

COMMISSIONERS JOURNAL NO. 67 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JULY 27, 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. 17-773

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JULY 20, 2017:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on July 20, 2017; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

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

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

2
PUBLIC COMMENT

3
ELECTED OFFICIAL COMMENT

4
RESOLUTION NO. 17-774

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0726:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0726 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
Xylem	Part for Alum Creek	66211904-5201	\$ 6,000.00
PNC Bank	Procurement Card Water Rec. Department	66211901-5200	\$10,000.00
PNC Bank	Procurement Card Water Rec. Department	66211901-5300	\$ 5,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Account</u>	<u>Amount</u>	<u>Line</u>
R1704373	HUMAN RESOURCES	UNEMPLOYMENT CHARGES	22411605-5370	\$ 7,900.00	0001
R1704399	WHITAKER CONTRACTING LLC	227 S. FRANKLIN WHITFIELD HOME REPAIR CHIP GRANT	23111711 - 5365	\$ 8,900.00	0001

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

5
RESOLUTION NO. 17-775

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Child Support Enforcement Agency is requesting that Joyce Bowens attend a Quarterly Fiscal Meeting in Marysville, Ohio on August 3, 2017; at no cost.

The Regional Sewer District is requesting that Kelly Thiel attend a Construction Contract Workshop in Worthington, Ohio on August 18, 2017; at a total cost of \$304.00 from fund 66211902.

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The Facilities Department is requesting that Kevin Miller attend an Aerial Platform Lift Training in Columbus, Ohio August 17, 2017; at the cost of \$695.00 (fund number 10011105).

The Commissioner’s office is requesting that Karen First attend a Data Analysis training in Columbus, Ohio from July 27-28, 2017 at the cost of \$24.00 (fund number 10011101).

The Emergency Medical Department is requesting that Lt. Julie Webb and Terry Webb attend a Buckeye Fire and EMS Conference in Columbus, Ohio from September 7-8, 2017 at the cost of \$24.00 (fund number 10011303).

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

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RESOLUTION NO. 17-776

IN THE MATTER OF GRANTING THE ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, JACKSON B. REYNOLDS III, REQUESTING ANNEXATION OF 15.12 ACRES OF LAND IN ORANGE TOWNSHIP TO THE CITY OF COLUMBUS:

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

Whereas, on June 28, 2017, the Clerk to the Board of the Delaware County Commissioners received an annexation petition filed by Jackson B. Reynolds III, agent for the petitioners, of 15.12 acres, more or less, in Orange Township to the City of Columbus; and

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

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

Therefore, Be It Resolved, the Delaware County Board of Commissioners grants the annexation petition request to annex 15.12 acres, more or less, in Orange Township to the City of Columbus.

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

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RESOLUTION NO. 17-777

IN THE MATTER OF APPROVING A PURCHASE CONTRACT FOR PROPERTY SOLD PURSUANT TO R.C. 3313.41 BY AND BETWEEN THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY, OHIO AND THE BOARD OF EDUCATION OF THE DELAWARE AREA CAREER CENTER:

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

Whereas, the Director of Facilities recommends approval of the Purchase Contract for Property Sold Pursuant To R.C. 3313.41 by and between the Board of Commissioners of Delaware County, Ohio and the Board of Education of the Delaware Area Career Center;

The Delaware County Board of Commissioners approve the Purchase Contract for Property Sold Pursuant To R.C. 3313.41 by and between the Board of Commissioners of Delaware County, Ohio and the Board of Education of the Delaware Area Career Center:

PURCHASE CONTRACT FOR PROPERTY SOLD PURSUANT TO R.C. 3313.41

This Agreement, entered into this 27th day of July, 2017, by and between the Board of Commissioners of Delaware County, Ohio [“Grantee”], and the Board of Education of the Delaware Area Career Center [“Grantor”]; and

WHEREAS, in accordance with sections 3313.41 and 3313.413 of the Ohio Revised Code, Grantor offered for sale certain parcels of real property more particularly described in Exhibit A attached hereto and by this reference incorporated herein [“Subject Property”]; and

WHEREAS, the Grantor and Grantee have agreed to a price of One Million Seven Hundred Seventy Thousand Dollars (\$1,770,000);

NOW, THEREFORE, in consideration of the foregoing and the further consideration of the promises, agreements and covenants hereinafter contained, Grantor and Grantee hereby contract as follows:

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1. Grantee will pay to Grantor the sum of \$1,770,000 ["Total Purchase Price"], payable as follows: (a) a non-refundable deposit of \$250,000 shall be payable on or before January 1, 2018; (b) a second non-refundable deposit of \$250,000 shall be payable on or before June 1, 2018; and (c) the balance of the Total Purchase Price shall be payable at the time of the consummation and closing of this Agreement. The Total Purchase Price shall be full compensation for the Subject Property together with the fixtures, appurtenances, and furnishings related to the Subject Property, except for the items described in Exhibit B attached hereto and by this reference incorporated herein.
2. Grantee will not under any circumstances advertise, or agree to sell or otherwise alienate the Subject Property, or any portion thereof, to any third party until after the Deed contemplated by this Agreement has been delivered to Grantee. If Grantee fails to abide with the terms of this section, then, at its exclusive option, Grantor may cancel the within contemplated sale and conveyance to Grantee and retain the deposit(s) that has/have been paid at the time of such failure.
3. Grantor shall pay, prior to the closing and consummation of this Agreement, any and all delinquent real estate taxes and assessments including penalties and interest, applicable to the Subject Property, and shall pay or credit on the Total Purchase Price all real estate taxes and assessments applicable to the Subject Property, whether then due and payable or to later become due and payable, for any year(s) prior to closing and a portion of the same for the year in which closing occurs, prorated through 11:59 p.m. on the day immediately prior to the date of closing. Undetermined taxes under this section shall be estimated and prorated based on a 365-day year and on the most recently available tax bill. The amounts so computed shall be final and shall not be adjusted after closing.
4. Grantor, upon fulfillment of all the obligations and terms of this Agreement, will convey the Subject Property to the Grantee. The conveyance instrument will be a quitclaim deed (the "Deed") that quitclaims all the rights, titles and interests of the Grantor in the Subject Property, except for the items specified on Exhibit B, attached hereto. Said Deed will be delivered to Grantee at the time of consummation and closing of this Agreement, at which time Grantee will pay to Grantor the remaining balance on the Total Purchase Price as described in § 1 above.
5. The consummation and closing of this Agreement will occur at such time and place as the parties may agree, but not later than 30 days after Grantor notifies Grantee in writing that Grantor is prepared to vacate the Subject Property and is ready to consummate and close this Agreement; Grantor anticipates that the closing will occur on or before August 31, 2019, but the parties may agree to extend such deadline.
6. Except as may be otherwise agreed upon between the parties, Grantee will not take possession of the Subject Property until the consummation and closing of this Agreement occurs.
7. If the Subject Property, or a portion thereof, is damaged or destroyed by fire or other cause between the date on which this Agreement is executed by the parties and the date on which this Agreement is consummated and closed, the parties hereto may, with the mutual consent of both parties, elect to proceed with the consummating and closing this Agreement, in which event Grantor will restore the Subject Property to substantially the same condition it was at the time of the execution of this Agreement. If the parties do not mutually elect to proceed with the closing, the Grantor shall rescind this Agreement, in which event the parties will be released from all duties, obligations and liabilities created by this Agreement.
8. Grantor is conveying the Subject Property in an AS-IS, WHERE-IS condition, WITH ALL FAULTS, including all defects, known or unknown. Both Grantor and Grantee are acting at arm's length to protect their own interests, and Grantee has and will use its own independent judgment concerning the sale and purchase of the Subject Property. Grantor does not make to Grantee, and Grantor expressly disclaims, any representations, warranties and/or guarantees, express or implied, oral or written, of any kind whatsoever as to the Subject Property, including but not limited to any warranties of title.
9. Except as expressly set forth herein, Grantee assumes all environmental liability and responsibility with respect to the land and its improvements.
10. This Agreement may be a valid and binding contract for sale and purchase of the Subject Property at such time as it is fully executed by both Grantor and Grantee.
11. Any and all of the terms, conditions and provisions of this Agreement shall be binding upon and shall inure to the benefit of the Grantor and the Grantee and their respective heirs, executors, administrators, successors and assigns.
12. All notices required or permitted to be given hereunder shall be in writing and shall be deemed to have been given if either delivered personally, delivered via nationally recognized overnight courier, or delivered by certified U.S. mail, postage prepaid and return receipt requested to the following address (or to such other address as either party may give notice of in writing):

If to Grantor: Delaware Area Career Center
4565 Columbus Pike
Delaware, OH 43015

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Attention: Superintendent

If to Grantee: Delaware County Commissioners
101 North Sandusky Street
Delaware, OH 43015
Attention: County Administrator

Notices shall be deemed received: (a) upon receipt if delivered by personal delivery; (b) the next day if delivered by overnight courier, or (c) upon receipt if sent by certified mail or (d) three (3) days after such notice has been placed in the mail if the receiving party has refused receipt thereof.

13. This Agreement will be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute but one and the same instrument. Signatures on this Agreement may be transmitted electronically (by facsimile or by scan/email) and such signatures will be deemed to constitute original signatures and have the same effect as original signatures.

14. This instrument contains the entire agreement between the parties with respect to the subject matter contained herein, and it is expressly understood and agreed that no promises, provisions, terms, warranties, conditions or obligations whatsoever, express or implied with respect to the subject matter contained herein, other than herein set forth, shall be binding upon either Grantor or Grantee.

15. No amendment or modification of this Agreement shall be valid or binding upon the Parties unless it is made in writing, cites this Agreement and is signed by Grantor and Grantee.

**EXHIBIT A
LEGAL DESCRIPTION**

PARCEL I:

Being a tract of land containing 40.6 acres, more or less; a new legal description is required as the current description does not conform to county standards.

PARCEL II:

TRACT I:

Situated in the State of Ohio, County of Delaware, and in the Township of Brown, and bounded and described as follows:

Being a part of Lots 19, 25 and 26, Section 3, Township 5 and Range 18, U.S.M. Lands; Beginning at an iron pin found over an old corner stone in the centerline of State Route 521 at the northeast corner of the Thomas Lands Subdivision, as recorded in Plat Book 7, page 69, Delaware County Recorders Office, being the northeasterly corner of the original 6.0 acre tract, as described in Deed Book 354, page 604; thence along the centerline of State Route 521, North 63° 10' East a distance of 2506.89 feet to a railroad spike set at the northwest corner of an 8.75 acre tract owned by Hazel McDonald, as described in Deed Book 246, page 471, Delaware County Recorders Office; thence along the West line of said 8.75 acre tract and the West line of 9.00 acre tract, as shown in the name of Ross McKee and recorded in Deed Book 284, page 41, Delaware County Recorders Office, South 7° 54' 05" West (passing over an iron pipe set at 36.50 feet) a total distance of 868.27 feet to an iron pipe set on the northeast corner of the 21.5 acre tract of land owned by Harold and Helen Lowry, as described in Deed Book 267, page 148, Delaware County Recorders Office; thence along the north line of said 21.5 acre tract, North 82° 30' 25" West a distance of 567.14 feet to an iron pipe set at the northwest corner of said 21.5 acre tract, also being on the lot line common to Lot 19 and Lot 25; thence along said lot line and West line of said 21.5 acre tract, South 7° 54' 05" West (passing over an iron pipe at 1620.00 feet), a total distance of 1650.00 feet to a railroad spike set in the centerline of County Road 84 (Bowtown Road) said point also being the southeast corner of Lot 25; thence along the centerline of said County Road 84 (being the south line of Lot 25 and 26), North 81° 55' 47" West a distance of 1467.47 feet to a railroad spike set on the southeast corner of a 1.00 acre tract of land owned by Elizabeth McAlpin, et al.; thence along the East line of said 1.00 acre tract, as described in Deed Book 354, page 604, and the easterly line of said original 6.0 acre tract, North 6° 33' 28" East (passing over an iron pipe set at 30.00 feet and another iron pipe at 1054.02 feet) a total distance of 1089.92 feet to the place of beginning. Containing 63.11 acres, more or less, of which 8.771 acres are in Lot 19, 34.887 acres are in Lot 25 and 19.953 acres are in Lot 26.

The above description being a new survey prepared by Franklin D. Stults, Registered Surveyor No. 4873 on March 5, 1973.

TRACT II:

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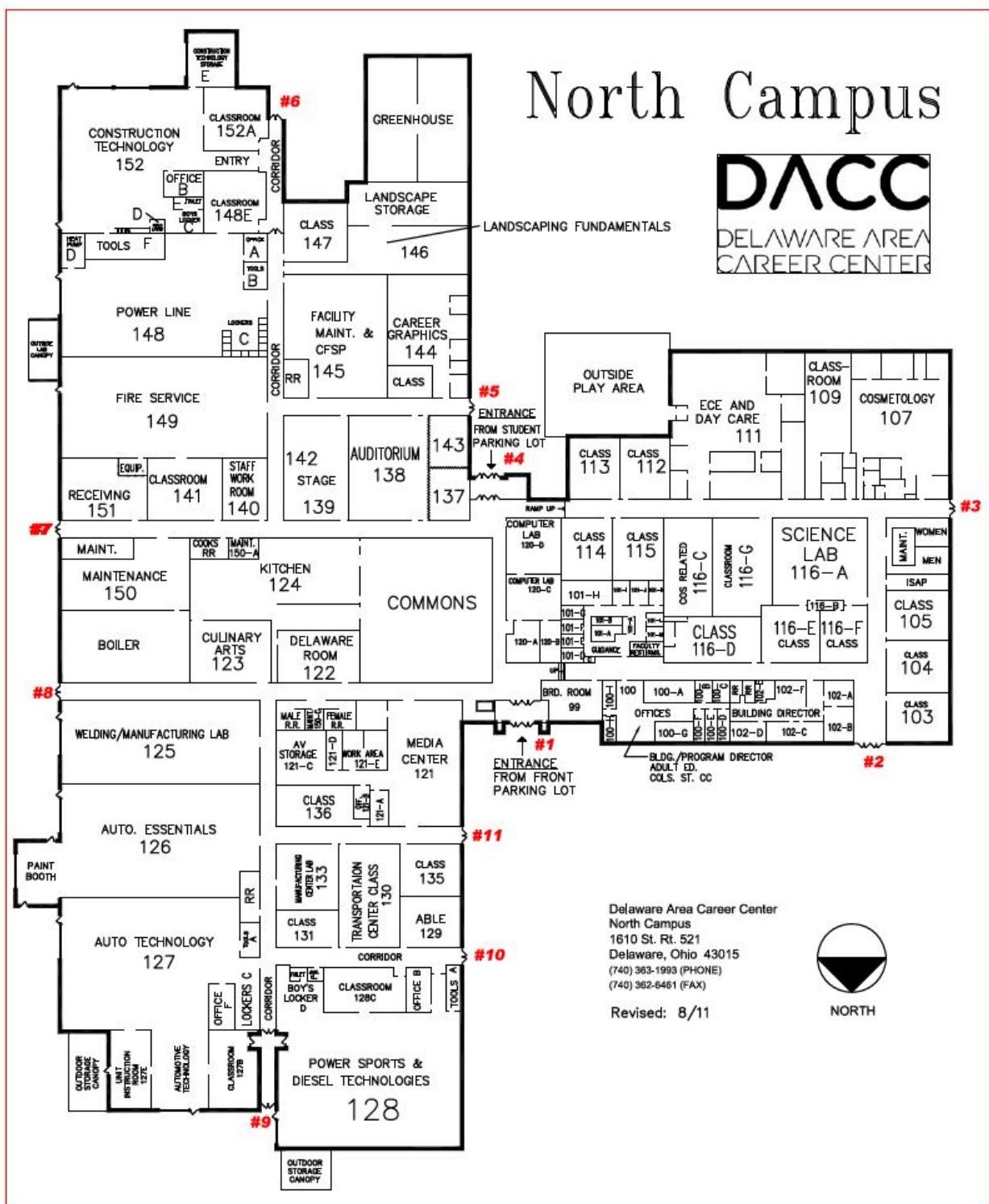
Non-exclusive Easement for Storm Sewer Purposes granted to Delaware City-County Joint Vocational School of record in [Deed Book 380 Page 548](#).

Record title is vested in: Delaware Joint Vocational School District, an Ohio political subdivision
Who acquired said interest in [Deed Book 612 Page 501](#), filed October 30, 1996 in the Delaware county records. (As to Parcel I)

Board of Education of Delaware City - County Joint Vocational School District
Who acquired said interest in [Deed Book 373 Page 693](#), filed March 21, 1973 in the Delaware county records. (As to Parcel II)

EXHIBIT B
SURVEY OF ITEMS TO BE REMOVED AND TO REMAIN
UPON THE SALE OF THE SUBJECT PROPERTY
(SEE ATTACHED)

(Copies of exhibits available in the Commissioners' Office until no longer of administrative value)



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

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IN THE MATTER OF TERMINATING THE CONTRACT WITH LB CLEANING COMPANY, LLC FOR ITB #16-02 JANITORIAL SERVICES FOR DELAWARE COUNTY:

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

WHEREAS, on June 16, 2016, the Delaware County Board of Commissioners (the "Board") adopted Resolution No. 16-569, approving a contract with LB Cleaning Company, LLC for janitorial services for Delaware County (the "Contract"); and

WHEREAS, the Contractor has requested termination of the Contract;

WHEREAS, Article 3.3 of the Contract provides that the Board may, at its sole option, terminate the Contract should the Contractor fail to provide the quality of goods and/or service(s) as specified in the bid instructions; and

WHEREAS, the Director of Facilities and Facilities Coordinator recommend termination of the Contract;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves termination of the Contract with LB Cleaning Company, LLC for janitorial services for Delaware County, effective July 31st, and hereby directs the Director of Facilities to deliver a copy of this Resolution to LB Cleaning Company, LLC, as written notice of termination.

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

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RESOLUTION NO. 17-779

IN THE MATTER OF AWARDING THE BID TO AND APPROVING THE CONTRACT WITH COMMERCIAL EXPRESS BUILDING SERVICES, INC. FOR ITB #17-01 JANITORIAL SERVICES FOR DELAWARE COUNTY:

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

WHEREAS, the Delaware County Board of Commissioners (the "Board") received bids for janitorial services for the Delaware County Offices (ITB #17-01) on June 27, 2017; and

WHEREAS, after carefully reviewing the bids received, the Director of Facilities has determined that the bid submitted by Commercial Express Building Services, Inc. is the lowest and best bid for janitorial services and recommends awarding the bid to and approving the contract with Commercial Express Building Services, Inc.;

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

Section 1. The Board hereby determines that the bid submitted by Commercial Express Building Services, Inc., for ITB #17-01 Janitorial Services for Delaware County is the lowest and best bid and awards the bid to Commercial Express Building Services, Inc.

Section 2. The Board hereby approves the following contract with Commercial Express Building Services, Inc.:

**Delaware County Board of Commissioners
Contract**

This Contract made by and between:

**Commercial Express Building Services, Inc.
981 Gray Dr.
Pickerington, OH 43147**

(the "Contractor") and the Delaware County Board of Commissioners (the "Owner").

In consideration of the mutual promises herein contained, the Delaware County Board of Commissioners and the Contractor agree as set forth below:

ARTICLE 1

1.1 The Contractor shall provide the goods and/or services described in the Bid Documents, which are hereby incorporated by reference, and as necessary to produce the results intended by the Bid Documents for:

ITB #17-01 JANITORIAL SERVICES

ARTICLE 2

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2.1 The Owner shall pay the Contractor for the performance of this Contract, subject to terms and conditions as provided in the Bid Documents, at an estimated annual value of Seventy One Thousand Nine Hundred Seventy dollars (\$71,970.00), based upon the unit pricing and discount percentage set forth in the Bid Documents, submitted by the Contractor and opened on June 27, 2017.

2.2 The Contract Price shall be paid in current funds by the Owner upon payment requests issued by the Contractor as goods and/or services are provided and approved by the Owner as provided in the Bid Documents.

ARTICLE 3

3.1 The original term of this contract shall be for two (2) years, beginning August 1, 2017, and ending July 31, 2019.

3.2 This Contract may be renewed at the end of the original period or any renewal period for up to two (2) additional one (1) year periods, if agreed upon in writing by both parties.

3.3 The Owner may, at its sole option, terminate this Contract with the contractor upon thirty (30) days written notice of its intent to do so. Furthermore, it is understood and agreed that should the Contractor fail to provide the quality of goods and/or service(s) as specified in the bid instructions, such failure shall constitute a breach of this Contract. Upon a breach of the Contract, the Owner may, at its sole option, terminate this Contract with the Contractor effective immediately upon written notice of its intent to do so. The Owner shall not be liable for payment of goods or services provided after the effective date of termination.

ARTICLE 4

4.1 This Contract shall embody the entire understanding of the parties and form the basis of the Contract between the Owner and the Contractor. The Bid Documents shall be considered to be incorporated by reference into this Contract as if fully rewritten herein, and made a part hereof. This Contract, along with all documents incorporated by reference, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.

4.2 The Contract and any modification, amendments or alterations thereto shall be governed, construed and enforced by and under the laws of the State of Ohio. Any legal action arising pursuant to this Contract shall be filed in and heard before the courts of Delaware County, Ohio.

4.3 If any term or provision of the Contract, or the application thereof to any person or circumstance, is finally determined, to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Contract or the application of such term or provision to other persons or circumstances, shall not be affected thereby, and each term and provision of the Contract shall be valid and enforced to the fullest extent permitted by law.

4.4 To the fullest extent permitted by law, the Contractor shall indemnify, save and hold the Owner, its officers, agents, servants, and employees free and harmless of all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the Contractor's performance of this Contract. The Contractor shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the Owner by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees. No employee of the Contractor shall at any time be considered an agent or employee of the Owner.

4.5 Insurance:

4.5.1 General Liability Coverage: Contractor shall maintain commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence with an annual aggregate of not less than \$2,000,000, including coverage for subcontractors, if any.

4.5.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles.

4.5.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio.

4.5.4 Additional Insureds: The County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Contract in the policies required by Subsection 4.5.

4.5.5 Proof of Insurance: Prior to the commencement of any work under this Contract, Contractor shall furnish the County with properly executed certificates of insurance for all insurance required by this Contract. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this

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Contract.

4.6 No waiver of breach of any provision of this Contract shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Contract or any other provision hereof. No term or provision of this Contract 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.

4.7 For all services being provided under this Contract, the Owner shall have the right and Contractor agrees to allow the inspection and examination of any and all books, accounts, invoices, records, writings, or documentation of any type and in any form which it maintains in relation to performing said services

4.8 The Contract shall be binding on the Contractor and the Owner, their successors and assigns, in respect to all covenants and obligations contained in the Contract, but the Contract may not be assigned by the Contractor without the prior written consent of the Owner.

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

4.10 Contractor certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

4.11 The Parties acknowledge and agree that Contractor 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. Contractor also agrees that, as an independent contractor, Contractor 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. Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.

4.12 The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing Services 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 Contractor 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.

4.13 The Contractor 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 Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the Services being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.

ARTICLE 5

5.1 It is expressly understood by the Contractor that none of the rights, duties and obligations described in the Contract shall be valid and enforceable unless the Delaware County Auditor first certifies funds are available.

5.2 The Contract shall become binding and effective upon the completion of 5.1 and execution by the Owner.

ARTICLE 6

6.1 This Contract has been executed in several counterparts, each of which shall constitute a complete original Contract, which may be introduced in evidence or used for any other purpose without production of any other counterparts.

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

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RESOLUTION NO. 17-780

IN THE MATTER OF ACCEPTING SANITARY SEWER IMPROVEMENTS FOR VILLAGE AT OLENTANGY CROSSING PHASE 4:

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

Whereas, the construction of new sanitary sewers at the Village at Olentangy Crossing Phase 4 have been completed to meet sewer district requirements; and

Whereas, the sewer district has received the necessary items required by the subdivider’s agreement; and

Whereas, the Director of Environmental Services recommends accepting sanitary sewers for ownership, operation, and maintenance by Delaware County as follows:

Village at Olentangy Crossing Phase 4	188’ of 8- inch sewer	\$12,482.59
	1- manhole	\$1457.32

Therefore be it resolved, that the Board of Commissioners approve and accept the above sanitary sewers for ownership, operation, and maintenance by the Delaware County Sewer District.

Section 1. The Board hereby approves and accepts the above sanitary sewer improvements for ownership, operation, and maintenance by the Delaware County Sewer District.

Section 2. The Board hereby releases any Bond, certified check, irrevocable letter of credit, or other approved financial warranties executed to insure faithful performance for construction of the above sanitary sewer improvements, if applicable.

Section 3. The Board hereby accepts any Bond, certified check, irrevocable letter of credit, or other approved financial warranties executed per the requirements of the subdivider’s agreement for the five-year maintenance period for the above sanitary sewer improvements.

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

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RESOLUTION NO. 17-781

IN THE MATTER OF APPROVING THE SANITARY SEWER SUBDIVIDER’S AGREEMENTS FOR THE HEATHERS AT GOLF VILLAGE SECTION 3 PHASE B AND THE VILLAGE AT OLENTANGY CROSSING PHASE 5:

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

WHEREAS, the Sanitary Engineer recommends approval of the Sanitary Subdivider’s Agreements;

THEREFORE, BE IT RESOLVED that the Board of Commissioners approve the Sanitary Sewer Subdivider’s Agreements for The Heathers at Golf Village Section 3 Phase B and The Village at Olentangy Crossing Phase 5.

SUBDIVIDER’S AGREEMENT
DELAWARE COUNTY SANITARY ENGINEER

SECTION I: INTRODUCTION

This Agreement is entered into on this 27th day of July 2017, by and between **Pulte Homes of Ohio**, hereinafter called “Subdivider”, and the Delaware County Board of Commissioners (hereinafter called “County Commissioners” or “County”) as evidenced by the **Final Subdivision Plat for The Heathers at Golf Village Section 3 Phase B** Subdivision Plat filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, and is governed by the following considerations and conditions, to wit:

The Subdivider is to construct, install or otherwise make all public improvements (the “Improvements”) shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for **Sanitary Sewer Improvements for The Heathers at Golf Village Section 3 Phase B**, dated **November, 2016**, and approved by the County on **July 6, 2017**, all of which are a part of this Agreement. The Subdivider shall pay the entire cost and expense of the Improvements.

SECTION II: CAPACITY

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There are **14** single family residential equivalent connections approved with this Agreement. Capacity shall be reserved for one year from the date of this Agreement, unless the County Commissioners grant an extension in writing. Capacity is not guaranteed until the final Subdivision Plat is recorded. If the final Subdivision Plat is not recorded prior to expiration of the reservation deadline as set forth herein, the Subdivider agrees and acknowledges that capacity shall not be guaranteed.

SECTION III: FINANCIAL WARRANTY

OPTIONS:

- (1) Should the Subdivider elect to record the plat prior to beginning construction, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$43,515.00**) which is acceptable to the County Commissioners to insure faithful performance of this Agreement and the completion of all Improvements in accordance with the Subdivision Regulations of Delaware County, Ohio.
- (2) Should the Subdivider elect to proceed with construction prior to recording the plat, no approved financial warranties are necessary until such time as Subdivider elects to record the plat. At that time, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction remaining to be completed as determined by the Delaware County Sanitary Engineer.

The Subdivider hereby elects to use Option 1 for this project.

Initials _____ Date _____

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

The Subdivider further agrees that any violations of or noncompliance with any of the provisions and stipulations of this Agreement shall constitute a breach of contract, and the County shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the Improvements for **Sanitary Sewer Improvements for The Heathers at Golf Village Section 3 Phase B**.

SECTION IV: FEES

It is further agreed that upon execution of this Agreement, the Subdivider shall pay the Delaware County Sanitary Engineer three and one-half percent (3½%) of the estimated construction cost of the Improvements for plan review of **The Heathers at Golf Village Section 3 Phase B (\$1,523.03)**. The Subdivider shall also deposit with the Delaware County Sanitary Engineer the sum of **\$3,600.00** estimated to be necessary to pay the cost of inspection for **The Heathers at Golf Village Section 3 Phase B** by the Delaware County Sanitary Engineer. The Delaware County Sanitary Engineer shall in his or her sole discretion inspect, as necessary, the Improvements being installed or constructed by the Subdivider and shall keep accurate records of the time spent by his or her employees and agents in such inspections for which the Delaware County Sanitary Engineer shall be reimbursed from charges against the deposit. At such time as the fund has been depleted to a level of \$600.00 or less, as a result of charges against the fund at the rate of:

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

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

In addition to the charges above, the Subdivider shall pay the cost of any third party inspection services for **Sanitary Sewer Improvements for The Heathers at Golf Village Section 3 Phase B** as required by the County.

SECTION V: CONSTRUCTION

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

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

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

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

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

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

SECTION VI: EASEMENTS

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

SECTION VII: COMPLETION OF CONSTRUCTION

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

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

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

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

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

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

SECTION VIII: SIGNATURES

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

**SUBDIVIDER'S AGREEMENT
DELAWARE COUNTY SANITARY ENGINEER**

SECTION I: INTRODUCTION

This Agreement is entered into on this 27th day of July 2017, by and between **OLENTANGY CROSSING LLC**, hereinafter called "Subdivider", and the Delaware County Board of Commissioners (hereinafter called "County Commissioners" or "County") as evidenced by the **VILLAGE AT OLENTANGY CROSSING PHASE 5** Subdivision Plat or Sewer Easement(s) Recorded on Said Development Parcel filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, and is governed by the following considerations and conditions, to wit:

The Subdivider is to construct, install or otherwise make all public improvements (the "Improvements") shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for **VILLAGE AT OLENTANGY CROSSING PHASE 5**, dated **7/11/2017**, and approved by the County on **7/17/2017**, all of which are a part of this Agreement. The Subdivider shall pay the entire cost and expense of the Improvements.

SECTION II: CAPACITY

There are **24** single family residential equivalent connections approved with this Agreement. Capacity shall be reserved for one year from the date of this Agreement, unless the County Commissioners grant an extension in writing. Capacity is not guaranteed until the final Subdivision Plat or Sewer Easement(s) is recorded. If the final Subdivision Plat or Sewer Easement(s) is not recorded prior to expiration of the reservation deadline as set forth herein, the Subdivider agrees and acknowledges that capacity shall not be guaranteed.

SECTION III: FINANCIAL WARRANTY

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

The Subdivider further agrees that any violations of or noncompliance with any of the provisions and stipulations of this Agreement shall constitute a breach of contract, and the County shall have the right to stop work forthwith.

SECTION IV: FEES

It is further agreed that upon execution of this Agreement, the Subdivider shall pay the Delaware County Sanitary Engineer three and one-half percent (3½%) of the estimated construction cost of the Improvements for plan review of **THE VILLAGE AT OLENTANGY CROSSING PHASE 5 (\$885.00.)**. The Subdivider shall also deposit with the Delaware County Sanitary Engineer the sum of **\$2020.00** estimated to be necessary to pay the cost of inspection for **THE VILLAGE AT OLENTANGY CROSSING PHASE 5** by the Delaware County Sanitary Engineer. The Delaware County Sanitary Engineer shall in his or her sole discretion inspect, as necessary, the Improvements being installed or constructed by the Subdivider and shall keep accurate records of the time spent by his or her employees and agents in such inspections for which the Delaware County Sanitary Engineer shall be reimbursed from charges against the deposit. At such time as the fund has been depleted to a level of \$600.00 or less, as a result of charges against the fund at the rate of:

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

for time spent by the Delaware County Sanitary Engineer or his or her staff, the Subdivider shall make an additional deposit of \$600.00 to the fund. Upon completion of all Improvements provided herein and acceptance of Improvements by the County, any unused portions of the inspection fund shall be repaid to the Subdivider less

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an amount equal to \$0.75 per foot of sewer which will be deducted to cover re-inspection.

In addition to the charges above, the Subdivider shall pay the cost of any third party inspection services for **THE VILLAGE AT OLENTANGY CROSSING PHASE 5** as required by the County.

SECTION V: CONSTRUCTION

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

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

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

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

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

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

SECTION VI: EASEMENTS

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

SECTION VII: COMPLETION OF CONSTRUCTION

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

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

- (1) "As built" drawings of the Improvements which plans shall become the property of the County and shall remain in the office of the Delaware County Sanitary Engineer and Delaware County Engineer and/or the City of Powell. The drawings shall be on reproducible Mylar (full size), two paper copies (one full size & one 11"x17"), and a Compact Diskette with the plans in .DWG format & .PDF format.

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- (2) An Excel spreadsheet, from a template as provided by the Delaware County Sanitary Engineer, shall accompany the plan submittal showing the locations of the manholes in Ohio State Plane North Coordinates NAD 1983 (NAVD 1988 datum) and other miscellaneous project data.
- (3) An itemized statement showing the cost of the Improvements.
- (4) An Affidavit or waiver of lien from all contractors associated with the project that all material and labor costs have been paid. The Subdivider shall indemnify and hold harmless the County from expenses or claims for labor or materials incident to the construction of the Improvements.
- (5) Documentation showing the required sanitary easements.

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

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

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

SECTION VIII: SIGNATURES

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

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

12
RESOLUTION NO. 17-782

IN THE MATTER OF APPROVING THE SANITARY SEWER DEVELOPER'S AGREEMENT FOR NORTH ROAD PARK:

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

WHEREAS, the Sanitary Engineer recommends approval of the Sanitary Developer's Agreement;

THEREFORE, BE IT RESOLVED that the Board of Commissioners approve the Sanitary Sewer Developer's Agreement for North Road Park.

DEVELOPER'S AGREEMENT
DELAWARE COUNTY SANITARY ENGINEER

SECTION I: INTRODUCTION

This Agreement is entered into on this 27th day of July 2017, by and between the **Orange Township Board of Trustees**, hereinafter called "Developer", and the **Delaware County Board of Commissioners** (hereinafter called "County Commissioners" or "County"), Delaware County, Ohio, and is governed by the following considerations and conditions, to wit:

The Developer is to construct, install or otherwise make all public improvements (the "Improvements") shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for **Sanitary Plan for North Road Park**, dated **May 1, 2017**, and approved by the County on **May 18, 2017**, all of which are a part of this Agreement. The Developer shall pay the entire cost and expense of the Improvements.

The Developer shall pay the entire cost and expense of the Improvements. The County shall reimburse the Developer a portion of the construction cost through tap credits under the following terms:

- 1. Apply the standard oversizing reimbursement per the current County policy. This is the cost difference between the actual pipe material cost and the material cost for an 8" pipe plus 25%. This reimbursement amount is **\$8,925.00**. (8"-6": \$85.00/LF-\$75.00/LF = \$10.00/LF, \$10.00/LF * 714LF = \$7,140.00, Reimbursement: \$7,140.00 * 1.25 = \$8,925.00)

The total reimbursement amount may only be used by the Developer. The Developer may apply the reimbursement amount of \$8,925.00 towards capacity charges.

SECTION II: CAPACITY

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Capacity reservation is considered non-applicable to this agreement as the work for this project involves only the extension of utilities. Future connections to the sanitary sewer shall be evaluated by the Sanitary Engineer's Office upon such time that the Developer (or other future applicant) requests a specific use for the site and submits a Commercial Tap Fee Application.

SECTION III: FINANCIAL WARRANTY

The Developer shall within thirty (30) days following completion of construction, and prior to final acceptance of each Section/Phase/Part, furnish to the Delaware County Sanitary Engineer a one (1) year maintenance bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost for that Section/Phase/Part.

The Developer further agrees that any violations of or noncompliance with any of the provisions and stipulations of this Agreement shall constitute a breach of contract, and the County shall have the right to stop work forthwith and take any necessary action to secure proper completion of the Improvements for **Sanitary Plan for North Road Park**.

SECTION IV: FEES

It is further agreed that upon execution of this Agreement, the Developer shall pay the Delaware County Sanitary Engineer three and one-half percent (3½%) of the estimated construction cost of the Improvements for plan review of **Sanitary Plan for North Road Park (\$4,141.03)**. The Developer shall also deposit with the Delaware County Sanitary Engineer the sum of **\$9,750.00** estimated to be necessary to pay the cost of inspection for **North Road Park** by the Delaware County Sanitary Engineer. The Delaware County Sanitary Engineer shall in his or her sole discretion inspect, as necessary, the Improvements being installed or constructed by the Developer and shall keep accurate records of the time spent by his or her employees and agents in such inspections for which the Delaware County Sanitary Engineer shall be reimbursed from charges against the deposit. At such time as the fund has been depleted to a level of \$600.00 or less, as a result of charges against the fund at the rate of:

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

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

In addition to the charges above, the Developer shall pay the cost of any third party inspection services for **Sanitary Plan for North Road Park** as required by the County.

SECTION V: CONSTRUCTION

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

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

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

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

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

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Improvements.

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

SECTION VI: EASEMENTS

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

SECTION VII: COMPLETION OF CONSTRUCTION

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

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

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

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

The Developer, for a period of one (1) years after acceptance of each Section/Phase/Part of the Improvements by the County, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the Improvements shall be the same as new equipment warranties and shall be assigned to the County upon acceptance of the Improvements.

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

SECTION VIII: SIGNATURES

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

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

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IN THE MATTER OF CERTIFYING TO THE COUNTY AUDITOR SANITARY SEWER CAPACITY CHARGES FOR 7820 WEST ORANGE AVENUE, DELAWARE, OHIO 43015:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to certify the Sanitary Sewer Capacity Charges as follows:

Whereas, 7820 West Orange Avenue, Delaware, Ohio 43015 has requested to make a tap connection to the Delaware County sewer system; and

Whereas, 7820 West Orange Avenue, Delaware, Ohio 43015 has requested to pro-rate the charges over a 10 year period by certifying the charges to the tax duplicate; and

Whereas, the Sanitary Engineer recommends approval of the connection and the 10 year pro-rated charge;

Now Therefore Be It Resolved, that The Board of County Commissioners of Delaware, Ohio approve certifying the capacity charges as follows:

7820 West Orange Avenue, Delaware, Ohio 43015

In the amount of \$6,949.66 with a \$2,610.14 finance charge (pro-rated over a 10 year period), making a total of \$9,559.80 for placement on the tax duplicate. Bi-annual payment being \$477.99.

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

14

RESOLUTION NO. 17-784

IN THE MATTER OF DECLARING DELAWARE COUNTY TO BE AN ALTERNATIVE ENERGY ZONE, APPROVING AN APPLICATION FOR AN ENERGY PROJECT UNDER R.C. 5727.75, AND DECLARING APPROVAL OF ALL FUTURE APPLICATIONS SUBMITTED TO THE OHIO DIRECTOR OF DEVELOPMENT SERVICES UNDER R.C. 5727.75:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to authorize the application:

WHEREAS, pursuant to section 5727.75 of the Revised Code, the Ohio Director of Development Services may certify certain energy projects as “qualified energy projects” and thereby exempt from real and personal property taxation, instead requiring project owners to make payments in lieu of taxes based upon electricity generating capacity; and

WHEREAS, on June 21, 2017, the Ohio Development Services Agency received an application for certification of a qualified energy project with a proposed nameplate capacity in excess of five megawatts (“Application ID: 121”), which requires the board of county commissioners of the county in which the project is located to adopt a resolution approving or rejecting the application; and

WHEREAS, the Delaware County Board of Commissioners (the “Board”) desires to encourage the development of alternative energy facilities within Delaware County; and

WHEREAS, the Board may declare Delaware County to be an alternative energy zone, pursuant to section 5727.75 of the Revised Code; and

WHEREAS, the Board may require an annual service payment to be made in addition to the service payment required under section 5727.75(G) of the Revised Code, provided the sum of the service payment required in the resolution and the service payment required under section 5727.75(G) of the Revised Code shall not exceed nine thousand dollars per megawatt of nameplate capacity located in the county and the resolution specifies the time and manner in which the payments required by the resolution shall be paid to the county treasurer;

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

Section 1. The Board hereby approves Application ID: 121 as submitted to the Ohio Development Services Agency on June 21, 2017, declares the properties stated in Application ID: 121 as an alternative energy zone, and hereby directs the Economic Development Coordinator to send copies of this Resolution by certified mail to the owner of the facility and the Director of Development Services, and by hand delivery to the Delaware County Auditor and Delaware County Treasurer, no later than August 5, 2017, all pursuant to section 5727.75(E)(1)(b) of the Revised Code.

Section 2. The Board hereby declares Delaware County to be an alternative energy zone and declares all applications submitted to and certified by the Director of Development Services under section 5727.75 of the Revised Code after the date of this Resolution, and prior to its repeal, to be approved by this Board, all pursuant to section 5727.75(E)(1)(c) of the Revised Code.

Section 3. The approval of any application pursuant to this Resolution is expressly conditioned upon the payment

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by the owner or lessee of an alternative energy facility of an annual service payment in lieu of taxes (“PILOT”) and an additional annual service payment as provided in section 5727.75(E) and (G) of the Revised Code, and as more specifically set forth as follows:

- (A) The amount of the annual PILOT shall be the amount per megawatt set forth in section 5727.75(G) of the Revised Code.
- (B) The amount of each additional annual service payment shall be the difference between \$9,000 and the annual PILOT payment required to be made under section 5727.75(G) of the Revised Code per megawatt, multiplied by the nameplate capacity in megawatts of the alternative energy project.
- (C) The owner or lessee of a qualified alternative energy project that is exempted from taxation under this Resolution shall make the annual PILOT and additional annual service payments to the Delaware County Treasurer. The payments shall be required and paid for each tax year for which an exemption is granted. The combined annual payments shall be equal to \$9,000.00 for each megawatt of nameplate capacity of the alternative energy facility. The payments shall be charged and collected at the same time and in the same manner as the taxes that would ordinarily be imposed on the taxable property.
- (D) The Delaware County Treasurer shall deposit the annual PILOT into the appropriate fund of the County and shall make distribution of the funds derived from the PILOT to the taxing districts according to the millage in the respective taxing districts. The additional annual service payment shall be deposited into the general fund of the County in accordance with section 5727.75(E) of the Revised Code.

Section 4. The Clerk of the Board is hereby directed to send a copy of this Resolution by certified mail to the Ohio Director of Development Services and to the owner or lessee of each alternative energy facility that is the subject of an application submitted by the Director of Development Services to this Board within thirty (30) days after the Board receives the application. The Clerk shall also provide a copy of this Resolution to the Delaware County Auditor and the Delaware County Treasurer within thirty (30) days after the application is received by this Board.

Section 5. The Board finds and determines that all forma actions of this Board concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board, and that all deliberations of this Board that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including section 121.22 of the Revised Code.

Section 6. This Resolution shall take effect immediately upon its adoption.

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

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ADMINISTRATOR REPORTS**

- Ferzan Ahmed, County Administrator
- Was appointed to the Transportation Committee from the Engineer’s Board
 - The Employee Health Fair Update (by Cindi Blair): Will be held next Friday from 7AM-Noon at the Hamilton-Williams Center (the green roof building) at Ohio Wesleyan University
 - The deadline for the Employee Wellness stipend is the end of September.

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COMMISSIONERS’ COMMITTEES REPORTS**

- Commissioner Lewis
- The NACo conference was last weekend. Sheriff Martin presented at Sunday’s session for Stepping Up.
 - The convention center renovations have been very well done.
 - Attended the Bridges Community Action meeting last night.

- Commissioner Merrell
- The NACo conference went very well; seemed very well attended. Attended the Energy/Water session and asked Suzanne Dulaney to be a part of the local committee.
 - Regional Planning is this evening.

- Commissioner Benton
- Attended the NACo conference as well. The County’s IT department received an award for the 2nd best IT department in the 150,000-250,000 population range.
 - IT was a big topic this year at the conference. Cyber security continues to increase. Ideas for long term plans for IT.
 - Dashboards were another big topic at the conference as well as Stepping Up Initiative
 - Attended the State of the Township Third Thursday luncheon last week. Very well done by the three administrators from Berkshire, Orange and Liberty Townships.
 - Attended a financial reporting meeting this week with Auditor Kaitsa.

Other Business:

RESOLUTION NO. 17-785

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IN THE MATTER OF RESCINDING RESOLUTION NO. 17-782 (IN THE MATTER OF APPROVING THE SANITARY SEWER DEVELOPER’S AGREEMENT FOR NORTH ROAD PARK):

It was moved by Mr. Merrell, seconded by Mrs. Lewis to rescind Resolution No. 17-782 (In The Matter Of Approving the Sanitary Sewer Developer’s Agreement for North Road Park)

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

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RESOLUTION NO. 17-786

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

It was moved by Mrs. Lewis, seconded by Mr. Merrell to adjourn into Executive Session at 10:02 AM.

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

RESOLUTION NO. 17-787

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to adjourn out of Executive Session at 12:09 PM.

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

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners