journal to reflect the correct references to Resolution No. 15-1141 within Resolution Nos. 15-1142 and 17-174;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby directs the Clerk of the Board to correct the scrivener's errors in Resolution Nos. 15-1142 and 17-174 to reflect the correct references to Resolution No. 15-1141.

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

8
RESOLUTION NO. 17-329

IN THE MATTER OF THE BOARD OF COUNTY COMMISSIONERS DECLARING THE WEEK OF APRIL 2nd NATIONAL CRIME VICTIMS' RIGHTS WEEK IN DELAWARE COUNTY:

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

WHEREAS, Delaware County continues its efforts to prevent and respond to crime at every level, and will never neglect to show fairness, dignity, and respect to survivors of crime, and will honor them during National Crime Victims' Rights Week 2017.

WHEREAS, Delaware County will observe National Crime Victims' Rights Week from April 2 through April 8 by placing signs for each township on the lawn of the Delaware County Commissioners' Office. This display will serve as a powerful reminder that victims are not alone and healing is possible. Victims will also be honored through the 9th annual Walk-A-Mile-In-Her-Shoes event, scheduled for May 5. The Walk-A-Mile event raises awareness about sexualized violence toward women.

NOW THEREFORE BE IT RESOLVED, It is with great respect that the Delaware County Commissioners express their admiration for those survivors of crime who have turned personal tragedies into triumph. As a community, we understand that crime has an impact, and we vow to demonstrate compassion and offer support for those who need it most. To those who serve -- our volunteers, law enforcement officers, prosecutors, victim service providers, health care professionals, parole and probation officers, counselors and a host of many others whose dedication and service to victims helps to lessen the trauma and assist in personal recoveries... we offer our deepest gratitude.

FURTHER BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY THAT, The week of April 2 through 8, 2017, is declared National Crime Victim's Rights Week in Delaware County, and all citizens of Delaware County are encouraged to use this week to reaffirm their commitment to victims of crime by extending to them respect, understanding, and compassion.

BE IT HEREBY RESOLVED, That the Clerk of the Board of Commissioners shall cause this Resolution to be spread upon the Board's Official Journal.

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

RESOLUTION NUMBERS 17-330, 17-331 AND 17-332 WERE NOT UTILIZED

9
RESOLUTION NO. 17-333

IN THE MATTER OF APPROVING NEW FUNDS, NEW ORGANIZATION KEYS, SUPPLEMENTAL APPROPRIATION AND TRANSFER OF FUNDS FOR THE BOARD OF DEVELOPMENTAL DISABILITIES:

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

New Funds

296	DODD Medicaid Reserve	
297	DODD Severance Reserve	
495	DODD Capital Improvements	

New Organization Keys

29652504	DODD Medicaid Reserve	
29752505	DODD Severance Reserve	
49552506	DODD Capital Improvements	

Supplemental Appropriation

29519000-5801	DODD Administration/Misc Cash Transfers	7,450,000.00
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Transfer of Funds

From	To	
29519000-5801	29652504-4601	5,500,000.00
DODD Administration/Misc Cash Transfers	DODD Medicaid Reserve/Interfund Revenues	
29519000-5801	29752505-4601	500,000.00
DODD Administration/Misc	DODD Severance Reserve/Interfund Revenues	

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Cash Transfers

29519000-5801	49552506-4601	1,450,000.00
DODD Administration/Misc	DODD Capital Improvements/Interfund Revenues	
Cash Transfers		

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

10

RESOLUTION NO. 17-334

IN THE MATTER OF APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND TOOLE AND ASSOCIATES FOR BUILDING OFFICIAL, PLAN REVIEW AND INSPECTION SERVICES.

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

Whereas, the Supervisor of Code Compliance recommends approval of the following Agreement;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the following Agreement with Toole and Associates for building official, plan review and inspection services.

**AGREEMENT BETWEEN DELAWARE COUNTY, OHIO,
AND TOOLE AND ASSOCIATES FOR BUILDING OFFICIAL, PLAN REVIEW AND INSPECTION
SERVICES**

This Agreement, made and entered into this 6th day of April, 2017, by and between Delaware County, Ohio through the Board of County Commissioners (hereinafter referred to as the “County”) and Toole and Associates, with offices at 454 East Main Street, Suite 236, Columbus, Ohio, 4321 (hereinafter referred to as the “Contractor”).

WHEREAS, the County is occasionally in need of residential and non-residential, backup building department services in the county; and

WHEREAS, the Contractor has qualified staff and is willing to provide backup building department services; and

WHEREAS, the County desires to establish this Agreement with the Contractor to provide the services;

NOW, THEREFORE, the County and the Contractor, in consideration of their mutual covenants, agree as follows:

SECTION I. BASIC SERVICES OF THE CONTRACTOR

- A. The Contractor shall provide backup building department services on an as needed basis, as authorized by the Chief Building Official. Contractor shall perform work in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.
- B. The Contractor shall review construction documents submitted to the Delaware County Code Compliance Office for conformance with the Delaware County Building Code, the Residential Code of Ohio and the Ohio Building Code, as adopted by the State of Ohio and/or the County. Upon completion of the review, the Contractor shall provide to the County an Approval, “Addendum Letter” or a “Correction Letter” as applicable to the submitted construction documents, which shall set forth the areas found not to be in compliance with the applicable code provisions or not clearly defined in the submitted drawings. The Contractor agrees to review and return submitted construction documents to the County within seven (7) business days for residential and twelve (12) business days for commercial from the date of receipt by the Contractor.
- C. The Contractor shall perform the necessary inspections for both residential and commercial construction projects as assigned by the Chief Building Official. On a daily basis, the Contractor shall provide a report listing the inspections performed for the particular day. The report shall include the date of inspections, type of inspection, start and end time for each inspection, total time for each inspection, name of inspector & mileage for each inspection.
- D. The Contractor shall maintain, at its own expense, copies of the necessary codes, standards, equipment, tools and vehicle(s) required for the execution of the services of this Agreement. This shall include the text, electronic file or online access to the current version adopted by the County.
- E. The Contractor shall, for the life of the agreement, maintain all certifications necessary for the execution of the services. Any loss of certification shall be communicated immediately to the County and promptly confirmed in writing to the County.
- F. The Contractor shall maintain, at its own expense, professional liability insurance at minimum amounts approved by the County.

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- G. Throughout the entire term of this Agreement, the Contractor shall maintain, at its own expense, general liability insurance, with a minimum coverage of One Million Dollars (\$1,000,000) per occurrence with an annual aggregate of \$2,000,000 and agrees to name the County as additional insured in such insurance policy. Before rendering services under this contract, Contractor agrees to provide the County with a copy of such policy and the endorsement listing County as additional insured. Contractor agrees to immediately notify the County should insurance coverage under such insurance policy be canceled, lapse, or end for any reason during the term of this Agreement. The County reserves the right to immediately terminate this Agreement upon receiving such notice.
- H. Throughout the entire term of this Agreement, Contractor agrees to maintain, at its own expense, automobile liability insurance on all vehicles used in connection with this Agreement, with a minimum coverage of Three Hundred Thousand Dollars (\$300,000) per occurrence, and agrees to name the County as additional insured in such insurance policy. Before rendering services under this contract, Contractor agrees to provide the County with a copy of such policy and the endorsement listing County as additional insured. Contractor agrees to immediately notify the County should insurance coverage under such insurance policy be canceled, lapse, or end for any reason during the term of this Agreement. The County reserves the right to immediately terminate this Agreement upon receiving such notice.
- I. The Contractor shall provide to the County proof of worker's compensation coverage as required by Ohio law.
- J. The Contractor shall furnish its own vehicle(s) for transportation. The Contractor's employees providing services hereunder shall, for the life of the agreement, maintain a valid driver's licenses.
- K. Contractor shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, national origin, sexual orientation, or disability. Contractor shall take affirmative action to ensure that applicants and employees are treated fairly and legally during employment with regard to their age, sex, race, creed, national origin, sexual orientation, or disability. The implementation of this Agreement will be carried out in strict compliance with all federal, state, and local laws regarding discrimination in employment. In the event Contractor is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or any non-discrimination provision of this Agreement, this Agreement may be canceled, terminated or suspended in whole or in part by County, and Contractor may be declared ineligible for future agreements with the County.

SECTION II. COUNTY RESPONSIBILITIES

- A. The County shall furnish to Contractor the standard forms necessary for the execution of the services. The County shall establish the necessary procedure for the inspection services.
- B. The County shall issue and/or collect all permits, registrations, fees, etc.
- C. The County shall provide to Contractor clerical services necessary for the processing of the permits.
- D. The County shall provide the list of daily inspections to the Contractor.
- E. The County shall provide conference and meeting facilities for the Contractor to meet with applicants in regards to the work performed by the Contractor pursuant to this Agreement.
- F. The County shall use its best effort to secure release of other data held by others necessary for the Contractor to perform their obligations under this Agreement.
- G. Complaints and/or disputes resulting from the provided service(s) will be reported immediately to the County. The County shall provide for the appeal mechanism for disputes and complaints.

SECTION III. BASIS OF PAYMENT

- A. The Contractor shall be compensated based upon the following fee schedule:

Building Official	\$95/hour
Non-residential plan review	\$75/hour
Residential plan review	
Individual Residence	\$110/review
Alteration/Remodel	\$65/review
Decks, Enclosed Porches	\$65/review
Resubmittals	\$65/review
Inspections	\$65/hour
Mileage – Standard IRS mileage rate for business miles	
<i>*mileage not charged on inspections</i>	
Delivery/Copying and Reproduction	Actual cost + 20%

- B. Total payments pursuant to this Agreement shall not exceed \$ 25,000.

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- C. The Contractor shall provide a written statement indicating the total time spent for each plan examination upon return of the plans, which shall accompany the Contractor's written Approval, Addendum Letter or Correction Letter.
- D. The Contractor shall provide a written statement indicating the total time spent on each inspection and mileage (if applicable).
- E. The Contractor shall invoice the County monthly for services rendered through the previous month, and the County agrees to pay within forty-five (45) days of receipt of a valid invoice. A valid invoice shall consist of a fully itemized account of the services performed. Invoices shall indicate the application number and project name, the dates of service, the types of service provided, the amount of each type of service, the mileage (if applicable), and the time spent on each. Reimbursable expenses shall be itemized and copies of receipts shall be provided. The Contractor shall provide any additional supporting documentation upon the County's request. The County reserves the right to contest any portion of any submitted invoice that does not conform to the terms of this Agreement or appears to be fraudulent.

SECTION IV. GENERAL CONSIDERATIONS

- A. This Agreement shall be governed by 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.
- B. The Contractor shall not assign their responsibilities under this Agreement to third parties without the County's written consent.
- C. This Agreement shall commence upon the date on which the County authorizes the signing of this Agreement and shall be valid for one (1) year.
- D. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the County or the Contractor.
- E. Either party for convenience may terminate this Agreement without penalty for any reason at any time by providing thirty (30) days written notice to the other party. Either party may immediately terminate this Agreement for cause, provided the other party is given a reasonable opportunity to cure the alleged default.
- F. To the fullest extent permitted by law, the Contractor shall indemnify, keep, save and hold harmless the County, its officers, agents, servants, and employees from and in all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any act, damage, injury, accident or occurrence of any type arising from the Contractor's performance of this Agreement to the extent caused by Contractor, Contractor's officers, employees, agents, or any other person for whom Contractor is liable. The Contractor shall undertake to defend the County, at Contractor's sole expense, in and from any and all actions, claims, or demands brought against the County by reason of the things stated above or any and all actions performed or taken under this Agreement, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, injuries, losses and expenses taken against the County as a result of actions under or as a result of the performance of this Agreement, including but not limited to attorney's fees.
- G. No employee of the Contractor shall at any time be considered an agent or employee of the County. The Contractor shall be considered an independent contractor and shall be responsible for the payment of all salary, benefits, insurance, workers compensation, taxes, and withholdings for its employees. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- H. 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 any prior, concurrent, or future breach, unless said waiver expressly states an intention to waive another specific term or provision or breach.
- I. Contractor states and agrees that the individual(s) who, on behalf of the Contractor, have reviewed this Agreement and effectuate this Agreement by attaching their signatures below are officers of Contractor and are authorized to and have authority to enter this Agreement on behalf of Contractor and by so signing have authority to bind and do(es) bind Contractor to any and all terms of this Agreement.
- J. 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 in full force and effect.

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- K. The subject headings of the paragraphs 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.
- L. This document represents the entire Agreement between the parties. It cannot be modified except in writing signed by all parties to this Agreement.
- M. Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- N. Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. The Contractor/Provider, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13." **Failure to complete and submit the required aforementioned certificate/affidavit with the Contract will prohibit the County from entering, proceeding, and/or performing the Contract.** Such certification is attached to this Contract and by this reference made a part thereof.

Furthermore, Be It Resolved that the Board of County Commissioners approve a purchase order with Toole and Associates in the total amount of \$25,000 from org key 10011301 – 5301.

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

11

RESOLUTION NO. 17-335

IN THE MATTER OF ESTABLISHING A NEW ORGANIZATION KEY AND APPROVING SUPPLEMENTAL APPROPRIATIONS FOR THE DELAWARE COUNTY EMERGENCY MANAGEMENT AGENCY (EMA):

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

Whereas, the Director of Delaware County EMA recommends approval of A New Organization Key and Supplemental Appropriations;

Whereas, Delaware County EMA has received a grant for hazardous materials training for first responders;

Therefore Be It Resolved, that the Delaware County Board of Commissioners approve A New Organization Key and a Supplemental Appropriations for Delaware County EMA:

New Organization Key

21581307 16-18 HMEP Training Grant

Supplemental Appropriations

21581307	16-18 HMEP Training Grant	5365 GRANT RELATED SERVICES	Amount
			\$12,000.00

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

12

RESOLUTION NO. 17-336

IN THE MANNER OF APPROVING A PERMIT FOR USE OF DELAWARE COUNTY FACILITIES:

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

WHEREAS, the Delaware County Commissioners passed Resolution No. 02-758 on June 10, 2002 adopting a Delaware County Facilities Permit Policy; and

WHEREAS, it is the intent of the policy to allow persons and organizations access to appropriate Delaware County facilities, grounds and meeting places; and

WHEREAS, each request will only be considered after the receipt of a completed Delaware County Facilities Permit Form; and

WHEREAS, the June 10, 2002 policy mandates approval from the Commissioners for use of county facilities by groups of 30 participants or more that have agreed in writing to full compliance with the Permit Policy;

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

That the Delaware County Board of Commissioners hereby authorizes the use of the Delaware County Courthouse front lawn for use by the Citizens’ Climate Lobby – Delaware Chapter to conduct a Rally for Climate on Saturday, April 29, 2017, from 11 a.m. to 12 p.m. The event will be attended by more than thirty (30) participants and the Citizens’ Climate Lobby – Delaware Chapter will pay a fee of \$25 per hour because the one hour of operation falls outside regular business hours.

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

13

RESOLUTION NO. 17-337

IN THE MATTER OF APPROVING THE RENEWAL AND ACCEPTANCE OF THE 2017 / 2018 PROGRAM COSTS BETWEEN THE COUNTY RISK SHARING AUTHORITY (CORSA) AND THE DELAWARE COUNTY BOARD OF COMMISSIONERS:

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

Whereas, the Assistant County Administrator / Director of Administrative Services recommends approval of the renewal with the County Risk Sharing Authority (CORSA) and acceptance of the 2017/2018 program costs;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the County Risk Sharing Authority (CORSA) Renewal;

Further Be It Resolved, that the Commissioners approve the Purchase Order and Voucher to CORSA in the amount of \$337,843.00 from Organizational Key 60111901.

INVOICE

**Board of Commissioners of Delaware County
2017/2018 CORSA Program Costs**

Loss Fund	\$192,660
Excess Insurance / Administrative Costs	\$178,234
Uninsured / Under Insured Motorists (UM/UIM) Current Limit: None	\$Excluded
TOTAL PROGRAM COSTS	\$370,894
LESS: MEMBER EQUITY CREDIT	
LOSS FUND DIVIDEND	\$21,864
LOSS CONTROL INCENTIVE PROGRAM	\$ 11,187
TOTAL MEMBER EQUITY CREDIT	\$33,051
NET DUE CORSA	\$337,843

PLEASE REMIT PAYMENT ALONG WITH COPY OF INVOICE
CORSA
209 E. State St.
Columbus OH 43215

(Copy of agreement available in the Commissioners’ Office until no longer of Administrative value).

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

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14**RESOLUTION NO. 17-338**

**IN THE MATTER OF APPROVING THE 2017 LOCAL AGRICULTURAL EASEMENT
PURCHASE PROGRAM (LAEPP) COOPERATIVE AGREEMENT BETWEEN THE OHIO
DEPARTMENT OF AGRICULTURE AND THE DELAWARE COUNTY COMMISSIONERS:**

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

**2017 LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM (LAEPP)
COOPERATIVE AGREEMENT
BETWEEN
THE OHIO DEPARTMENT OF AGRICULTURE
AND
DELAWARE COUNTY COMMISSIONERS**

This Cooperative Agreement (hereinafter "Agreement"), effective as of the 6th day of April 2017, is between the DELAWARE COUNTY COMMISSIONERS, 101 North Sandusky Street; Delaware, OH 43015 (hereinafter "Local Sponsor") and the OHIO DEPARTMENT OF AGRICULTURE, 8995 East Main Street, Reynoldsburg, OH 43068 (hereinafter "ODA") for the implementation of Local Agricultural Easement Purchase Program ("LAEPP") as authorized under Ohio Revised Code ("ORC") § 901.21, et. seq.

RECITALS

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

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

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

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

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

AGREEMENT**I. BENEFITS**

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

II. SCOPE OF WORK

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

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

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

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

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

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

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

III. TIME OF PERFORMANCE

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

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

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

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

IV. ODA'S OBLIGATION TO FUND

4.1 Subject to the terms and conditions of this Agreement, upon execution of this Agreement, ODA shall obligate the sum of \$301,493.00 (Three Hundred One Thousand Four Hundred Ninety-Three and 00/100 Dollars) for the acquisition by Local Sponsor of agricultural easements for the parcels approved by the Director of ODA and added by amendment to "Exhibit B - Property/Funds."

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

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

V. LOCAL SPONSOR CONTRIBUTION AND RESPONSIBILITIES

5.1 Local Sponsor must disburse one hundred percent (100%) of the payment, minus any cost or expense permitted by OAC § 901-2 et seq, representing the agricultural easement purchase price, to the landowner at the time of Closing, as that term is hereinafter defined. Local Sponsor shall pay all costs of the agricultural

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easement procurement and will operate and manage each agricultural easement in accordance with the Local Sponsor's program, this Agreement, and any relevant federal or state laws, regulations or codes.

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

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

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

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

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

5.7 If Local Sponsor enters into a Cooperative Agreement with the United States Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) to receive matching funds under its Agricultural Conservation Easement Program - Agricultural Land Easement (ACEP-ALE) program, Local Sponsor is responsible for completion of all requested documents and services outlined in Cooperative Agreement with NRCS.

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

VI. PAYMENT AND CERTIFICATION OF FUNDS

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

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

VII. AGRICULTURAL EASEMENT REQUIREMENTS

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

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

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

VIII. TERMINATION OF LOCAL SPONSOR'S SERVICES

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

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

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

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

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

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

IX. RELATIONSHIP OF PARTIES

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

X. RELATED AGREEMENTS

10.1 The Scope of Work contemplated in this Agreement is to be performed by Local Sponsor, who may subcontract without ODA's approval for the purchase of articles, supplies, components, or special mechanical

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services which are required for its satisfactory completion. All work subcontracted shall be at Local Sponsor's expense.

XI. CONFLICTS OF INTEREST AND ETHICS COMPLIANCE

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

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

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

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

XII. RIGHTS IN DATA AND COPYRIGHTS/PUBLIC USE

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

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

XIII. CONFIDENTIALITY

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

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

XIV. CAMPAIGN CONTRIBUTIONS

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

XV. LIABILITY

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

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

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

15.4 If Local Sponsor enters into a Cooperative Agreement with the United States Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) to receive matching funds under its Agricultural Conservation Easement Program - Agricultural Land Easement (ACEP-ALE) program, and to which ODA

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shall be obligated to act as party to or secondary beneficiary to that certain Cooperative Agreement and associated rights and responsibilities, Local Sponsor shall be responsible for any and all obligations which arise under or which are related to that Cooperative Agreement.

XVI. REPORTS AND NOTICES

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

a. with respect to ODA:

Ohio Department of Agriculture
Office of Farmland Preservation
8995 East Main Street
Reynoldsburg, Ohio 43068-3342
Attn: Jody Bowen, Program Administrator
Telephone: 614/728-6210
Email: jody.bowen@agri.ohio.gov

b. with respect to Local Sponsor:

Delaware County Commissioners c/o
Delaware Soil and Water and Conservation District
557 Sunbury Road
Suite A
Delaware, OH 43015-8656
Attn: Scott Stephens
Telephone: 740/368-1921
Email: scott-stephensdelawareswcd.org

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

XVII. MISCELLANEOUS

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

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

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

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

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

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

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Sponsor further agrees that Local Sponsor, any subcontractor, and any person acting on behalf of Local Sponsor or subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in ORC § 4112.01, national origin, sexual orientation, military status, or ancestry.

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

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

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

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

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

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

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

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

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

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

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

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

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

(Copy of exhibits available in the Commissioners' Office and Soil and Water Conservation Office until no longer of Administrative value).

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

Recess 10:10AM/Reconvene 10:18AM

15

RESOLUTION NO. 17-339

PUBLIC HEARING FOR CONSIDERATION OF THE RADNOR TOWNSHIP #2015-1 WATERSHED DRAINAGE IMPROVEMENT PETITION FILED BY GARY M. AND LISA A. COOPER AND OTHERS:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to open the hearing at 10:20AM.

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

15 continued

RESOLUTION NO. 17-340

IN THE MATTER OF APPROVING, FOR A SPECIFIC OCCURRENCE, A SUSPENSION OF RULE 3-SPEAKER REGISTRATION; RULE 4-LIMITATIONS AND RULE 7-PUBLIC COMMENT PROCEDURE FROM THE RULES GOVERNING PUBLIC COMMENT BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve, for a specific occurrence, a suspension of Rule 3-Speaker Registration; Rule 4-Limitations; Rule 7-Public Comment Procedure from the Rules Governing Public Comment Before The Board Of County Commissioners Of Delaware County, Ohio

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

15 continued

RESOLUTION NO. 17-341

IN THE MATTER OF CLOSING THE PUBLIC HEARING FOR CONSIDERATION OF THE RADNOR TOWNSHIP #2015-1 WATERSHED DRAINAGE IMPROVEMENT PETITION FILED BY GARY M. AND LISA A. COOPER AND OTHERS:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to close the hearing at 11:52AM.

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

15 continued

RESOLUTION NO. 17-342

IN THE MATTER OF GRANTING THE PRAYER OF THE PETITION AND DIRECTING THE DELAWARE COUNTY ENGINEER TO PROCEED WITH PREPARATION OF PLANS, REPORTS, AND SCHEDULES FOR THE RADNOR TOWNSHIP #2015-1 WATERSHED DRAINAGE IMPROVEMENT PETITION FILED BY GARY M. AND LISA A. COOPER AND OTHERS:

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

Whereas, on November 18, 2016 , a Drainage Improvement Petition to The Radnor Township #2015-1 Watershed Drainage Improvement was filed with the Board of Commissioners of Delaware County (the "Board"); and

Whereas, the Board on Monday January 30, 2017, conducted a view of the proposed improvements; and

Whereas, the Board on Thursday April 6, 2017, held a public hearing to determine if the action is necessary, conducive to the public welfare, and the benefits derived exceed the cost incurred for The Radnor Township #2015-1 Watershed Drainage Improvement; and

Whereas, after hearing testimony from property owners and the preliminary report of County Engineer, Chris Bauserman, the Board is prepared to issue its findings on the proposed improvements.

Therefore, Be It Resolved, by the Board of Commissioners of Delaware County, Ohio as follows:

Section 1. The Board hereby finds that the proposed improvement is necessary and that it will be conducive to the public welfare. The Board also finds that it is reasonably certain that the cost of the proposed improvement will be less than the benefits. Accordingly, the Board hereby grants the prayer of the petition. The hearing on the Petition is hereby adjourned to the date fixed for the filing of the reports, plans, and schedules by the Delaware County Engineer.

Section 2. The Board hereby orders the Delaware County Auditor to transfer \$ Zero from the general

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revenue funds of the county to the general drainage improvement fund.

Section 3. Upon the transfer of funds ordered in Section 2, the Board hereby orders the Delaware County Engineer to proceed with the preparation of plans, reports and schedules as presented for the proposed Radnor Township #2015-1 Watershed Drainage Improvement. The Board hereby fixes April 13, 2019 as the date for filing of the engineer’s reports, plans, and schedules. Upon filing of this information a public hearing date will be set and proper notification given to property owners in the affected watershed.

Section 4. THE BOARD HEREBY APPROVES ESTABLISHING A NEW ORGANIZATION KEY FOR THE RADNOR TOWNSHIP #2015-1 WATERSHED DRAINAGE IMPROVEMENT PROJECT 40311458.

Section 5. This Board finds and determines that all formal actions taken by this Board concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in said formal actions were in meetings open to the public, in compliance with the laws of the State of Ohio.

Section 6. Sections 1, 4, 5, and 6 of this Resolution shall take immediate effect upon passage. Sections 2 and 3 of this Resolution shall take effect upon the expiration of the twenty-one day appeal period, provided no appeal has been taken.

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

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ADMINISTRATOR REPORTS; none

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COMMISSIONERS’ COMMITTEES REPORTS; none

18
RESOLUTION NO. 17-343

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF PENDING OR IMMINENT LITIGATION:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to adjourn into Executive Session at 12:00PM.

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

RESOLUTION NO. 17-344

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to adjourn out of Executive Session at 12:15PM.

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

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton