

COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD MAY 11, 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

1
 RESOLUTION NO. 17-487

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD MAY 8, 2017:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on May 8, 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

10
 Jeffrey L. Hunter, MSc, DC, DO, FAAFP, FACHE, MBB |
 Chief Medical Officer & Vice President of Medical Affairs Molina Healthcare of Ohio, Inc.
 Presentation/Demonstration Project
 -help eligible inmates receive Medicaid benefits upon release with appropriate transitions
 -target inmates with mental health and substance abuse conditions

5
 RESOLUTION NO. 17-488

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0510:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0511 and Purchase Orders as listed below:

PR Number	Vendor Name	Line Description	Line Account	Amount
R1703520	B L ANDERSON COMPANY	FILTER INFLUENT GATES (8) FOR ALUM CREEK	66211904 - 5260	\$25220.00
R1703534	SINCLAIR COMMUNITY COLLEGE	TUITION, FEES BOOKS	22311611 - 5348	\$5200.00
R1703551	SIERRA WIRELESS AMERICA INC	MOBILE GATEWAY FOR NEW MEDIC	10011303 - 5260	\$5950.00

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

6
 RESOLUTION NO. 17-489

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Emergency Medical Services Department is requesting that Lt. Jessica Carnes attend an OSU’s Essentials of Neurocritical Care Conference in Columbus, Ohio from May 30-31, 2017 at no cost.

The Emergency Medical Services Department is requesting that Lt. Jessica Carnes attend an Airway Emergencies Training in Columbus, Ohio on May 19, 2017 at the cost of \$75.00 (fund number 10011303).

The Child Support Enforcement Agency is requesting that Mendy Chard attend an OCS Training in Columbus, Ohio May 23, 2017; at no cost.

The 911 Communications Department is requesting that Peter O’Flaherty and Bethani Neighbarger attend a 2017 Dispatcher In-Service at the Mercer County Sheriff’s Office May 24, 2017; at no cost.

The 911 Communications Department is requesting that Bryan Rand and Bailey Cavinee attend a Crisis Intervention Training for Dispatcher at the Mercer County Sheriff’s Office May 25, 2017; at no cost.

The Emergency Medical Services Department is requesting that Lt. Jen Ransom attend a Controversies at the Show in Columbus, Ohio on July 25, 2017 at no cost.

The Emergency Medical Services Department is requesting that Josh Harper attend a Leadership for fire and EMS: Strategies for Personal Success class in Columbus, Ohio from September 5-6, 2017 at the cost of \$50.00 (fund number 10011303).

The Emergency Medical Services Department is requesting that Josh Harper attend a Leadership for fire and EMS: Strategies for Personal Success class in Columbus, Ohio from October 10-11, 2017 at the cost of \$50.00 (fund number 10011303).

The Emergency Medical Services Department is requesting that Lt. Jen Ransom attend a 2017 Cardiovascular Emergencies Updated for EMS in Columbus, Ohio on June 6, 2017 at no cost.

The Emergency Medical Services Department is requesting that Josh Harper attend a Leadership for fire and EMS: Strategies for Personal Success class in Columbus, Ohio from November 6-7, 2017 at the cost of \$50.00 (fund number 10011303).

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

**7
RESOLUTION NO. 17-490**

IN THE MATTER OF CHANGING THE LOCATION AND TIME OF THE COMMISSIONERS’ SESSION FOR MONDAY SEPTEMBER 18, 2017 TO 10:00AM AT THE DELAWARE COUNTY FAIRGROUNDS STAGE BY COLISEUM:

It was moved by Mrs. Lewis, seconded Mr. Merrell to change the location and time of the Commissioners’ Session for Monday September 18, 2017 to 10:00am at the Delaware County Fairgrounds Stage By Coliseum.

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

**8
RESOLUTION NO. 17-491**

IN THE MATTER OF CANCELING THE COMMISSIONERS’ SESSION FOR THURSDAY SEPTEMBER 21, 2017:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to cancel the Commissioners’ Session for Thursday September 21, 2017.

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

**9
RESOLUTION NO. 17-492**

RESOLUTION DETERMINING THE SUFFICIENCY OF THE PETITION FOR THE ESTABLISHMENT OF THE EVANS FARM NCA AS A NEW COMMUNITY AUTHORITY AND SETTING A DATE FOR A PUBLIC HEARING UNDER CHAPTER 349 OF THE OHIO REVISED CODE:

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

WHEREAS, pursuant to Chapter 349 of the Ohio Revised Code, a petition (the “Petition”) providing for the

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establishment of the Evans Farm NCA (the "Authority") to govern a proposed new community district (the "District") was filed by the developer of the Authority (the "Developer") in the office of the Clerk of the Delaware County Board of Commissioners on May 2, 2017; and

WHEREAS, the "organizational board of commissioners," as that term is defined in Section 349.01(F) of the Ohio Revised Code, for the proposed Authority is comprised solely of the Board of County Commissioners of Delaware County (the "Board"); and

WHEREAS, the Petition was signed by the City of Delaware, Ohio, and the City of Columbus, Ohio, each as a "proximate city" pursuant to Chapter 349 of the Ohio Revised Code; and

WHEREAS, pursuant to Section 349.03(A) of the Ohio Revised Code, the Board has reviewed the Petition and determined that the Petition complies with the requirements of Section 349.03 of the Ohio Revised Code as to form and substance; and

WHEREAS, the Board has further determined to fix a time and place of a public hearing on the Petition, which public hearing shall be held not less than thirty days nor more than forty-five days from the date of the filing of the Petition, and that notice of the public hearing shall be given by the Clerk of this Board, all as required by Section 349.03(A) of the Ohio Revised Code;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY, STATE OF OHIO:

Section 1. The Board hereby finds and determines that the Petition complies with the requirements of Section 349.03(A) of the Ohio Revised Code as to form and substance.

Section 2. The Board hereby declares that a public hearing on the Petition shall be held on Thursday June 15th, 2017 at 9:45 a.m. at the Commissioners Hearing Room, 101 North Sandusky Street, Delaware, Ohio.

Section 3. The Clerk of the Board is directed to give notice of the public hearing on the Petition by publication once each week for three consecutive weeks in The Delaware Gazette.

Section 4. The Board finds and determines that all formal actions of the 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 and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. This Resolution shall be in full force and effect immediately upon its adoption.

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

11
RESOLUTION NO. 17-493

IN THE MATTER OF A NEW STOCK REQUEST FROM DELAWARE ASHLEY DRIVE THRU INC. AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

It was moved by Mrs. Lewis, 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 Delaware Township Trustees that a new stock request from Delaware Ashley Drive Thru Inc. (located at 1646 US 42N, Delaware, OH 43015 and

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 Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

12
RESOLUTION NO. 17-494

IN THE MATTER OF APPROVING A SUPPLEMENTAL APPROPRIATION FOR THE COUNTY RECORDER:

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

Supplemental Appropriation

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24113102-5301	County Recorder Equipment/Contracted Professional Service	124,300.00
Vote on Motion	Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye	

13

RESOLUTION NO. 17-495

IN THE MATTER OF APPROVING THE FIRST AMENDMENT TO THE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS; THE DELAWARE COUNTY SHERIFF AND ABL MANAGEMENT, INC., NOW KNOWN AS SUMMIT FOOD SERVICE, LLC.:

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

Whereas, the Sheriff and Sheriff’s Office Staff recommend approval of the first amendment to the contract between The Delaware County Board Of Commissioners; The Delaware County Sheriff And ABL Management, Inc., Now Known As Summit Food Service, LLC.;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approves first amendment to the contract between The Delaware County Board Of Commissioners; The Delaware County Sheriff And ABL Management, Inc., Now Known As Summit Food Service, LLC.:

First Amendment to the Contract between Delaware County and ABL Management, Inc.

The Parties mutually agree to renew the contract providing food service to the Delaware County jail approved by Resolution #15-726, on June 15, 2015.

Amended Terms:

The Parties agree to renew this for another year, as is provided under the contract. This renewal shall be effective upon the date when the final party executes this renewal.

The Parties agree that ABL Management, Inc. is now known as Summit Food Service, LLC. The Parties agree to amend Section 4.1.1 regarding the scheduled meal price increases, which would have increased by 2% in years three, four, and five of the agreement. The increase for the period July 1, 2017 to June 30, 2018 (Year Three) shall be 2.6%. All previous references to ABL in the contract are now deemed to refer to Summit.

All remaining provisions of the Agreement shall continue in full force and effect unless specifically amended here.

Vote on Motion	Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye
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14

RESOLUTION NO. 17-496

IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS; THE DELAWARE COUNTY SHERIFF AND INMATE CALLING SOLUTIONS LLC, D/B/A ICSOLUTIONS FOR THE DELAWARE COUNTY JAIL:

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

Whereas, the Sheriff and Sheriff’s Office Staff recommend approval of the agreement with Inmate Calling Solutions for the Delaware County Jail;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approves the agreement with Inmate Calling Solutions for the Delaware County Jail:

INMATE TELEPHONE SERVICES AGREEMENT

This Inmate Telephone Services Agreement ("Agreement") is made by and between Inmate Calling Solutions, LLC, d/b/a ICSolutions ("ICS"), having its principal place of business at 2200 Danbury Street, San Antonio, TX 78217, and Delaware County, OH (the "County") having its principal address as set forth on Exhibit A, attached hereto.

- 1. Term of Contract.** This Agreement shall commence upon the date inmates within the County's control begin placing telephone calls from the Equipment, which has been estimated to be May 24th, 2017 (the "Cutover Date") and shall remain in force and effect for three (3) years from the Cutover Date. This Agreement shall automatically renew for additional terms of one year, each upon the same terms and conditions as set forth herein, unless either party otherwise provides written notice to the other party at least ninety (90) days prior to a scheduled renewal. Notwithstanding the foregoing, either party may terminate this Agreement, based on a material, adverse economic change beyond such party's reasonable control, with sixty (60) day's prior written notice. Upon termination of this Agreement, County shall immediately cease the use of any Equipment provided hereunder.

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2. **Equipment.** This Agreement applies to the provision of inmate telephone services by ICS using Equipment either centrally located or within space provided by the County at each of the "Service Locations" listed on Exhibit A, attached hereto. The term "Equipment" is defined herein as telephone sets, computer systems and software, all as more fully described on Exhibit B, attached hereto. All Equipment shall be installed by properly trained personnel and in a good, workmanlike manner. Any Equipment of ICS installed upon the premises leased or otherwise under the supervision of County, shall remain in all respects the property of ICS. ICS reserves the right to remove or relocate any Equipment that is subjected to recurring vandalism or insufficient usage. ICS shall not exercise such right of removal or relocation unreasonably and, in any case with at least thirty (30) days prior notice to County. Upon removal of Equipment by ICS, ICS shall restore the premise to its original condition, ordinary wear and tear excepted.
3. **Alteration and Attachments.** County shall not make alterations or place any attachments to Equipment and Equipment shall not be moved, removed, rendered inoperable or unusable, or made inaccessible to inmates or users by County without the express written permission of ICS.
4. **Training.** ICS shall provide on-site training plus internet-based training at no cost to County. Additional training may be provided upon County's request based on availability of ICS.
5. **Call Rates.** ICS shall provide collect calling services to End-Users, on both a pre-paid and post-billed basis, at the rates and charges set forth on Exhibit C, attached hereto. ICS reserves the right to establish thresholds for the level of collect call credit to be allowed by the billed consumer. Rates and charges may be subject to change based on an order or rule of a regulatory authority having applicable jurisdiction.
6. **Commissions to County.** ICS will install, operate and maintain Equipment at no charge to County. ICS will pay County the commission amounts set forth on Exhibit D, attached hereto (collectively the "Commissions"), in consideration of the County granting ICS exclusive rights for the installation and operation of Equipment servicing the Service Locations. No Commissions shall be paid to County on amounts relating to taxes, regulatory surcharges such as universal service fund, or other fees and charges not applicable to the billed calls.

ICS will pay Commissions to County on a monthly basis on or before the first business day occurring 45 days following the end of the month in which such Commissions are earned or accrued. Such Commissions shall be sent to the address designated by County or wired to an account designated in writing by County for such purpose.

The parties agree that all financial consideration for services hereunder is predicated on the rates and charges applicable at the time of execution and is, therefore, subject to adjustment based on any changes that may be required by any law, rule, tariff, order or policy (any of which, a "Regulatory Change") of, or governed by, a regulatory body having jurisdiction over the public communications contemplated herein. In the event that a Regulatory Change affects such rates and charges, the parties agree to enter into good faith negotiations to amend this Agreement in a manner that provides sufficient consideration to ICS for ongoing services, as well as complies with the Regulatory Change. If the parties cannot reach an agreement as to the amendment necessary within 30 days of public notice of the Regulatory Change, then either party may terminate this Agreement with an additional 60 days' prior written notice. In addition, Commission rates & associated MAG are predicated on County maintaining an average daily inmate population consistent with the average of the three months preceding the Cutover Date and having access to telephones materially consistent with industry practice.

7. **County shall:**
 - a. Advise ICS of any Services Location or related premise that has been closed.
 - b. Throughout the term of this Agreement, including any renewal terms, use ICS as its exclusive provider for all matters relating to inmate telecommunication services.
 - c. Reasonably protect the Equipment against willful abuse and promptly report any damage, service failure or hazardous conditions to ICS.
 - d. Provide necessary power and power source, at no cost to ICS, and an operating environment with reasonable cooling consistent with general office use.
 - e. Provide suitable space and accessibility for inmates' use of telephone services.
 - f. Permit ICS to display reasonable signs furnished by ICS and not affix or allow to be affixed any other signs, equipment or information to the Equipment.
 - g. Permit reasonable access by ICS to County's Service Locations as reasonably necessary for ICS to install, support and maintain the Equipment.
 - h. Comply with all federal, state and local statutes, rules, regulations, ordinances or codes governing or

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applicable to the telephone services offered by ICS.

- 8. Law and Venue.** The domestic law of the State of Ohio shall govern the construction, interpretation and performance of this Agreement and all transactions hereunder. All disputes hereunder shall be resolved exclusively in state courts located in Delaware County of Ohio.
- 9. Notices.** Any notice or demand required hereunder shall be given or made by mail, postage prepaid, addressed to the respective party at the address first set forth or referenced above unless otherwise communicated in writing.
- 10. Entire Agreement.** This Agreement constitutes the entire Agreement between the parties and may not be modified or amended other than by a written instrument executed by both parties. Any orders placed by County hereunder shall be incorporated herein by mutual consent of the parties and shall supplement but not supersede the provisions of this Agreement. The County represents and warrants that it has the legal authority to make decisions concerning the provisions of space for telephones placed by ICS at the Service Locations covered by this Agreement and that ICS may rely thereon. This Agreement supersedes any prior written or oral understanding between the parties.
- 11. Risk of Loss.** ICS shall relieve County of all risk of loss or damage to Equipment during the periods of transportation and installation of the Equipment. However, County shall be responsible for any loss or damage to Equipment located on the premise caused by fault or negligence of County, its employees or others under County's supervision.
- 12. Default.** In the event either party shall be in breach or default of any terms, conditions, or covenants of this Agreement and such breach or default shall continue for a period of thirty (30) days after the giving of written notice thereof by the other party, then, in addition to all other rights and remedies at law or in equity or otherwise, including recovering of attorney fees and court cost, the non-breaching party shall have the right to cancel this Agreement without charge or liability. The waiver of any default hereunder by either party shall not constitute, or be construed as, a waiver of any subsequent default.
- 13. Assignment.** This Agreement may be transferred or assigned, in whole or in part, by ICS to any parent, successor, subsidiary, or affiliate of ICS. ICS may sub-contract any portion of its duties hereunder provided, however, it shall remain at all times responsible for such sub-contracted duties. This Agreement may otherwise only be transferred or assigned by a party with the written consent of the other party, which consent shall not be unreasonably withheld or delayed.
- 14. Relationship.** The parties hereto are independent contractors and this Agreement shall not be construed as a contract of agency or employment. Each party shall be solely responsible for compliance with all laws, rules and regulations and payment of all wages, unemployment, social security and any taxes applicable to such party's employees. Each party represents and warrants that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions; and (c) its performance hereunder shall be in compliance with applicable state and federal legal and regulatory requirements.
- 15. Indemnification.**
The Company shall provide indemnification as follows:
- A. To the fullest extent of the law and without limitation, the Company agrees to and shall indemnify and hold free and harmless the Board of Commissioners and Sheriff's Office of Delaware County, Ohio ("County"), and all of their respective boards, officers, officials, employees, volunteers, agents, servants, and representatives (collectively "Indemnified Parties") from any and all actions, claims, suits, demands, judgments, damages, losses, costs, fines, penalties, fees, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to the Company's or any subcontractor's performance of this Contract or the actions, inactions, or omissions of the Company or any subcontractor, including, but not limited to the performance, actions, inactions, or omissions of the Company's or any subcontractor's boards, officers, officials, employees, volunteers, agents, servants, or representatives (collectively "Contracted Parties".) The Company agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that the Company shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, and expenses. The Company further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that the Company shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, fines, penalties, fees, and/or expenses, including, but not limited to attorney's fees.
- B. The Company shall assume full responsibility for, pay for, and shall indemnify and hold free and harmless the Indemnified Parties from any harm, damage, destruction, injury, or loss, regardless of type or nature, known or unknown, realized or unrealized, to any property, real or personal, belonging to the Indemnified

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Parties or others, including but not limited to real estate, buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts arising out of or resulting in whole or in part from any actions, inactions, or omissions negligent or accidental, actual or threatened, intentional or unintentional of the Contracted Parties.

16. **Force Majeure.** Either party may suspend all or part of its obligations hereunder and such party shall not otherwise be held responsible for any damages, delays or performance failures caused by acts of God, events of nature, civil disobedience, military action or similar events beyond the reasonable control of such party.
17. **Severability.** If any of the provisions of this Agreement shall be deemed invalid or unenforceable under the laws of the applicable jurisdiction, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of ICS and County shall be construed and enforced accordingly.
18. **Special ADA.** ICS will install Equipment in accordance with the Americans with Disabilities Act and any related federal, state and local regulations in effect at the time of installation. ICS shall make any alterations to the Equipment as necessary for its correct operation and/or compliance with applicable laws at no cost to County.
19. **Limitation of Liability.** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OF PROFITS, LOSS OF USE, LOSS OF GOODWILL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES REGARDLESS OF THE FORM OF ANY CLAIM, WHETHER IN CONTRACT OR IN TORT OR WHETHER FROM BREACH OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER SUCH PARTY HAS BEEN ADVISED OR SHOULD BE AWARE OF THE POSSIBILITY OF SUCH DAMAGES.
20. **Warranty.** Subject to County's compliance with its obligations hereunder, Equipment shall be free from defects in workmanship and material, shall conform to ICS' published specifications in effect on the date of delivery or as otherwise proposed to County in writing, and shall not infringe any patent or trademark. This warranty shall continue while Equipment is in operation at each Service Location. County shall provide ICS with prompt written notification as to the specifics of any nonconformity or defect and ICS shall have a commercially reasonable timeframe to investigate such nonconformity or defect. As County's sole and exclusive remedy, ICS shall, at ICS' sole option and expense, either: (a) correct any nonconformities or defects which substantially impair the functionality of the Equipment in accordance with the aforesaid specifications; (b) use reasonable efforts to provide a work-around for any reproducible nonconformities or defects which substantially impair the functionality of the Equipment in accordance with the aforesaid specifications; (c) replace such nonconforming or defective Equipment; or (d) promptly refund any amounts paid to ICS by County with respect to such nonconforming or defective Equipment upon ICS receipt of such nonconforming or defective Equipment. ICS does not warrant that the operation of the Equipment shall be uninterrupted or error-free. No warranty is made with respect to the use of Equipment on or in connection with equipment or software not provided by ICS. Equipment may contain recycled, refurbished or remanufactured parts which are equivalent to new parts. ICS makes no warranties or representations that it will solve any problems or produce any specific results.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES AND ICS HEREBY DISCLAIMS ANY OTHER WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. THE FOREGOING SHALL BE THE SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO NONCONFORMING OR DEFECTIVE EQUIPMENT AND SERVICES. NOTHING CONTAINED HEREIN SHALL OBLIGATE ICS TO ENHANCE OR MODIFY THE SERVICES OR EQUIPMENT BEYOND THE SUBSTANTIAL FUNCTIONALITY INITIALLY ACCEPTED BY FACILITY, WHICH ACCEPTANCE SHALL BE DEEMED TO HAVE OCCURRED UPON THE GENERATION OF CALL REVENUE.
21. **No Hire/No Solicit.** During the term of this Agreement, and for a period of six (6) months thereafter, neither party shall solicit or hire the other party's employees, agents or representatives engaged by such party to perform work relating to this Agreement, without the express written consent of the other party.
22. **Confidentiality.** During the term of this Agreement, each party may disclose to the other certain proprietary information including, without limitation, trade secrets, know how, software, source code, techniques, future product plans, marketing plans, inventions, discoveries, improvements, financial data, business strategies and the terms of this Agreement (collectively, "Confidential Information") of a character identified by the disclosing party as confidential and that should reasonably have been understood by recipient, because of legends or markings, the circumstances of disclosure or the nature of the information itself, to be proprietary and confidential to the disclosing party. Each party and each of its employees or consultants to whom disclosure is made shall hold all Confidential Information in confidence, and shall not disclose such information to any third party or apply it to uses other than in connection with the performance of this Agreement. Each party shall use the same degree of care that it utilizes to protect its own information of a

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similar nature, but in any event not less than reasonable duty of care, to prevent the unauthorized use or disclosure of any Confidential Information. A recipient may not alter, decompile, disassemble, reverse engineer, or otherwise modify any Confidential Information received hereunder and the mingling of the Confidential Information with information of the recipient shall not affect the confidential nature or ownership of the same as provided hereunder. The obligations of this paragraph shall survive termination of this Agreement for a period of three (3) years.

This Agreement shall impose no obligation of confidentiality upon a recipient with respect to any portion of the Confidential Information received hereunder which is: (a) now or hereafter, through no unauthorized act or failure to act on recipient's part, becomes generally known or available; (b) lawfully known to the recipient without an obligation of confidentiality at the time recipient receives the same from the disclosing party, as evidenced by written records; (c) hereafter lawfully furnished to the recipient by a third party without restriction on disclosure; or (d) independently developed by the recipient without use of the disclosing party's Confidential Information.

Nothing in this Agreement shall prevent the receiving party from disclosing Confidential Information to the extent the receiving party is legally compelled to do so by any governmental or judicial agency having jurisdiction, including, but not limited to, public records requests made under Ohio law.

23. License to Use Software. With respect to the Equipment provided under this Agreement, ICS hereby grants to County a nontransferable, nonexclusive license to install, store, load, execute, operate, utilize and display (collectively, "Use") the runtime versions of the ^{Enforcer®} software in performance of this Agreement including, where applicable to the purposes hereunder, such Use on computers owned by County. Such license is specific to the County and Service Location(s) for which the ICS Services are provided and may not be transferred other than through an authorized assignment of this Agreement. Upon the termination hereof, this license and all rights of County to Use the ^{Enforcer®} software will expire and terminate. County will not transform, decompile, reverse engineer, disassemble or in any way modify any of the ^{Enforcer®} software or otherwise determine or attempt to determine source code from executable code of any elements of the ^{Enforcer®} software.

24. Third Party Software. Third-party software licenses may be contained in certain software included with equipment and may therefore require a click-through acceptance by any users. Such software licenses are incorporated herein by reference and can be made available upon request.

25. Taxes. Delaware County, Ohio is a political subdivision and tax exempt. Company shall not charge the Sheriff and/or Board any tax and agrees to be responsible for all tax liability that accrues as a result of this Contract and the Services that Company provides to the Sheriff and Board pursuant to this Contract. The Sheriff and Board shall, upon request, provide Company with proof of exemption.

26. Insurance. At all times during the Term of this Agreement, ICS shall maintain in effect the following types and amounts of insurance:

- a. General Liability Insurance: \$1,000,000 per occurrence; \$1,000,000 personal injury; \$2,000,000 general aggregate; \$2,000,000 products/completed operations.
- b. Commercial Automobile Liability: \$1,000,000 Combined Single Limit.
- c. Workers' Compensation: ICS shall comply with all workers' compensation requirements for the jurisdictions in which employees/representatives perform applicable duties.

ICS shall provide certificates evidencing the above coverage amounts upon request from County.

27. Access to Records.

At any time, during regular business hours, with reasonable notice, and as often as the SHERIFF or other agency or individual authorized by the SHERIFF may deem necessary, COMPANY shall make available to the SHERIFF and/or individual authorized by the SHERIFF all books, records, documents, papers, subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. The SHERIFF and/or individual authorized by the SHERIFF shall be permitted by the Contractor to inspect, audit, make excerpts, photo static copies, and/or transcripts of any and all such documents relating to all matters covered by this Contract. COMPANY acknowledges that Ohio's Public Records laws applies to this agreement and agrees not to assert any claim that would interfere with SHERIFF complying with a valid public record's request. Notwithstanding the foregoing, and unless otherwise required by applicable statute, such materials will not include any work of authorship which was fixed in a tangible medium of expression by COMPANY prior to the Effective Date, any intellectual property or other proprietary or trade secret information conceived or originated by COMPANY prior to the Effective Date, or any discovery, concept, or idea conceived, created, or acquired by Contractor or its officers, employees, agents and the like prior to the Effective Date.

28. Retention of Records.

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COMPANY shall retain and maintain for a minimum of three (3) years after reimbursement/compensation for Services rendered under this Contract all books, records, documents, papers, subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. If an audit, litigation, or other action is initiated during the time period of this Contract or the retention period, the Contractor shall retain and maintain such records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever is later.

29. Campaign Finance - Compliance with AC § 3517.13.

Ohio Revised Code Section 3517.13 1(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 said sections of the Revised Code are in compliance with the applicable provisions of section 3517.13 of the Revised Code. COMPANY 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 SHERIFF from entering, proceeding with, and/or performing the Contract. Such certification is attached to this Contract as Exhibit A and by this reference made a part of this Contract.

30. Certification for Findings for Recovery.

By signature of its representative below, COMPANY hereby certifies that it is not subject to any current unresolved findings for recovery pending with or issued by the Ohio Auditor of State.



Authorized Representative

31. Independent Contractor Acknowledgement/No Contribution to OPERS.

The SHERIFF and Delaware County, Ohio (for purposes of this section collectively "County") are public employers as defined in R.C. § 145.01(D). The County has classified COMPANY 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 COMPANY and/or any of its officers, officials, employees, representatives, agents, and/or volunteers for services and/or deliverables rendered and/or received under or pursuant to this Contract. COMPANY acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed it of such classification and that no contributions will be made to OPERS. If COMPANY is an individual or has less than five (5) employees, COMPANY, in support of being so informed and pursuant to R.C. § 145.038, agrees to and shall complete and shall have each of its employees complete an OPERS Independent Contractor Acknowledgement Form ("Form"). The Form is attached hereto as Exhibit B and by this reference is incorporated as a part of this Contract. The SHERIFF shall retain the completed Form(s) and immediately transmit a copy(ies) of it/them to OPERS.

If COMPANY has five (5) or more employees, COMPANY, by signature of Its representative below, hereby certifies such fact in lieu of completing the Form:

Authorized Representative

32. Non-discrimination.

COMPANY certifies and agrees as follows:

COMPANY, all subcontractors, and/or any person acting on behalf of COMPANY or any subcontractor shall comply with any and all applicable federal, state, and/or local laws prohibiting discrimination and providing for equal opportunity.

COMPANY, all subcontractors, and/or any person acting on behalf of COMPANY or any subcontractor shall not in any way or manner discriminate on account of race, color, religion, sex, age, disability, handicap, sexual orientation, gender identity, or military status as defined in R.C. § 4112.01, national origin, or ancestry.

33. Accessibility.

COMPANY certifies and agrees as follows:

COMPANY, all subcontractors, and/or any person acting on behalf of COMPANY or any subcontractor shall make all services/programs provided pursuant to this Contract accessible to the disabled/handicapped.

COMPANY, all subcontractors, and/or any person acting on behalf of COMPANY or any subcontractor shall comply with any and all applicable federal, state, and/or local laws mandating accessibility and Section 504 of

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the Rehabilitation Act of 1973, as amended (29 U.S.O 794), all requirements imposed by the applicable HHS regulations (45 CFR 8;4) and all guidelines and interpretations issued pursuant thereto.

34. Headings.

The subject headings of the paragraphs in this Contract are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

35. Certification Regarding Personal Property Taxes.

By signature of its representative below, COMPANY hereby certifies that it is not charged with delinquent personal property taxes on the general list of personal property in Delaware County, Ohio, or any other counties containing property in the taxing districts under the jurisdiction of the Auditor of Delaware County, Ohio.

Authorized Representative

36. Drug Free Environment.

COMPANY agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. COMPANY shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

37. Statement Regarding Conflicts of Interest.

The Provider is unaware of and certifies that there are no conflicts of interest, either involving it or its employees, that would prohibit the Provider from entering this Agreement and agrees to immediately notify



the Provider when and if it becomes aware of any actual or potential conflict(s) of interest that arise during the term of the Agreement.

38. No Competitive Bidding

Consistent with R.C. § 307.86 and the requirements of such statute, this Contract is not required to be competitively bid. The Court does not desire to competitively bid this Contract.

39. County Policies

The Contractor shall be bound by, conform to, comply with, and abide by all current applicable Delaware County policies, including, but not limited to, the Contractor Safety Policy, Computer Use Policy, Social Media Policy, and Internet Use Policy (collectively "County Policy") and shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with County Policy and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Contractor or any of its employees to comply with County Policy. Copies of County Policy are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>, The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind County Policy at any time and without notice.

40. Drafting, Counterparts, and Signatures.

This Contract shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary. This Contract may be executed in counterparts. Any person executing this Contract in a representative capacity hereby warrants that he/she has authority to sign this Contract or has been duly authorized by his/her principal to execute this Contract on such principal's behalf and is authorized to bind such principal.

Exhibit A - County Addresses

Principle Business Address (used for all notices hereunder):
844 US 42 North Delaware, OH 43015
Service Location:
Delaware County Jail 844 US 42 North Delaware, OH 43015
Equipment to be shipped to:
Delaware County Jail 844 US 42 North Delaware, OH 43015
Commissions to be paid to:
Delaware County Jail 844 US 42 North Delaware, OH 43015

Exhibit B - Equipment

Centralized ENFORCER Call Processing
34 x Stainless Steel Inmate Telephones

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12 x Visitation Phone Sets
1 x TDD\TTY Unit
1 x Workstation & Printer
1 x Lobby Phone offering Free Local Calling
Interface to County's JMS platform o Automated Inmate ID\PIN Updates
The ENFORCER Technology Suite o The Verifier - Voice Biometrics o The Informer - PREA Module o The Communicator - Inmate Request Portal o The Attendant - Informational IVR
Data Detective - Data Mining & Link Analysis

The Visitor - Video Visitation System

- 26 x Video Visitation Kiosks
• 1 x Control\Monitoring Workstation
• 1 x Lobby Registration\Scheduling Terminal
• Web-Based Visitor Registration
• Web-Based Scheduling for Contact, Non-Contact & Video Visits
• Long Term Storage of recorded Visitation sessions
• Remote Visitation Enabled with bandwidth provided by ICS
• Turnkey Installation encompassing all necessary conduit, cable & network infrastructure
• All-Inclusive warranty, support & repair\replace maintenance agreement

Optional Services & Fees

- Remove Video Visitation priced at \$0.50 per Minute and charged in 30 Minute Increments (\$15.00) Inmate Voicemail priced at \$1.00 per Message

Exhibit C - Rates & Charges

NOTES: Domestic interstate rates apply for calls to U.S. territories including American Samoa, Guam, Northern Mariana Islands, Puerto Rico and U.S. Virgin Islands. All non- U.S. destinations are rated as international.

Call rates shown do not include local, county, state and federal taxes, regulatory fees and billing fees.

Billing Fees

Table with 2 columns: Fee Description and Amount. Includes Payment Processing Fee (Live Agent) \$5.95, Payment Processing Fee (IVR or Internet) \$3.00, and Bill Statement Fee \$2.00.

(All other fees free or waived)

Exhibit D - Commissions

CS shall retain the first \$0.35 of each call and pay to County a Commission of 70.0% of the remaining call revenue for all call types generated from County's Service Location. In addition, ICS shall provide County with a \$5,000.00 annual Technology Grant. This grant amount shall be funded at the beginning of each contract year. Furthermore, ICS shall provide County with a \$90,000.00 Minimum Annual Guarantee ("MAC") of commission income. At the end of each contract year, the actual commissions earned, based on the above commission rate, shall be compared to the MAC and in the event the earned commissions are less than the MAC, then ICS shall promptly remit the difference to County. If the actual commissions earned are greater than the MAG, then no further action is required.

In addition to the above commission payments, ICS shall pay to County a Commission of 50% of the total gross revenue generated from inmate voicemail and remote video visitation services. (Delaware County, OH)

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

15 RESOLUTION NO. 17-497

IN THE MATTER OF APPROVING CHANGE ORDER 007 TO THE CONSTRUCTION MANAGER CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND LEND LEASE (US) CONSTRUCTION INC. FOR THE SANDUSKY STREET COURTHOUSE AND RELATED PARKING FACILITY:

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

Whereas, the Manager of Facilities recommends approval of change order 007;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the change order 007 to the contract between the Delaware County Board of Commissioners and Lend Lease (US) Construction Inc. for the Sandusky Street Courthouse and Related Parking Facility:

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**DELAWARE COUNTY JUDICIAL BUILDING
NORTH SANDUSKY STREET
DELAWARE, OH**

**AIA Document G701 Change Order #7
Exhibit A**

Item #1 - Change Order Request #16 (Change request by Owner. Deletion of offices in lieu of open office plan) for changes to Level 400 Magistrate Suite per CCD 13R1.	(\$ 2,306.21)	Credit
Item #2 - Change Order Request #17 (Change for coordination between fixture and structure) No cost for work associated with Construction Change Directive #14 – changes to restrooms 554 and 555.	\$ 0.00	
Item #3 - Change Order Request #18 (Change request by Owner. Value added change to relocate ceiling mounted clean outs to wall mount clean outs) Cost associated with moving the drain clean out locations on Levels 400 and 500.	\$ 12,123.20	
Item #4 - Change Order Request #19 (Value added change. To give Owner more space to work on equipment) Additional cost to enlarge Penthouse mechanical room.	\$ 8,107.78	
Item #5 - Change Order Request #20 (Omission/Value added change. Contractor omitted this in original GMP) Additional cost to add windows in Central lock up control area.	\$ 1,491.98	
Item #6 - Change Order Request #24 (Omission/Value added change. Information omitted on drawings) Additional cost to add thresholds and additional blocking at Penthouse doors.	\$ 2,209.74	
Item #7 - Change Order Request #25 (Change request by Owner) No cost for changes to Research Casework.	\$ 0.00	
Item #8 - Change Order Request #26 (Value Engineering change) Credit for selecting a standard finish on coiling doors.	(\$ 12,898.00)	
Item #9 - Change Order Request #27 (Value Engineering change) Credit for selecting a standard paint color on curtain wall.	(\$ 16,100.00)	
Item #10 - Change Order Request #28 (Value Engineering change) Credit for deletion of level 5 drywall finish in non-public areas.	(\$ 22,135.52)	
Item #11 - Change Order Request #29 (Value Engineering change) Credit for using standard risers for dry sprinkler system.	(\$ 9,800.00)	
Item #12 - Change Order Request #30 (Value Engineering change) Credit for using smaller plants in landscaping.	(\$ 19,636.00)	
Item #13 - Change Order Request #31 (Value Engineering change) Credit for elimination of AWI certification so that local vendor could bid.	(\$ 20,450.00)	
Item #14 - Change Order Request #32 (Value added change. Drains relocated to enhance parking slab drainage) Additional cost to relocate floor drains on Level 100 and 200.	\$ 2,843.36	
Item #15 - Change Order Request #35 (Omission. Change due to information missing on drawings) Additional cost for clarification to sizes and additional rebar.	\$ 13,799.23	

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Item #16 - Change Order Request #37 (Omission. Due to information missing on drawings)	
Additional cost to revise and add bracing detail to structural steel.	\$ 1,455.31
Item #17 - Change Order Request #40 (City of Delaware change from the original approved drawings)	
Cost associated relocation of FDC connection for safer Fire Department equipment access	\$ 4,999.05
Item #18 - Change Order Request #41 (Change due to contractor's request)	
No cost to change from concrete to masonry wing walls in Level 200 holding cells.	(\$ 0.00)
Item #19 - Change Order Request #42 (Change due to duplication on drawings)	
Credit for deletion of LCN closer.	(\$ 488.21)
Item #20 - Change Order Request #44 (Value Engineering change)	
Credit for changing wall to curb in Mechanical Room Level 200.	(\$ 215.64)
Item #21 - Change Order Request #46 (Value Engineering change)	
Credit for changing two door frames from aluminum to hollow metal.	(\$ 1,264.80)
Item #22 - Change Order Request #50 (Value Engineering change)	
Credit for deletion of magnetic catches on casework.	(\$ 1,900.17)
Item #23 - Change Order Request #53 (Value added change. Additional curbs better delineate traffic flow)	
Additional cost to add curbs at Level 200 entry.	\$ 2,167.52
Item #24 - Change Order Request #63 (Value added change. Hydraulic lines for future elevator were added so they could be incorporated into current construction and finishes would not have to be demolished later to install them.)	
Additional cost to add hydraulic lines for future elevator #7.	\$ 9,190.17
Item #25 - Change Order Request #65 (Site Conditions/Change due to utilities in the alley that did not show on site survey and additional storm retention per request from the City of Delaware)	Cost
associated with relocating utilities out of the alley and added storm retention structures.	\$ 65,408.51
Item #26 - Change Order Request #22 (Error due to State Elevator Inspector requirement)	
Cost associated with electrical drawing revisions to add additional elevators to the emergency generator power circuit.	\$ 67,219.94
Total Add Amount for Change Order #7	\$ 83,821.24
See attached copy change order request and contractors cost breakdown.	

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Change Order

PROJECT (Name and address): Delaware County Board of Commissioners 101 North Sandusky Street Delaware, Ohio 43051-1732 Telephone Number 740.833.2104	CHANGE ORDER NUMBER: 007 DATE: 4.24.17	OWNER: <input type="checkbox"/> ARCHITECT: <input type="checkbox"/> CONTRACTOR: <input type="checkbox"/> FIELD: <input type="checkbox"/> OTHER: <input type="checkbox"/>
TO CONTRACTOR (Name and address): Lend Lease 92 N. Sandusky St. Suite 200 Delaware, OH 43051	ARCHITECT'S PROJECT NUMBER: CONTRACT DATE: 6.2.15 CONTRACT FOR: General Construction	

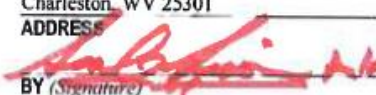

THE CONTRACT IS CHANGED AS FOLLOWS:
(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

The original Contract Sum was	\$ 145,641.00
The net change by previously authorized Change Orders	\$ 38,852,558.03
The Contract Sum prior to this Change Order was	\$ 38,998,199.03
The Contract Sum will be increased by this Change Order in the amount of	\$ 83,821.24
The new Contract Sum including this Change Order will be	\$ 39,082,020.27

The Contract Time will be increased by Zero (0) days.
The date of Substantial Completion as of the date of this Change Order therefore is June 30, 2017***

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

<u>Silling Associates, Inc.</u> ARCHITECT (Firm name)	<u>Lend Lease</u> CONTRACTOR (Firm name)	<u>Delaware County Board of Commissioners</u> OWNER (Firm name)
<u>405 Capitol Street, Upper Atrium, Charleston, WV 25301</u> ADDRESS	<u>92 N. Sandusky St., Suite 200, Delaware, OH 43051</u> ADDRESS	<u>101 North Sandusky Street, Delaware OH 43051-1732</u> ADDRESS
 BY (Signature)	 BY (Signature)	 BY (Signature)
<u>Sean G. Simon, AIA</u> (Typed name)	<u>GARY R. RUTLEDGE</u> (Typed name)	 (Typed name)
<u>4-24-17</u> DATE	<u>5.9.17</u> DATE	 DATE

***Notwithstanding anything to the contrary contained in the Contract Documents, this Change Order reflects the current price agreed upon by the parties with respect to this Change Order excluding any potential schedule impacts as well as any additional costs related thereto. Lend Lease reserves its rights to seek additional cost and time extensions for schedule impacts associated with this Change Order.

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

4
RESOLUTION NO. 17-498

IN THE MATTER OF APPROVING A RESOLUTION RECOGNIZING CLYDE "BUD" RANNEBARGER, THE DELAWARE COUNTY HONOREE FOR THE CENTRAL OHIO SENIOR CITIZEN HALL OF FAME:

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

WHEREAS, the Delaware County Board of Commissioners is proud to honor older individuals who have volunteered their time to serve others in their community; and

WHEREAS, Clyde "Bud" Rannebarger is being honored for his commitment to the seniors of Delaware County as a regular volunteer with SourcePoint since 2013; and

WHEREAS, Mr. Rannebarger volunteers for SourcePoint's Medical Transportation Program, donating more than 900 hours in four years; and

WHEREAS, Mr. Rannebarger has driven nearly 8,200 miles while transporting older residents to and from medical appointments—the equivalent of driving from Delaware County to Anchorage, Alaska and back; and

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WHEREAS, Mr. Rannebarger’s commitment to SourcePoint’s transportation program makes him a hero in the lives of many older adults on a weekly basis, going above and beyond what is expected of this volunteer position; and

WHEREAS, Mr. Rannebarger has been accompanying “Sidney” since January 2016 to twice weekly dialysis appointments, sitting with him for the entire time, four to six hours a day, never missing an appointment;

THEREFORE BE IT RESOLVED, that the Delaware County Board of Commissioners hereby congratulates Bud Rannebarger as the 2017 Delaware County Inductee into the Central Ohio Senior Citizens Hall of Fame.

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

**16
RESOLUTION NO. 17-499**

IN THE MATTER OF APPOINTING A MEMBER TO THE DELAWARE COUNTY CONVENTION AND VISITORS BUREAU:

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

WHEREAS, the Delaware County Convention & Visitors Bureau (“DCCVB”) is a corporation not for profit established and existing under Ohio laws and operates as the convention and visitors bureau within Delaware County in order to promote tourism and attract visitors and conventions to Delaware County; and

WHEREAS, pursuant to the DCCVB’s organizing documents, the Delaware County Board of Commissioners is entitled to appoint a representative to the DCCVB; and

WHEREAS, the term for Jeanna Jacobus has been vacated due to her resignation;

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

Section 1. The Board of Commissioners hereby approves the appointment of Amy Tillinghast to the DCCVB for a term commencing May 11, 2017 and ending December 31, 2018.

Section 2. The Board of Commissioners hereby directs the Clerk of the Board to certify a copy of this Resolution to the DCCVB.

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

**17
RESOLUTION 17-500**

IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH STANTEC CONSULTING SERVICES, INC. FOR THE HYATTS ROAD SANITARY SEWER PUMP STATION PRELIMINARY DESIGN SERVICES PROJECT:

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

Whereas, the Sanitary Engineer recommends approval of an agreement with Stantec Consulting Services, Inc. to perform the work;

Therefore, be it resolved that the Board of Commissioners of Delaware County, Ohio, execute the following agreement with Stantec Consulting Services, Inc.

Furthermore, be it resolved that the Board of Commissioners of Delaware County, Ohio, approve a purchase order with Stantec Consulting Services, Inc. in the amount of \$49,500.00 from org key 66711901-5301.

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into this 11th day of May, 2017, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Stantec Consulting Services Inc. (“Consultant”), hereinafter collectively referred to as the “Parties”, and shall be known as the “Agreement.”

1 SERVICES PROVIDED BY CONSULTANT

1.1 The Consultant will provide “Services” in connection with the following “Project”:
Hyatts Road Sanitary Sewer Pump Station Preliminary Design Services

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- 1.2 The Consultant shall perform the Services in accordance with the mutually agreed upon schedule and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline practicing in the same locale and under similar circumstances.
- 1.3 Services shall be rendered by the Consultant in accordance with the following documents, by this reference made part of this Agreement:
Exhibit A – Scope of Services dated April 26, 2017

2 SUPERVISION OF WORK

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

3 AGREEMENT AND MODIFICATIONS

- 3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Consultant, shall supersede all prior understandings and agreements relating to the Project, and may only be modified or amended in writing with the mutual consent and agreement of the parties.

4 FEES AND REIMBURSABLE EXPENSES

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with the Fee Proposal noted in Section 1.3 and as follows:
- 4.2 For all services described in the Scope of Services and Fee Proposal, except “If Authorized” tasks, the fee shall be \$49,500.00.
- 4.3 For all services identified in the Scope of Services and Fee Proposal as “If Authorized” tasks, the fee for each authorized task shall be the fee specified in the Fee Proposal for said task. “If Authorized” tasks shall only be performed upon written Notice of the Sanitary Engineer. The total fee for all “If Authorized” tasks shall not exceed \$0 .
- 4.4 Total compensation under this Agreement shall not exceed \$49,500.00 without subsequent modification.
- 4.5 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Services.

5 NOTICES

- 5.1 “Notices” issued under this Agreement shall be served to the parties listed below in writing. The parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.

Sanitary Engineer:

Name: Delaware County Sanitary Engineer’s Office
Attn: Mike Frommer

Address: 50 Channing Street, Delaware, Ohio 43015

Telephone: (740) 833-2240

Email: mfrommer@co.delaware.oh.us

Consultant:

Name of Principal in Charge: Kevin Kershner, Principal

Address of Firm: 1500 Lake Shore Drive, Suite 100

City, State, Zip: Columbus, Ohio 43204

Telephone: (614) 486-4383

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Email: kevin.kershner@stantec.com

6 PAYMENT

- 6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Consultant and approved by the Sanitary Engineer and on the calculated percentage of work performed to date in accordance with the Consultant's Price Proposal.
- 6.2 Invoices shall be submitted to the Project Manager by the Consultant on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Consultant shall promptly submit documentation as needed to substantiate said invoices.
- 6.3 The County shall pay invoices within thirty (30) days of receipt.

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

- 7.1 The Consultant shall commence Work upon written Notice to Proceed ("Authorization") of the Sanitary Engineer and shall complete the work no later than September 1, 2017.
- 7.2 Consultant shall not proceed with any "If Authorized" tasks without written Authorization.
- 7.3 In the event that unforeseen and unavoidable delays prevent the completion of this Agreement in accordance with the mutually agreed upon schedule, the Consultant may make a written request for time extension, and the Sanitary Engineer may grant such an extension provided that all other terms of the Agreement are adhered to.

8 SUSPENSION OR TERMINATION OF AGREEMENT

- 8.1 The County, upon written Notice as specified in Section 5, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Consultant shall immediately suspend or terminate Work, as ordered by the County.
- 8.2 In the case of Termination, the Consultant shall submit a final invoice within sixty (60) days of receiving Notice of Termination for Work completed up to the date of termination. The County is not liable for payment for work performed after the date of termination.
- 8.3 The Consultant may terminate this Agreement upon seven (7) days' notice in writing in the event the County has committed material breach of this Agreement. Non-payment of the Consultant's invoices will be considered a material breach of this Agreement.

9 CHANGE/ADDITIONS IN SCOPE OF SERVICES

- 9.1 In the event that significant changes to the Scope of Services are required during performance of the Work, the first party shall notify the second party in writing with a detailed explanation of the circumstances believed to have changed beyond those originally contemplated by this Agreement. Any subsequent modifications to this Agreement shall be approved by both parties.

For services in addition to those included in Section 1 as authorized or "if authorized", a scope and fee shall be negotiated and agreed to by both parties prior to performance of the services. This agreement shall be modified or amended in writing with the mutual consent and agreement of the parties prior to performance of the additional services.

10 OWNERSHIP

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

11 CHANGE OF KEY CONSULTANT STAFF; ASSIGNMENT

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

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

12 LIMIT OF LIABILITY AND INDEMNIFICATION

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

12.2 Neither the County nor the Consultant shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected to this Agreement or the performance of the services on this project. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, unrealized energy savings, diminution of property value or loss of reimbursement or credits from governmental or other agencies.

13 INSURANCE

13.1 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.

13.2 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.

13.3 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.

13.4 Professional Liability Insurance: Consultant hereby agrees to maintain, and require its subconsultants to maintain, professional liability insurance for the duration of the services hereunder and for three (3) years following completion of the Preliminary Engineering services hereunder plus three (3) years following any additional services provided for Final Engineering, services during construction, or other professional services, providing such insurance is readily available at reasonable prices. Such insurance for negligent acts, errors, and omissions shall be provided through a company licensed to do business in the State of Ohio for coverage of One Million Dollars (\$1,000,000) per claim and in the aggregate.

13.5 Additional Insureds: Delaware 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 13.1 and 13.2. Consultant shall require all of its subcontractors to provide like endorsements.

13.6 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. 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.

14 MISCELLANEOUS TERMS AND CONDITIONS

14.1 Prohibited Interests: Consultant agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Consultant further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.

14.2 Independent Contractor: The Parties acknowledge and agree that Consultant is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Consultant also agrees that, as an independent contractor, Consultant assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Consultant 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.**

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

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- 14.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 14.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 14.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 14.7 Findings for Recovery: Consultant certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 14.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 14.9 County Policies: The Consultant shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Consultant shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Consultant to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 14.10 Drug-Free Workplace: The Consultant agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Consultant shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 14.11 Non-Discrimination/Equal Opportunity: Consultant hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.
- Consultant further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.
- Consultant certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.
- Consultant certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.
- 14.12 Campaign Finance – Compliance with R.C. 3517.13: Ohio Revised Code Section 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in Revised Code Sections 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions.

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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.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

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

**18
RESOLUTION NO. 17-501**

IN THE MATTER OF APPROVING AMENDMENT NO. 1 TO THE SANITARY SEWER AGREEMENT FOR COURTYARDS AT BRADFORD COURT:

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

Whereas, the Board of County Commissioners approved the original Agreement on October 24, 2016 per resolution 16-1079;

WHEREAS, the Sanitary Engineer recommends approval of Amendment No. 1;

THEREFORE, BE IT RESOLVED that the Board of Commissioners approve Amendment No. 1 to the Sanitary Sewer Agreement for Courtyards at Bradford Court.

**AMENDMENT NO. 1 TO THE SANITARY SEWER AGREEMENT FOR
COURTYARDS AT BRADFORD COURT**

This Amendment No. 1 to the Sanitary Sewer Agreement for Courtyards at Bradford Court, which was entered into on October 24th, 2016 (the "Original Agreement"), is made and entered into this 11th day of May, 2017, by and between Epcon Communities, Inc. (the "Developer"), and the Delaware County Board of Commissioners (the "County").

WHEREAS, the Developer wishes to separate the construction and acceptance of the Improvements into Phase 1 and Phase 2 as shown on the approved sanitary sewer improvement plan,

THEREFORE, the Developer and the County mutually agree to amend the Original Agreement as follows:

AMENDMENT

The County authorizes the Improvements required by the Original Agreement to be divided into Phase 1 and Phase 2 as shown on the approved sanitary sewer improvement plans, subject to the following conditions, with the Section references referring to the Original Agreement as approved by Commissioner's Resolution 16-1079:

1. Section II: Capacity
 - a. Of the 62 single family residential equivalent connections approved in the Original Agreement, 34 are approved for Phase 1 and 28 are approved for Phase 2 with this Amendment.
2. Section III: Financial Warranty
 - a. The Offsite Construction financial warranty shall be included as part of Phase 1.
 - b. Phase 1 and Phase 2 shall require separate maintenance bonds, respectively.
3. Section IV: Fees
 - a. The inspection fees for Phases 1 and 2 shall not be separated by this Amendment.
 - i. Upon completion of all Improvements, and acceptance of Improvements for Phases 1 and 2 by the County, any unused portions of the inspection fund shall be repaid to the Developer less an amount equal to \$0.75 per foot of sewer which will be deducted to cover re-inspection.
4. Section V: Construction
 - a. Construction Times
 - i. All public improvement construction for Phase 1 shall be performed within one (1) year from the date of the approval of the Original Agreement by the County Commissioners.
 - ii. All public improvement construction for Phase 2 shall be performed within one (1) year from the date of the approval of this Amendment by the County Commissioners.
 - iii. Extensions of the above times may be granted if approved by the County Commissioners.
5. Section VI: Easements
 - a. Prior to the County's acceptance of either Phase of the Improvements, the Developer shall provide to the County with all necessary easements or rights-of-way as described in the Agreement.
6. Section VII: Completion of Construction

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- a. All requirements of Section VII of the Original Agreement under Section VII shall apply to each Phase of Courtyards at Bradford Court, and the Developer shall separately meet all the requirements for each Phase.
- 7. Manholes 8, 10, 11, 12 and the sewers appurtenant thereto shall be considered part of Phase 2 as shown on the approved sanitary sewer improvement plan for Courtyards at Bradford Court.
- 8. Prior to the acceptance of Phase 1, the Developer shall install plugs in the downstream side of manholes 8 and 10 at the direction of the Sanitary Engineer.
- 9. The County shall not be required to accept any part of Phase 2 prior to the County's acceptance of Phase 1.

REMAINING PROVISIONS

All remaining provisions of the Original Agreement shall continue in full force and effect unless specifically amended herein.

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

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RESOLUTION NO. 17-502

IN THE MATTER OF APPROVING EXTENSION 1 TO THE AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND CENTRAL OHIO CONTRACTORS, INC. FOR DELAWARE COUNTY SOLID WASTE TRANSFER STATION OPERATION, HAULING AND DISPOSAL SERVICES:

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

Whereas, Central Ohio Contractors, Inc. entered into a service agreement with the Delaware County Board of Commissioners on November 24, 2014 per Resolution 14-1364 to provide for the operation of the Solid Waste Transfer Station, and hauling and disposal of waste services, and

Whereas, the Agreement covered the period from December 1, 2014 through May 31, 2017, and

Whereas, the terms of the agreement allow for the contract to be renewed for one year periods up to two additional years total, and

Whereas, Central Ohio Contractors has provided excellent service to the County at the Transfer Station during the initial term of the contract, and

Whereas, the County wishes to extend the contract for an additional one year period from June 1, 2017 to May 31, 2018; and

THEREFORE BE IT RESOLVED that the Board of County Commissioners approve a one year extension of the Agreement with Central Ohio Contractors, Inc. for the operation of the Solid Waste Transfer Station, and hauling and disposal of waste services.

**EXTENSION NO. 1
DELAWARE COUNTY SOLID WASTE TRANSFER STATION OPERATION, HAULING AND DISPOSAL SERVICES CONTRACT**

This Amendment No. 1 to the Original Agreement dated November 24, 2014 is made and entered into this 11th day of May, 2017, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 ("County"), and Central Ohio Contractors, Inc., 2879 Jackson Pike, Grove City, Ohio 43123 ("Contractor") (hereinafter collectively referred to as the "Parties").

ARTICLE 1 – EXTENSION

Pursuant to "Section 4 – Term" of the Original Agreement, the Parties mutually agree to a one year extension to the contract term as provided for in "Section 4 – Term" of the Original Agreement. This is the first extension for the option of two separate one-year extensions by mutual agreements of the Parties. The Parties mutually agree to continue the tipping fees in effect as of May 31, 2017, pursuant to "Section 5 – Tipping Fees" of the Original Agreement, during the one year extension approved herein.

ARTICLE 2 – REMAINING PROVISIONS

All other terms and conditions of the Original Agreement shall remain in full force and effect.

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

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RESOLUTION NO. 17-503

IN THE MATTER OF RESCINDING RESOLUTION NO. 17-433 AND APPROVING A NON-BINDING TERM SHEET BY AND AMONG DELAWARE COUNTY, COLUMBUS OUTLETS, LLC,

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AND THE DELAWARE COUNTY FINANCE AUTHORITY REGARDING THE ISSUANCE OF DEVELOPMENT REVENUE BONDS BY THE DELAWARE COUNTY FINANCE AUTHORITY FOR PUBLIC IMPROVEMENTS IN CONNECTION WITH THE TANGER OUTLETS COLUMBUS DEVELOPMENT:

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

WHEREAS, on May 1, 2017, the Delaware County Commissioners (the “Board”) adopted Resolution No. 17-433, approving a non-binding term sheet by and among Delaware County, Columbus Outlets, LLC, and the Delaware County Finance Authority regarding the issuance of development revenue bonds by the Delaware County Finance Authority for public improvements in connection with the Tanger Outlets Columbus development; and

WHEREAS, the parties mutually desire to modify the terms stated in the non-binding term sheet; and

WHEREAS, the Board has previously entered into various agreements in connection with the Tanger Outlets Columbus development, specifically the construction of public improvements in furtherance thereof; and

WHEREAS, in order to provide for the most advantageous financing of the necessary public improvements, the Board deems it to be in the best interests of Delaware County to negotiate an agreement with Columbus Outlets, LLC, the Delaware County Finance Authority, and other parties to the prior agreements, whereby the Delaware County Finance Authority will issue development revenue bonds for the necessary public improvements and providing for the annual appropriation, if necessary and subject to the terms set forth in the Term Sheet (as defined herein), of amounts to be paid with respect to such revenue bonds in the event the revenues and funds pledged to their repayment are insufficient;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby rescinds Resolution No. 17-433 and approves the following non-binding term sheet (the “Term Sheet”) and directs the County Administrator, with the assistance of the County Auditor, the Economic Development Director, the Director of Fiscal Services, and legal counsel, to exercise good faith efforts to negotiate a binding agreement in accordance with the Term Sheet:

**Delaware County Finance Authority
Development Revenue Bonds, Series 2017
(Columbus Outlet Mall - Public Improvement Project)
Financing Term Sheet**

Set forth below is the financing term sheet (the “Term Sheet”) proposed by Delaware County Finance Authority for the transaction described herein and is provided for discussion purposes only and is subject to approval by all parties described herein:

I – Parties to Transaction:

Issuer of the Bonds:	Delaware County Finance Authority (“Issuer”)
Bond Counsel:	Ice Miller LLP (“Bond Counsel”)
Underwriter:	Fifth Third Securities, Inc.
Underwriter’s Counsel:	TBD
Issuer’s Counsel:	Bricker & Eckler LLP
NCA:	Berkshire Landing New Community Authority (“NCA”)
Bond Trustee:	The Huntington National Bank (“Trustee”)
Owner:	Columbus Outlets, LLC, a Delaware limited liability company formed by Tanger Columbus, LLC located in Greensboro, NC and SPG Columbus Outlet Investments, LLC located in Morristown, NJ (“Owner”).
Owner’s Counsel:	Ice Miller LLP
County	County of Delaware, Ohio
County’s Counsel	County Prosecuting Attorney Squire Patton Boggs (US) LLP

II – Description of Development: The Owner constructed and owns a 350,000 square foot outlet mall on approximately 57 acres (the “Development”)

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located at the interchange of Interstate 71 and US 36/State Route 37 in Berkshire Township, Delaware County, Ohio. The Development opened in June 2016.

III – Public Improvement Project:

The Owner has agreed to make \$17,600,000 of transportation road improvements to the I-71 corridor and surrounding road network (the “Public Improvements”). As of the date hereof, all of the Public Improvements have been completed. These Public Improvements are outlined in ODOT Agreement No. 18798, dated November 24, 2014 between the Ohio Department of Transportation (“ODOT”) and the County as supplemented by the Development Agreement, dated April 6, 2015, by and among the Owner, the County, Berkshire Township (the “Township”), and the NCA (collectively, the “Cooperative Agreement”).

Pursuant to the Cooperative Agreement, the Owner was responsible for constructing the Public Improvements and was to be repaid for the costs it incurred, pursuant to the Cooperative Agreement,

The County paid the Owner \$8,000,000 for a portion of these improvements (the “County Contribution”). The remaining \$9,600,000 of Public Improvement costs were to be paid to the Owner from amounts provided by the NCA from TIF Service Payments paid to the NCA by the Township and NCA Charges levied on the Development.

IV – Benefits of Financing:

Here are some of the benefits of the proposed financing:

- Lowest possible cost of capital
- Maximizing the use of available revenues to pay capital costs
- Reduce size of bond reserve and reduce negative carry
- Maximize financing from TIF Service Payments

V – Primary Agreements:

Tax Increment Agreement:

Pursuant to resolutions adopted in 2015, the Township exempted 75% of the incremental value of the site of the Development (the “TIF District”) from real property taxes for a period of 10 years, beginning with tax year 2016. Pursuant to a Development Agreement between the Township, the NCA and the Developer, the Developer has agreed to make payments in lieu of taxes (“Service Payments”) in an amount equal to the taxes that would have otherwise been paid with respect to the Development. For tax year 2016, the County Auditor valued the Development at 40% of its Completion Value. The Township has assigned the Service Payments to the NCA.

Cooperative Agreement:

The Issuer, the NCA and the Owner will enter into a cooperative agreement (“Cooperative Agreement”) providing for, among other things, the payment and transfer of the TIF Service Payments to the Bond Trustee.

Declaration

The Owner has filed a Declaration with respect to the Project, wherein it authorizes the NCA to levy a Facilities Charge (the “Facilities Charge”) in an amount equal to ½ of 1% of retail sales occurring at the Development. The NCA has adopted a resolution authorizing the levy of the Facilities Charge.

Tax Lien Agreement:

The County will agree not to sell any tax lien related to the Development at less than 100% of such lien.

Non-Recourse:

Except for the revenues otherwise pledged to provide for the payment of the Debt Service Charges on the Bonds, the Bondholders will have no recourse to the Issuer for the payment of the Bonds.

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County Annual Appropriation: Subject to an annual appropriation by the County's Board of County Commissioners, the County will agree to make an annual appropriation, if the escrowed TIF Service Payments together with the proceeds held in the Bond Reserve Fund are not sufficient to pay the Debt Service Charges ("County Payment"). (See County Obligation below.)

Indemnification Agreement: The Owner will agree to indemnify the County and the Issuer for all costs related to the transaction, including the Project and the Bonds.

VI - Terms of the Bonds:

Amount of the Bonds: The par amount of the Bonds is currently estimated to equal \$10,030,000. Such amount is subject to change based upon the final Project costs and interest rate on the Bonds.

Final Maturity of the Bonds: December 1, 2026 (approximately 9.5 years)

Debt Service Charges: The debt service charges related to the Bonds will include the principal, interest, premium, Trustee and any other annual fees related to the Bonds (the "Debt Service Charges").

Issuer Fee: The Issuer will charge an upfront fee equal to \$478,000. The Issuer will not charge any annual Issuer fees. All costs of the Issuer associated with the transaction, including its financial advisor and issuer's counsel will be paid from the Issuer Fee. All other costs of issuance, including costs of Bond Counsel, Underwriter's Counsel, Owner's Counsel, County's Counsel and Underwriter will be paid by the Owner or from the proceeds of the Bonds.

Estimated Average Interest Rate: [1.90%] (subject to market conditions) [to be revised based on advice from the underwriter]

Capitalized Interest: The interest on the Bonds will be funded from Bond proceeds through December 1, 2017.

Interest Payment Dates: June 1 and December 1 of each year, commencing December 1, 2017.

Principal Payment Dates: June 1 and December 1 of each year, commencing December 1, 2017.

Rating: Expected "AA+" (subject to formal rating by S&P)

Projected Closing Date of Bonds: June 30, 2017 (for discussion purposes only)

Debt Service Reserve: The Bond debt service reserve, equal to 6 months maximum debt service (excluding the final payment), will be funded with Bond Proceeds ("Bond Reserve"). The interest earnings on the Bond Reserve will be used to make the semiannual Debt Service Charges. The Bond Reserve proceeds will be used to redeem Bonds at final maturity or upon early redemption.

Type of Bonds: The interest on the Bonds is expected to be tax-exempt for state and federal income tax purposes, subject to an opinion of Bond Counsel.

Optional Redemption: The Bonds will be subject to optional redemption on December 1, 2024*, and every year thereafter, at par. (Subject to market conditions prior to the issuance of the Bonds.)

Excess TIF Service Payments: All excess TIF Service Payments will be used to either: (i) fund an additional reserve for the Bonds; (ii) redeem Bonds on the first available optional call date at par or (iii) repay the NCA for advances made from the Facilities Charge.

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VII – Security for the Bonds:

TIF Service Payments:

Pledge of TIF Service Payments: The Township has authorized the TIF Service Payments generated by the Development to be available to pay the Debt Service Charges on the Bonds. The term of the TIF District will be 10 years, commencing in 2016 for taxes payable in 2017. The remaining 25% of the increased real property taxes will be distributed to the taxing subdivisions. The Township will not pledge the TIF Service Payments to any other purpose except on a subordinated basis to the payment of Debt Service Charges.

Senior Tax Lien:

Past due TIF Service Payments will become a senior tax lien to any mortgage on the Development (similar to unpaid real estate taxes).

Escrow of Debt Service Charges: On August 1st of each year, commencing August 1, 2017, the Owner shall escrow an amount equal to the Debt Service Charges payable in the following year (“Service Payment Escrow”). The Trustee shall deposit such amount in a subaccount under the Indenture for the Bonds.

The Calculation Agent shall notify the County by September 1 of each year if there is a shortfall that needs to be collected through Special Assessments.

Facilities Charge:

The NCA will deposit amounts from the Facilities Charge in the Facilities Charge Fund. In the event that on September 15 of each year, the amount held in the Service Payment Escrow is sufficient to pay the Debt Service Charges due in the following year, amounts in the Facilities Charge Fund shall be released to the NCA. In the event that the amount held in the Service Payment Escrow is insufficient to pay the Debt Service Charges, the Trustee will retain the amount of any insufficiency in Facilities Charge Fund for the payment of Debt Service Charges when and as the same shall come due.

The NCA will not pledge the Facilities Charge to any other purpose except on a subordinated basis to the payment of Debt Service Charges.

Trustee TIF Distribution:

The Trustee shall pay from the Service Payment Escrow the semiannual TIF Service Payments directly to the Delaware County Treasurer. If the amount in the Service Payment Escrow on deposit with the Trustee exceeds the amount of the following years’ Service Payments, the remaining balance shall be returned to the Owner.

Owner Covenants:

The Owner will agree (i) to maintain insurance or other coverage acceptable to the Issuer and the County insuring the Development from loss in the case of damage or destruction, in such a manner that the Bonds may be fully repaid in such event in the event Owner determines not to be rebuilt and (ii) in the event the Owner shall sell the Development or shall merge into another entity, any successor entity shall have a net asset value of at least 1.35 times the outstanding principal amount of the Bonds, evidence of which shall be provided in writing to the Issuer and the County prior to the consummation of any such sale..

County Obligation:

Annual Appropriation: On or before September 15 of each year, the County will agree to request an Appropriation Payment within its annual budget in an amount equal to the difference between (a) the Debt Service Charges due during the following calendar year and (b) the sum of the amounts held on September 1 of such year in (i) the Service Payment Escrow (ii) the Facilities Charge Fund and (iii) the Debt Service Reserve Fund (taking into account any anticipated withdrawals during that calendar year). Any Appropriation

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Payments made will accrue interest at the Bond rate plus 2.50%.

Obligation Absolute: Subject to annual appropriation, the Appropriation Payment is absolute, unconditional and cannot be reduced for any reason.

No Right of Offset: Notwithstanding any other provision to the contrary, the Appropriation Payment is not subject to counterclaim or offset.

VIII – Flow of Funds:

The following represents the flow of funds for payment of the Bonds:

- First: Escrow of TIF Service Payments (to the extent paid as Service Payments for any calendar year)
- Second: Facilities Charge Fund
- Third: Six Month Bond Debt Service Reserve
- Fourth: County Appropriation Payments

IX - Attachments:

See following attachments:

- Source and Use of Funds
- Bond Debt Service Schedule
- TIF Schedule

X - Indemnification:

The Owner will indemnify and hold harmless the County, the NCA and the Issuer for all costs incurred related to the transaction.

XI - Deposit:

The Owner agrees to the terms and conditions outlined herein and to pay the non-refundable deposit of \$40,000. All deposits will be applied towards the Issuer’s closing cost upon the closing of the Bonds. Additional deposits may be required if the Bonds are not closed by August 1, 2017 or if the Owner makes significant changes to the term sheet.

In the event of termination of the transaction by the Owner, for any reason, the Owner will be obligated to pay any reasonably incurred professional fees not covered by the deposits within 30 days of termination.

XII – Approval and Acceptance

This term sheet is subject to: (i) approval by the Owner, the Issuer, and the County (ii) review and approval of final documentation by all parties, (iii) delivery of acceptable legal opinions, (iii) approval of the transaction by the NCA, (iv) Bond rating, and (v) issuance and sale of the Bonds.

This term sheet will be void if not executed by the Owner and the County and returned to the Issuer no later than May 15, 2017. Please indicate your acceptance of the terms herein by signing below.

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

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ADMINISTRATOR REPORTS

Ferzan Ahmed, County Administrator

-Visited the County Jail last week with some of the staff from the Child Support Enforcement Agency who were there to make visits with absentee parents. The jail staff, including the Director and Assistant Director were very professional. The jail was very clean.

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COMMISSIONERS’ COMMITTEES REPORTS

Commissioner Lewis

-Will be attending the Foster Parent dinner this evening.

Commissioner Merrell

-Will be attending the MORPC Policy Committee meeting this afternoon

-May be attending the Foster Parent dinner this evening.

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Commissioner Benton

- Working on a 5-year plan with Auditor Kaitsa
- Watched a webinar put on by CEBCO yesterday concerning health care trends
- There is a MORPC meeting this afternoon
- Attended the DKMM meeting held here on Tuesday. They have several issues facing them. One of them being the increasing fees being charged by hauling companies.

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RESOLUTION NO. 17-504

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF CONFIDENTIAL INFORMATION RELATED TO ECONOMIC DEVELOPMENT:

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

WHEREAS, pursuant to section 121.22(G)(8) of the Revised Code, a public body may hold an executive session to consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, provided that both of the following conditions apply:

- (1) The information is directly related to a request for economic development assistance that is to be provided or administered under any provision of Chapter 715., 725., 1724., or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project; and
- (2) A unanimous quorum of the public body determines, by a roll call vote, that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project;

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

Section 1. The Board hereby adjourns into executive session to consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance.

Section 2. The Board hereby finds and determines that the information is directly related to a request for economic development assistance that is to be provided or administered under any provision of Chapter 715., 725., 1724., or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project.

Section 3. The Board hereby finds and determines that the executive session is necessary to protect the interests of an applicant for economic development assistance or the possible investment or expenditure of public funds to be made in connection with the economic development project.

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

RESOLUTION NO. 17-505

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 11:55 AM.

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

There being no further business, the meeting adjourned.

Gary Merrell

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MINUTES FROM REGULAR MEETING HELD MAY 11, 2017

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners