

**COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 16, 2017**

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RESOLUTION NO. 17-1223

IN THE MATTER OF ACCEPTING THE TREASURER’S REPORT FOR THE MONTH OF OCTOBER 2017:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to accept the Treasurer’s Report for the month of October 2017.

(Copy available for review at the Commissioners’ Office until no longer of administrative value.)

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

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RESOLUTION NO. 17-1224

IN THE MATTER OF APPROVING AN INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS; THE DELAWARE COUNTY AUTOMATIC DATA PROCESSING BOARD AND THE BOARD OF TOWNSHIP TRUSTEES OF ORANGE TOWNSHIP FOR INFORMATION TECHNOLOGY SERVICES TO THE TOWNSHIP:

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

Whereas, the County Auditor recommends approval of an Intergovernmental Cooperation Agreement with The Board Of Township Trustees Of Orange Township for Information Technology Services To The Township;

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve an Intergovernmental Cooperation Agreement Between The Delaware County Board Of Commissioners, The Delaware County Automatic Data Processing Board, And The Board Of Township Trustees Of Orange Township For Information Technology Services To The Township:

INTERGOVERNMENTAL COOPERATION AGREEMENT

Section 1 – Parties to the Agreement

This Agreement is made and entered into this 16th day of November, 2017 by and between the Delaware County Automatic Data Processing Board and the Delaware County Board of Commissioners, 101 North Sandusky Street, Delaware, Ohio 43015 (collectively, the “County”), and the Board of Township Trustees of Orange Township, 1680 East Orange Road, Lewis Center, Ohio 43035 (the “Township”), (hereinafter referred to individually as “Party” or collectively as the “Parties”).

Section 2 – Purpose

This Agreement is authorized by sections 9.482, 307.846, and 307.15, *et seq.*, of the Revised Code. The Township desires to enter into an agreement with the County that allows Delaware County Information Technology staff to provide Information Technology (“IT”) services to the Township, and the County is willing and able to provide such services. This Agreement shall establish the terms and conditions for the support of Orange Township IT services.

Section 3 – Division of Responsibilities

The Township shall pay, as specified below, for IT services provided. The County, via the Delaware County Data Center Administrator, shall administer the services on behalf of the Township, supervise the work of the staff, and advise the Township regarding IT projects. The specific services to be provided are more fully set forth in Exhibit A, which is attached hereto and, by this reference, fully incorporated herein.

Section 4 – Compensation

The Township agrees to pay to the County a monthly fee of \$250 per virtual server and \$12 per user account. Township and County agree there are currently two (2) virtual servers and 113 user accounts and both understand that the number of virtual servers and user accounts may increase or decrease, in the sole discretion of the Township.

The Township shall also, for all time exceeding fifteen (15) minutes in length that is spent on an individual service item, reimburse the County for the costs of personnel utilized in providing the service. This will be payable at the hourly rates set forth in Exhibit B, which is attached hereto and, by this reference, fully incorporated herein. The County shall submit monthly invoices that include the monthly fee and any reimbursable hourly charges incurred for the previous month. The Township shall pay all invoices within thirty (30) days of receipt thereof.

Section 5 – Records

5.1 County and Township acknowledge and agree that Township data received by County in the course of providing the IT services under this Agreement is taken delivery of solely under the authority stated above and only to provide automatic or electronic data processing, data storage services and/or other IT services to Township.

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- 5.2 County and Township acknowledge and agree that this data is not a public record [as defined in R.C. Section 149.011(G)] of the County or any of its offices, agencies, etc., that County is not the keeper or person responsible for any record contained in such data or otherwise responsible for providing inspection or copies of the same and that any records contained within the same shall at all times be considered Township records and not properly the subject of a public records request directed to the County under R.C. Section 149.43.
- 5.3 However, to assist Township in meeting its responsibilities:
- (a) County will maintain full access by Township to the Township's data stored in its system.
 - (b) If County receives a public records request for Township records contained in such data, it will inform the requester that the information requested is not a public record of the County and that their request will be forwarded to the Township Fiscal Officer as the individual responsible for Township records. County will then immediately forward the request to the Township Fiscal Officer and advise them as to the circumstances of the request and its receipt.
 - (c) County will provide technical assistance to the Township Fiscal Officer, as requested, in compiling and delivering Township data responsive to a public records request.
- 5.4 If the County should ever determine that it is legally compelled by any means (including public records request under R.C. 149.43, deposition, interrogatory, request for documents, subpoena, civil investigative demand, etc.) to disclose Township data received or stored under this Agreement, it must make reasonable efforts to provide Township with prompt notice of such legal requirement prior to disclosure so that Township may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained, County will: (i) furnish only that portion of the data that it is legally required to furnish; and (ii) cooperate with Township in reviewing such material for appropriate redaction prior to disclosure.
- 5.5 Upon termination or expiration of this Agreement, County will return all Township data to Township and shall not retain copies of all or any portion of it within its system.
- 5.6 The Parties agree that each shall maintain their respective public records concerning the services provided under this Agreement, pursuant to the laws of the State of Ohio pertaining to public records.
- 5.7 County will periodically, as requested by Township but no more frequently than DAILY/WEEKLY/MONTHLY/QUARTERLY/SEMI-ANNUALLY/ANNUALLY, forward to the Township a complete electronic copy of all Township data received or stored under this Agreement. Delivery shall be by a method agreed between the Parties.

Section 6 – Term

This Agreement shall take immediate effect upon approval by all Parties hereto and shall continue in full force and effect for one (1) year, whereupon the Parties mutually agree to review this Agreement for consideration of renewal. This Agreement may only be amended in writing with the mutual consent and agreement of the Parties.

Section 7 – Legal Contingencies

In the event a change in law, whether by statute, judicial determination, or administrative action, affects this Agreement or the ability of the Parties to enter into, or continue to operate pursuant to, this Agreement, the Parties mutually agree to immediately institute a review of this Agreement. The Parties agree to negotiate in good faith to address any necessary modifications to this Agreement, to the extent permitted by applicable law.

Section 8 – Personnel

The Parties each agree to maintain control over their respective personnel, and this Agreement shall not be construed to alter the employment relationship each Party has with its respective personnel. Each Party shall be responsible for the compensation, benefits, and liabilities of its respective personnel and hereby agrees to release the other Party from any responsibility therefor. In no event shall County's employees be considered employees of the Township within the meaning or application of any federal, state or local laws or regulations and vice versa.

Section 9 – Equipment and Facilities

Each Party to this Agreement shall be responsible for providing its own equipment and facilities. In no way shall this Agreement be construed to require the sale or donation of equipment under the ownership and control of either Party of this Agreement.

Section 10 – Insurance and Liability

Each Party shall, for the life of this Agreement, maintain comprehensive general liability insurance coverage, with minimum limits in the amount of \$1,000,000.00 each occurrence or equivalent and \$2,000,000.00 in the aggregate, and shall cause the other Party to be named as an additional insured on any applicable insurance policies.

The Township acknowledges that there is a risk of disruption of service to its IT equipment and service due to damage to the fiber optic cable and other equipment or system failures beyond the control of the County. As a condition of this Agreement, the Township agrees to release the County from any liability or costs due to such disruption of service.

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Section 11 – Miscellaneous Terms & Conditions

- 11.1 Entire Agreement: This Agreement shall constitute the entire understanding and agreement between the Parties and shall supersede all prior understandings and agreements relating to the subject matter hereof. This Agreement shall not be assigned.

- 11.2 Governing Law and Disputes: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. The Parties shall make good faith efforts to directly negotiate any disputes arising from this Agreement. If direct negotiations shall fail, the Parties agree to mediate the dispute with a mediator chosen by agreement between the Parties. If mediation shall fail, any and all legal disputes arising from this Agreement may only be filed in and heard before the courts of Delaware County, Ohio.

- 11.3 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.

- 11.4 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.

- 11.5 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 in full force and effect.

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

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RESOLUTION NO. 17-1225**

IN THE MATTER OF AUTHORIZING THE SUBMITTING OF AN APPLICATION FOR AN OHIO DEPARTMENT OF PUBLIC SAFETY ELECTRONIC TABLET GRANT FOR DELAWARE COUNTY EMS:

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

Grant #	ODPS 2017 Tablet Grant
Source:	Ohio Department of Public Safety Division of EMS
Grant Period:	October 16, 2017 – September 30, 2018
Grant Amount:	Unknown
Local Match:	<u>\$0.00</u>
Total Grant Amount:	Unknown

This Grant provides electronic computer tablets to assist in patient care documentation and electronic emergency medical service incident reporting. The State of Ohio, Department of Public Safety is granting approximately 1200 computer tablets to eligible departments throughout the State of Ohio.

Delaware County EMS is submitting application for up to 10 computer tablets for EMS data reporting

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

**9
RESOLUTION NO. 17-1226**

IN THE MATTER OF APPROVING A TRANSFER OF APPROPRIATION FOR EMS:

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

Transfer of Appropriation		
From	To	
10011303-5361	10011303-5450	22,287.86
EMS/Attorney Service	EMS/Capital Equipment	

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

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RESOLUTION NO. 17-1227

IN THE MATTER OF APPROVING THE SANITARY SEWER IMPROVEMENT PLANS FOR NORTH FARMS SECTION 5 & SECTION 7 PHASE B:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve the following sanitary sewer improvement plans for submittal to the Ohio EPA for their approval.

WHEREAS, the Sanitary Engineer recommends approval of the sanitary sewer improvement plans.

THEREFORE BE IT RESOLVED, that the Board of Commissioners approve the sanitary sewer improvement plans for North Farms Section 5 & Section 7 Phase B for submittal to the Ohio EPA for their approval.

Vote on Motion	Mr. Merrell	Aye	Mrs. Lewis	Aye	Mr. Benton	Aye
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RESOLUTION NO. 17-1228

IN THE MATTER OF RECOMMENDING AN APPOINTEE TO THE DELAWARE AIRPORT COMMISSION:

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

WHEREAS, the Delaware County Board of Commissioners (the "Board") shall make a recommendation for appointment of one member to the Delaware Airport Commission; and

WHEREAS, the term of the current appointee will expire on December 31, 2017;

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

Section 1. The Board hereby recommends the appointment of Christopher Acker as a member to the Delaware Airport Commission for the term commencing on January 1, 2018 and ending on December 31, 2020.

Section 2. The Clerk of the Board is directed to cause delivery of a certified copy of this Resolution upon the Mayor of the City of Delaware.

Section 3. This Resolution shall take effect immediately upon adoption.

Vote on Motion	Mr. Benton	Aye	Mr. Merrell	Aye	Mrs. Lewis	Aye
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RESOLUTION NO. 17-1229

A RESOLUTION AUTHORIZING A COOPERATIVE AGREEMENT RELATING TO THE SERIES 2017 BONDS TO BE ISSUED BY THE DELAWARE COUNTY FINANCE AUTHORITY TO FINANCE CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS; APPROVING PARAMETERS RELATING TO THE SERIES 2017 BONDS, BOND PURCHASE AGREEMENT, CONTINUING DISCLOSURE AGREEMENT AND CERTAIN DISCLOSURES IN CONNECTION WITH THE SALE OF THE SERIES 2017 BONDS; AND AUTHORIZING AND APPROVING OTHER RELATED MATTERS:

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

WHEREAS, this County heretofore entered into a Development Agreement, dated April 6, 2015 (the "*Development Agreement*") with Columbus Outlets, LLC (the "*Developer*"), Berkshire Township (Delaware County), Ohio (the "*Township*") and the Berkshire Landing New Community Authority (the "*NCA*"), wherein and in connection with the construction of the Development (as defined below), the Developer agreed to pay the up-front costs relating to the initial construction and completion of the Project (as defined below) on behalf of the County, the NCA and the Township, provided that upon completion thereof the related costs of the Project (being such amount in excess of the County's original \$8 million contribution towards those costs) would be reimbursed to the Developer from certain TIF Payments and Facilities Charges (each as defined below); and

WHEREAS, the Delaware County Finance Authority (the "*Finance Authority*") proposes to issue revenue bonds of the Finance Authority (the "*Series 2017 Bonds*") payable from Revenues (as defined below) to provide monies to reimburse the Developer in accordance with the Development Agreement, establish a related debt service reserve fund and to pay related costs of issuance; and

WHEREAS, in order to enhance the security for the Series 2017 Bonds, the Finance Authority has requested this County to enter into a Cooperative Agreement (the "*Cooperative Agreement*") together with the Finance Authority, the Developer, the Township, the NCA and U.S. Bank National Association (as bond trustee for the Series 2017 Bonds, the

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“Trustee”), which Cooperative Agreement will generally provide that (i) the Township will provide for the payment of TIF Payments to the Trustee and (ii) the NCA will provide for the payment of Facilities Charges to the Trustee, each of which will be pledged to the payment of debt service on the Series 2017 Bonds, and to the extent that those amounts are insufficient to provide for the payment of debt service on the Series 2017 Bonds in any calendar year, (iii) this County will, subject to an annual appropriation, make certain contribution payments to provide for the payment of any Annual Fund Deficiency (as defined below) and to be reimbursed for those payments to the extent provided in the Cooperative Agreement; and

WHEREAS, Fifth Third Securities, Inc., as the underwriter for the Series 2017 Bonds, has submitted to this Board the preliminary pricing information (the “*Preliminary Pricing Information*”) developed for the financing of the Project, which will be subject to change, showing the estimated debt service schedule and the allocation of the proceeds of the Series 2017 Bonds;

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

Section 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this Resolution, unless the context or use clearly indicates another or different meaning or intent:

“*Annual Fund Deficiency*” means the amount by which the debt service payment on the Series 2017 Bonds due on the Series 2017 Bonds for any calendar year exceeds the sum of the amounts available therefor in accordance with the Cooperative Agreement.

“*County Information*” means all information concerning the County, its business or properties contained in the offering documents used in connection with the sale of the Series 2017 Bonds (and generally referred to herein as the preliminary official statement and the official statement) under the captions “THE COUNTY,” “LITIGATION,” and “CONTINUING DISCLOSURE” and in ATTACHMENT C-1, including information supplemental thereto.

“*Development*” means an approximately 350,000 square foot outlet center located near the interchange of I-71 and U.S. Route 36/State Route 37.

“*Facilities Charges*” means those certain community development charges levied by the NCA at the rate of ½ of one percent (0.5%) of the price paid by each consumer in connection with sales at retail at the Development, subject to increase (to a maximum of one percent (1.0%)) if determined by the NCA, at the request of the owner of the Development, that such increase is necessary to pay debt service payments on the Series 2017 Bonds.

“*Fiscal Officer*” means the County Auditor.

“*Project*” means those certain public infrastructure improvements as more particularly described in the Cooperative Agreement.

“*Revenues*” means those certain monies pledged pursuant to the trust indenture securing the Series 2017 Bonds to provide for the payment of debt service on those Series 2017 Bonds.

“*Rule*” means Rule 15c2-12 prescribed by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

“*TIF Payments*” means those certain service payments in lieu of taxes required to be paid by the owner of the Development as more particularly described in the Cooperative Agreement.

“*Trustee*” means U.S. Bank National Association, as trustee under the trust indenture between the Finance Authority and the Trustee, pursuant to which the Series 2017 Bonds are to be issued and secured.

The captions and headings in this Resolution are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Resolution unless otherwise indicated.

Section 2. Board Findings and Determinations. This Board finds and determines that it is in its best interest, and a proper public purpose, for the County to enter into the Cooperative Agreement to enhance the ability of the Finance Authority to issue the Series 2017 Bonds to finance the Project which is serving the County, and to aid, promote and enable community and economic development in the area of the County, better and more efficient government operations, and the creation and preservation of jobs and employment opportunities within the area of the County.

Section 3. Cooperative Agreement. The President of this Board shall sign and deliver, in the name of and on behalf of the County, the Cooperative Agreement in substantially the form as is now on file with the Clerk of this Board. The Cooperative Agreement is approved, together with any changes or amendments that are not inconsistent with this Resolution and not substantially adverse to the County and that are approved by the President of this Board on behalf of the County, all of which shall be conclusively evidenced by the signing of the Cooperative Agreement or amendments thereto. The performance by the County of its obligations under the Cooperative Agreement shall be subject to the annual appropriation of any funds that may be necessary to perform it.

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ADMINISTRATOR REPORTS

Si Kille, Deputy Administrator
-No reports

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COMMISSIONERS' COMMITTEES REPORTS

Commissioner Merrell

-Have had budget meetings all week. Thanks to Si and staff for putting all of that together.

Commissioner Lewis

-Yesterday Former Justice Evelyn Stratton chaired a seminar about Veteran Court Dockets and used the model of Stark County (which has a 90% success rate). Judge Marianne Hemmeter from the Municipal Court is starting a Veteran Court Docket referred to as Mission Court to start January 1, 2018. There will be a luncheon today at the Hayes Building to discuss the Court.

-Commissioner Benton

-Attended the Ohio Wesleyan Economic Forum Tuesday evening. Economic Development Director, Bob Lamb was one of the presenters.

-The DKMM Budget meeting has been postponed until December 6th

-Will be attending the Third Thursday lunch today. Jason Bechtold from the City of Westerville will be the speaker today.

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RESOLUTION NO. 17-1230

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT; EMPLOYMENT OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL; FOR PENDING OR IMMINENT LITIGATION AND CONFIDENTIAL INFORMATION RELATED TO ECONOMIC DEVELOPMENT:

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

WHEREAS, pursuant to section 121.22(G) of the Revised Code, a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the matters specified in section 121.22(G)(1)-(7) of the Revised Code; and

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 for consideration of appointment; employment of a public employee or public official; for pending or imminent litigation.

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

RESOLUTION NO. 17-1231

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 11:05 AM.

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

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

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Jennifer Walraven, Clerk to the Commissioners