

COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2017

5

RESOLUTION NO. 17-1265

IN THE MATTER OF APPROVING DEPOSITORY AGREEMENTS WITH THE INSTITUTIONS DESIGNATED AS PUBLIC DEPOSITORIES IN RESOLUTION NO. 17-1144:

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

WHEREAS, on October 30, 2017, the Delaware County Board of Commissioners adopted Resolution No. 17-1144, designating institutions as public depositories for the four year period commencing December 1, 2017, pursuant to section 135.33 of the Revised Code; and

WHEREAS, each designated public depository has submitted a depository agreement to memorialize and govern the terms of the designation;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the depository agreements with First Commonwealth Bank, Fifth Third Bancorp, The Union Bank Co., Richwood Banking Company, and PNC Bank; institutions designated as public depositories in Resolution No. 17-1144.

(Copies of the depository agreements are available in the Delaware County Treasurer’s office until no longer of administrative value)

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

6

RESOLUTION NO. 17-1266

IN THE MATTER OF APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND TOOLE AND ASSOCIATES FOR INSPECTION SERVICES:

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

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

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

**AGREEMENT BETWEEN DELAWARE COUNTY, OHIO,
AND TOOLE AND ASSOCIATES FOR INSPECTION SERVICES**

This Agreement, made and entered into this 30th day of November, 2017, by and between Delaware County, Ohio through the Board of County Commissioners (hereinafter referred to as the “County”) and Toole and Associates, with offices at 454 East Main Street, Suite 236, Columbus, Ohio, 43215 (hereinafter referred to as the “Contractor”).

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

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

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

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

SECTION I. BASIC SERVICES OF THE CONTRACTOR

- A. The Contractor shall provide backup inspection services on an as needed basis, as authorized by the Chief Building Official. Contractor shall perform work in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.
- B. The Contractor shall perform the necessary inspections for both residential and commercial construction projects as assigned by the Chief Building Official. On a daily basis, the Contractor shall provide a report listing the inspections performed for the particular day. The report shall include the date of inspections, type of inspection, result of inspection and name of inspector.
- C. The Contractor shall maintain, at its own expense, copies of the necessary codes, standards, equipment, tools and vehicle(s) required for the execution of the services of this Agreement. This shall include the text, electronic file or online access to the current version adopted by the County.

**COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2017**

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

SECTION II. COUNTY RESPONSIBILITIES

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

SECTION III. BASIS OF PAYMENT

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

Inspections	\$65/hour
Special inspections specifically requested and scheduled for after hours or on a Holiday or on a weekend	\$150/hour, 3 hr. minimum

**COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2017**

Mileage

Mileage not charged on inspections

- B. The Contractor shall, on a weekly basis, provide a written statement indicating the individual inspector's total number of inspections performed on each day and the total time performing inspections on each day.
- C. The Contractor shall invoice the County monthly for services rendered through the previous month, and the County agrees to pay within thirty (30) days of receipt of a valid invoice. A valid invoice shall indicate the billing period, the total hours for the billing period, the rate charged and the total amount of the services for the billing period, along with the statement identified in III, D. Reimbursable expenses shall be itemized and copies of receipts shall be provided. The Contractor shall provide any additional supporting documentation upon the County's request. The County reserves the right to contest any portion of any submitted invoice that does not conform to the terms of this Agreement or appears to be fraudulent.

SECTION IV. GENERAL CONSIDERATIONS

- A. This Agreement shall be governed by the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- B. The Contractor shall not assign their responsibilities under this Agreement to third parties without the County's written consent.
- C. This Agreement shall commence upon the date on which the County authorizes the signing of this Agreement and shall be valid for one (1) year.
- D. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the County or the Contractor.
- E. Either party for convenience may terminate this Agreement without penalty for any reason at any time by providing thirty (30) days written notice to the other party. Either party may immediately terminate this Agreement for cause, provided the other party is given a reasonable opportunity to cure the alleged default.
- F. To the fullest extent permitted by law, the Contractor shall indemnify, keep, save and hold harmless the County, its officers, agents, servants, and employees from and in all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any act, damage, injury, accident or occurrence of any type arising from the Contractor's performance of this Agreement to the extent caused by Contractor, Contractor's officers, employees, agents, or any other person for whom Contractor is liable. The Contractor shall undertake to defend the County, at Contractor's sole expense, in and from any and all actions, claims, or demands brought against the County by reason of the things stated above or any and all actions performed or taken under this Agreement, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, injuries, losses and expenses taken against the County as a result of actions under or as a result of the performance of this Agreement, including but not limited to attorney's fees. Each party agrees to waive claims for consequential damages. The amount of damages recoverable against Contractor for any error, omission, or negligence by Contractor shall be limited to the amounts of insurance as required in Section I of this Agreement.
- G. No employee of the Contractor shall at any time be considered an agent or employee of the County. The Contractor shall be considered an independent contractor and shall be responsible for the payment of all salary, benefits, insurance, workers compensation, taxes, and withholdings for its employees. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- H. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or any prior, concurrent, or future breach, unless said waiver expressly states an intention to waive another specific term or provision or breach.
- I. Contractor states and agrees that the individual(s) who, on behalf of the Contractor, have reviewed this Agreement and effectuate this Agreement by attaching their signatures below are officers of Contractor and are authorized to and have authority to enter this Agreement on behalf of Contractor and by so signing have authority to bind and do(es) bind Contractor to any and all terms of this Agreement.
- J. If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue in full force and effect.

COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2017

- K. The subject headings of the paragraphs in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.
- L. This document represents the entire Agreement between the parties. It cannot be modified except in writing signed by all parties to this Agreement.
- M. Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.

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

7
RESOLUTION NO. 17-1267

IN THE MATTER OF APPOINTING AND RE-APPOINTING MEMBERS TO THE DELAWARE COUNTY FINANCE AUTHORITY BOARD OF DIRECTORS:

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

WHEREAS, on April 24, 2006, the Delaware County Board of Commissioners (the "Board of Commissioners") adopted Resolution No. 06-506, creating the Delaware County Port Authority, pursuant to section 4582.22 of the Revised Code, which was later renamed as the Delaware County Finance Authority in Resolution No. 13-973; and

WHEREAS, the Board of Commissioners shall make appointments to the Delaware County Finance Authority Board of Directors, pursuant to Resolution No. 06-506 and section 4582.27 of the Revised Code; and

WHEREAS, the Board of Commissioners approved, via Resolution No. 16-490, the addition of two additional members to the Board of Directors to make a total of seven members; and

WHEREAS, there will be vacancies for two members of the Board of Directors in terms expiring on December 31, 2017;

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

Section 1. The Board of Commissioners hereby approves the re-appointment of David Stadge and the appointment of Kent Shafer for the terms ending on December 31, 2021.

Section 2. The appointment and re-appointment approved herein shall be effective on January 1, 2018.

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

8
RESOLUTION NO. 17-1268

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

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

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

AMENDMENT I

This is an Amendment to an existing Agreement, by and between the State of Ohio, acting by and through the OHIO DEPARTMENT OF AGRICULTURE ("ODA"), located at 8995 East Main Street, Reynoldsburg, Ohio 43068 and DELAWARE COUNTY COMMISSIONERS, 101 North Sandusky Street; Delaware, OH 43015 (hereinafter "Local Sponsor"), who hereby agree as follows:

Recitals

- 1. The original Cooperative Agreement was executed on April 20, 2017 (hereinafter "Agreement") granting

**COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2017**

funds to the Local Sponsor to purchase easements under the Local Agricultural Easement Purchase Program ("LAEPP") 2017.

2. Subsequent to the original Cooperative Agreement, a new biennium occurred. Therefore, Amendment 1 is necessary. Amendment 1 outlines the distribution of funds to specific landowners and increases obligated funds.

3. Prior to Amendment 1, total funds obligated equaled \$301,493. An additional \$75,171 became available to this local sponsor resulting in a new total of \$376,664. The available funds shall be dispersed as outlined in "Exhibit B -Property/Funds."

Pursuant to Article III of the Agreement which is attached hereto and incorporated herein as "Exhibit A," the parties agree in writing to amend this Agreement as follows:

II. SCOPE OF WORK

Delete paragraph 2.5, insert the following:

"The closing ("Closing") for the agricultural easements in connection with each Property shall occur on a time and date mutually agreed to by the parties, but in no event later than June 30, 2019. Local Sponsor may receive an extension to this deadline with the prior written approval of ODA."

III. TIME OF PERFORMANCE

Delete paragraph 3.1, insert the following:

"The services as stated in "Exhibit A - Scope of Work," shall be commenced by the Local Sponsor on July 1, 2017 and shall cease on June 30, 2019. Prior to the expiration of this Agreement, the parties may mutually agree to renew this Agreement as indicated in Section 3.1(b) below."

Delete paragraph 3.1 (a), insert the following:

"This Agreement shall remain in effect until the work described in "Exhibit A - Scope of Work," is completed to the satisfaction of ODA or until terminated as provided in Article VIII, Termination of Local Sponsor's Services, whichever is sooner. However, in no event will this Agreement continue beyond June 30, 2019. It may be renewed as provided for herein."

Delete paragraph 3.1(b), insert the following:

"As the current General Assembly cannot commit a future General Assembly to expenditure, this Agreement shall expire no later than June 30, 2019. This contract may be renewed, at ODA's option, for a period of one (1) year upon the same terms contained herein."

IV. ODA'S OBLIGATION TO FUND

Delete paragraph 4.1, and insert the following:

"Subject to the terms and conditions of this Agreement, upon execution of this Agreement, ODA shall obligate the sum of \$376,664.00 (Three Hundred Seventy-Six Thousand Six Hundred Sixty-four and 00/100 Dollars) for the acquisition by Local Sponsor of agricultural easements for the parcels approved by the Director of ODA and added by amendment to "Exhibit B -Property/Funds."

Exhibit A - Scope of Work

Delete paragraph F, insert the following:

"The parties shall mutually agree to a closing date, but in no event later than June 30, 2019 unless otherwise agreed in writing by ODA."

Exhibit B - Property/Funds

Delete the template and insert the following item(s) attached:

- Gabriel -Farm ID #10408

Entire Agreement

This Amendment 1 and the existing Agreement, attached hereto and incorporated herein as "Exhibit A," constitute the entire Agreement between the Local Sponsor and ODA, and there are no other Agreements between them, either oral or written, which relate to the work to be performed under this Agreement.

EXHIBIT B

COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2017

PROPERTY/FUNDS
 (1)

Farm ID: 10408
 Owner: Gabriel
 Main Contact Information: John Gabriel
 100 Arrowhead Court
 Carlisle, KY 40311
 Property Location: Harlem Road
 Galena, Ohio 43021
 County: Delaware
 Township: Harlem
 Parcel Number - Acres: 316-230-01-017-000 – 188.332 ac
 Total 188.332 ac

ODA Contribution Not to Exceed: \$376,664.00

A facsimile signature or other similar electronic reproduction of a signature shall have the force and effect of an original signature, and in the absence of an original signature, shall constitute the original signature.

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

9
RESOLUTION NO. 17-1269

IN THE MATTER OF APPROVING CONTRACT MODIFICATION #1 BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND DOUBLE Z CONSTRUCTION FOR THE PROJECT KNOWN AS DEL-CR 13-4.04:

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

CONTRACT MODIFICATION #1

This Modification #1 to the Contract, dated December 12, 2016, is made and entered into this 27th day of November, 2017, by and between the Delaware County Commissioners (“Owner”), and Double Z Construction (“Contractor”).

RECITALS:

Whereas, the Contract is for the project known as DEL-CR 13-4.04, Worthington-Big Walnut Intersection and, pursuant to Article 2 of the Contract, provides total compensation not to exceed \$2,377,884.27; and

Whereas, due to the encounter of bad soils within the Project, the County Engineer recommends that the Contract be modified to increase the maximum compensation by \$235,693.45 for a total of \$2,613,577.72 for additional work required to complete the Project;

NOW THEREFORE, the Owner and the Contractor mutually agree to modify the Contract as follows:

Article 2 of the Contract shall be deleted and replaced with the following text:

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed **Two Million Six Hundred Thirteen Thousand Five Hundred Seventy-Seven Dollars and Seventy-Two Cents (\$2,613,577.72)**, subject to additions and deductions as provided in the Contract Documents.

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

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

10
RESOLUTION NO. 17-1270

IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND MAXIMUS CONSULTING SERVICES, INC. FOR COST

**COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2017**

ALLOCATION PLAN SERVICES:

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

Whereas, the Deputy County Administrator recommends approval of the following agreement;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approve the following agreement with Maximus Consulting Services, Inc..

**AGREEMENT TO PROVIDE
PROFESSIONAL CONSULTING SERVICES**

THIS AGREEMENT ("Agreement") is entered into by and between MAXIMUS Consulting Services, Inc. ("Consultant"), and Delaware County, Ohio ("Client"). In consideration of mutual promises and covenants, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Scope of Services. Consultant shall perform the services detailed in Exhibit A, attached and incorporated by reference as if fully set forth herein (the "Services"), in a professional and workmanlike manner consistent with the typical standards of the industry.
2. Term. This Agreement shall commence on January 1, 2018 ("Effective Date") and shall remain in effect until March 1, 2019, or until completion of, and payment in full for, the Services specified in Exhibit A, whichever occurs last. The parties may mutually agree to extend this Agreement for two additional one year periods, pursuant to an amendment duly signed by both parties.
3. Compensation. Client shall pay Consultant a fee for services rendered as set forth in Exhibit B, attached and incorporated by reference as if fully set forth herein.
4. Termination.
 - a. Termination for Cause. Upon material breach of the terms of this Agreement, the non-breaching party shall provide written notice to the breaching party specifying the nature of the default. The breaching party shall have a minimum of 30 days from the date of receipt to cure any such default prior to the effective date of termination.
 - b. Termination for Convenience. Either party may terminate this Agreement without cause upon 60 days' prior written notice to the other. In the event Client terminates this Agreement, Client shall reimburse Consultant for all reasonable costs incurred by Consultant due to such early termination.
 - c. Rights Upon Termination. Upon termination for whatever reason and regardless of the nature of the default (if any), Client agrees to pay Consultant in full for all Services provided to Client under this Agreement, or any amendment thereto, as of the effective date of termination of the Agreement.
5. Data Accuracy. Consultant shall provide guidance to the Client in determining the data required. The Client represents that all financial and statistical information provided to Consultant by Client, its employees and/or agents is accurate and complete to the best of Client's knowledge. The Client further acknowledges and agrees that Consultant shall be entitled to rely upon the accuracy and completeness of the data to perform the Services. Client shall provide all such data in a timely manner sufficient to allow Consultant to provide the Services. Consultant shall have no liability to Client whatsoever if Client provides incomplete or inaccurate data or provides data in an untimely manner.
6. Records and Inspections. Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for 6 years after the completion of the Services. During such period, Client shall have the right to examine and audit the records and to make transcripts therefrom. Client shall provide 30 days' prior written notice of its intent to inspect or audit any such records and shall conduct such inspection or audit only during Consultant's normal business hours and no more than once every six months. Any employee, consultant, subcontractor or agent of Client granted access to such records shall execute a non-disclosure agreement prior to being granted access.
7. Copyright for Consultant's Proprietary Software. To the extent that the Services provided by Consultant are generated by Consultant's proprietary software, nothing contained herein is intended nor shall it be construed to require Consultant to provide such software to Client. Client agrees that it has no claims of ownership, including copyright, patents or other intellectual property rights to Consultant's software. Nothing in this Agreement shall be construed to grant Client any rights to Consultant's materials created prior to the execution of this Agreement. All of the deliverables under this Agreement are specifically set out in Exhibit A.
8. Insurance. Consultant shall maintain customary general liability insurance in the amounts of \$1,000,000 per occurrence / \$2,000,000 annual aggregate, workers' compensation insurance including employer's liability in the amount of \$1,000,000, automobile liability insurance in the amount of \$1,000,000, and professional liability insurance in the amount of \$1,000,000. Consultant shall name Client as an additional insured on the general liability and automobile liability insurance.

**COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2017**

9. Indemnification. To the extent allowed by law, Consultant shall defend, indemnify and hold harmless the Client from and against any and all third-party claims and resulting proven direct damages, liabilities and costs (including reasonable attorneys' fees) to the extent proximately caused by the negligent actions or willful misconduct of Consultant, its employees or agents. Consultant shall not be responsible for any damages, liabilities or costs resulting from the negligence or willful misconduct of the Client, its employees, consultants, or agents or any third party.

10. Limitation of Liability. Client agrees that Consultant's total liability to Client for any and all damages whatsoever arising out of, or in any way related to, this Agreement from any cause, including but not limited to negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed \$10,900. This limitation shall not include direct damages proximately caused by Consultant resulting in: (i) personal injury; (ii) personal property damage; or (iii) U.S. copyright infringement.

In no event shall Consultant be liable for indirect, special, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought even if Consultant has been advised of the likelihood of such damages, and notwithstanding any failure of essential purpose of any limited remedy.

Any claim by Client against Consultant relating to this Agreement must be made in writing and presented to Consultant within one (1) year after the date on which Consultant completes performance of the Services specified in this Agreement.

11. Consultant Liability if Audited. Consultant shall, upon notice of audit, make work papers and other records available to the auditors. Consultant's sole responsibility under an audit shall be to provide reasonable assistance to Client through the audit and to make changes to the work product required as a result of the audit. Consultant shall not be liable for any audit disallowances or any missed or lost revenue associated with, or related to, the Services, regardless of cause.

12. Notices. Any notice of default, in accordance with section 4(a) of this Agreement, shall be delivered by certified mail or overnight courier. Any other notices, bills, invoices, or reports required by this Agreement shall be sufficient if sent by the parties via email or in the United States mail, postage paid, to the address noted below:

Delaware County
Board of Commissioners
101 North Sandusky Street
Delaware, OH 43015
740.833.2106

MAXIMUS Consulting Services, Inc.
808 Moorefield Park Drive, Suite 205
Richmond, VA 23236
804.323.3535
fsc-operations@maximus.com

Such notice shall be deemed delivered same day if sent via email or 5 days after deposit in the U.S. mailbox.

13. Changes. The terms and conditions of this Agreement, including all attached and incorporated Exhibits, may be changed only by written agreement signed by both parties.

14. Miscellaneous.

a. If Consultant is requested by Client to produce Consultant deliverables, documents, records, working papers, or personnel for testimony or interviews with respect to this Agreement or any services provided hereunder, then Client and Consultant shall execute a change order or new services agreement for the sole purpose of setting forth any payment and the terms associated with Consultant's response and related to the reasonable fees of Consultant in responding. The foregoing does not diminish or negate Consultant's obligation to negotiate and defend all cost allocation plans and State mandated cost claims as specifically provided for under the Description of Services contained in Exhibit A.

b. Consultant specifically disclaims all warranties, express or implied, including, but not limited to, the warranties of merchantability and fitness for a particular purpose.

c. Consultant reserves the right to subcontract the Services. Consultant agrees to notify Client in writing of any such subcontracts.

d. There are no third-party beneficiaries to this Agreement and nothing in this Agreement shall be construed to provide any rights or benefits to any third-party.

COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2017

e. The parties intend that Consultant, in performing the Services specified in this Agreement shall act as an independent contractor and shall have full control of the work and the manner in which it is performed. Consultant and its employees are not to be considered agents or employees of Client for any purpose. Consultant hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.

f. In the event that any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason, this Agreement will continue in full force and effect without said provision, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and this Agreement will be interpreted to reflect the original intent of the parties insofar as possible.

g. The titles of the sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

h. This Agreement and any additional or supplementary document or documents incorporated by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.

i. Neither party shall be liable by reason of any failure or delay in the performance of its obligations on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, earthquakes, acts of God, war, governmental action, labor conditions, material shortages or any other cause which is beyond the reasonable control of such party.

j. Each individual signing this Agreement certifies that (i) he or she is authorized to sign this Agreement on behalf of his or her respective organization, (ii) such organization has obtained all necessary approvals to enter into this Agreement, including but not limited to the approval of its governing board, and (iii) when executed, this Agreement is a valid and enforceable obligation of such organization.

k. Waiver by either party of a breach of any provision of this Agreement or the failure by either party to exercise any right will not operate or be construed as a waiver of any subsequent breach of that provision or as a waiver of that right.

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

**Scope of Services
OH Co Delaware CAP 17**

a) Development of a central services cost allocation plan, which identifies the various cost incurred by the County to support and administer programs that provide services directly to citizens. This plan will contain a determination of the allowable cost of providing each supporting services such as purchasing, legal counsel, disbursement processing, etc.

b) Prepare indirect cost proposals for federal grants as necessary, provided all information required is contained in this Cost Allocation Plan.

c) Negotiation, of the completed cost allocation plan, with the representatives of the State or federal government, whichever is applicable.

**EXHIBIT B
Compensation
OH Co Delaware CAP 17**

For Services provided as set forth in Exhibit A, Client agrees to pay Consultant compensation in the amount of Ten Thousand Nine Hundred Dollars (\$10,900).

Consultant will render to Client one or more invoices for the fees specified herein, with payment due thirty (30) days after the invoice date.

Fiscal Year \$10,900

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

**13
ADMINISTRATOR REPORTS**

Mike Frommer, County Administrator
-No reports

14

COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2017

COMMISSIONERS' COMMITTEES REPORTS

Commissioner Lewis

-Would like to congratulate Cassie Neff and her husband on their new baby girl.

Commissioner Merrell

-The Delaware County Courthouse will be holding an Open House on Sunday, December 3rd from 2-4:00.

Commissioner Benton

- The ED411 forum will be tomorrow at the Ohio Union (OSU)
- There will be a new ProGolf location at Polaris
- Would like to wish the Buckeye good luck on their game Saturday
- Wife's high school alma matter's football team will be playing in the state division III football game this Saturday. Best of luck to the Dresden Scotties.

Recess at 9:54 AM/Reconvene at 10:03 AM

11

RESOLUTION NO. 17-1271

10:00A.M.PUBLIC HEARING FOR CONSIDERATION OF THE SCIOTO RIDGE CROSSING LLC DRAINAGE IMPROVEMENT PETITION FILED BY SCIOTO RIDGE CROSSING LLC:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to open the hearing at 10:05 A.M.

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

11 Continued

RESOLUTION NO. 17-1272

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

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

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

11 Continued

RESOLUTION NO. 17-1273

IN THE MATTER OF CONTINUING THE PUBLIC HEARING FOR CONSIDERATION OF THE SCIOTO RIDGE CROSSING LLC DRAINAGE IMPROVEMENT PETITION FILED BY SCIOTO RIDGE CROSSING LLC UNTIL THURSDAY, APRIL 26, 2018 AT 10:00 A.M.:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to continue the hearing until Thursday, April 26, 2018 at 10:00 A.M.

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

12

**WELLNESS INCENTIVE DISCUSSION
TORI SINCLAIR, MPA, CHES,
WELLNESS COORDINATOR CEBCO HEALTH AND WELLNESS PROGRAM
COUNTY COMMISSIONERS ASSOCIATION OF OHIO**

There being no further business, the meeting adjourned.

COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD NOVEMBER 30, 2017

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners