

**CITY OF DELAWARE  
CITY COUNCIL  
CITY COUNCIL CHAMBERS  
1 SOUTH SANDUSKY STREET  
7:00 P.M.**

**AGENDA**

REGULAR MEETING

November 13, 2017

1. ROLL CALL
2. MOTION TO EXCUSE – Councilmember Chris Jones
3. INVOCATION – Theodora Higgenbottom – Zion AME Church
4. PLEDGE OF ALLEGIANCE
5. APPROVAL of the Motion Summary of the regular meeting of Council held on October 23, 2017, as recorded and transcribed.
6. CONSENT AGENDA
  - A. Acceptance of the Motion Summary for the Planning Commission meeting held October 4, 2017.
  - B. Acceptance of the Motion Summary for the Historic Preservation Commission meeting held September 27, 2017.
  - C. Acceptance of the Motion Summary for the Shade Tree Commission Meeting September 26, 2017.
  - D. Resolution No. 17-61, a resolution appointing members to various Boards, Commission, and/or Committees, and specifying the term of the appointments.
  - E. Establish November 27, 2017 at 7:20 p.m. as a date and time for a public hearing and second reading of Ordinance No. 17-72, an ordinance for the Judith D. Hook Revocable Trust for approval of a Rezoning Amendment for approximately 44. 258 acres on parcel # 519-312-01-009-000 from R-4 (Medium Density Residential District) and R-6 (Multi-Family Residential District) to R-3 (One-Family Residential District) and located on the west side of Troy Road.
  - F. Establish November 27, 2017 at 7:30 p.m. as a date and time for a public hearing and first reading of Ordinance No. 17-74, an ordinance making appropriations for the Year 2018 and declaring an emergency.

- G. Establish December 11, 2017 at 7:30 p.m. as a date and time for a public hearing and second reading of Ordinance No. 17-74, an ordinance making appropriations for the Year 2018 and declaring an emergency.
- 7. LETTERS, PETITIONS, AND PUBLIC COMMENTS
- 8. COMMITTEE REPORTS
- 9. PRESENTATION
  - A. Proclamation declaring November 25, 2017 as Small Business Saturday.
- 10. CONSIDERATION OF NEW LIQUOR PERMITS
  - A. Asahi Restaurant Group LLC DBA Asahi Japanese Restaurant, 1139 Columbus Pike, Delaware, Ohio 43015. Permit Class: DI
  - B. Liberty Fuel Inc., DBA London Rd. Shell, 132 London Rd., Delaware, Ohio 43015. Permit Classes: C1, C2, D6
- 11. SECOND READING of Ordinance No. 17-69, an ordinance supplementing the 2017 Appropriations Ordinance to provide additional funding for Land Development Engineering Professional Services, and declaring an emergency.
- 12. SECOND READING of Ordinance No. 17-71, an ordinance supplementing the 2017 Appropriations Ordinance to provide additional funding for Administrative Services wages line item.
- 13. CONSIDERATION of Resolution No. 17-62, a resolution authorizing the City Manager to enter into a Local Public Agency (LPA) Agreement with the Ohio Department of Transportation (ODOT) for The Point Railroad Bridge Replacement Project, DEL-36-11.03, and to execute contracts as required to design, acquire property for, and to construct the project.
- 14. CONSIDERATION of Ordinance No. 17-72, an ordinance for the Judith D. Hook Revocable Trust for approval of a Rezoning Amendment for approximately 44.258 acres on parcel # 519-312-01-009-000 from R-4 (Medium Density Residential District) and R-6 (Multi-Family Residential District) to R-3 (One-Family Residential District) and located on the west side of Troy Road.
- 15. CONSIDERATION of Ordinance No. 17-73, an ordinance declaring the improvement to certain parcels along Central Avenue in the City to be a public purpose and exempt from taxation pursuant to ORC 5709.40(B);

providing for the collection and deposit of service payments and specifying the purposes for which those service payments may be expended; and authorizing school compensation payment, and declaring an emergency.

16. CITY MANAGER'S REPORT
17. COUNCIL COMMENTS
18. ADJOURNMENT

# RECORD OF PROCEEDINGS

Minutes of

Delaware City Council

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held October 23 20 17

The regular meeting of Council held October 23, 2017 was called to order at 7:00 p.m., in the City Council Chambers. The following members of Council were present: First Ward Chris Jones, Second Ward Lisa Keller, Third Ward Jim Browning, Fourth Ward Kyle Rohrer, At-Large George Hellinger, Vice-Mayor Kent Shafer, and Mayor Carolyn Kay Riggle who presided. The invocation was given by Pastor Mike Cheek of the Highpoint Nazarene Church, followed by the Pledge of Allegiance.

Staff Present: Darren Shulman, City Attorney; Dean Stelzer, Finance Director, Lory Johnson, Income Tax Administrator, Adam Moore, Police Captain, John Donahue, Fire Chief, Brad Stanton, Director of Public Utilities, Jackie Walker, Assistant City Manager and Tom Homan, City Manager

#### **ITEM 4: APPROVAL OF MINUTES**

APPROVAL of the Motion Summary of the regular meeting of Council held on October 9, 2017, as recorded and transcribed.

**Motion:** Vice-Mayor Shafer motioned to approve the Motion Summary of the regular meeting of Council held October 9, 2017, as recorded and transcribed, seconded by Mr. Hellinger. Motion approved by a 7-0 vote.

#### **ITEM 5: CONSENT AGENDA**

- A. Acceptance of the Motion Summary for the Sister City Advisory Board meeting held July 11, 2017.
- B. Acceptance of the Motion Summary for the Parks and Recreation Advisory Board meeting held August 15, 2017.

**Motion:** Vice-Mayor Shafer motioned to approve the Consent Agenda, seconded by Mr. Browning. Motion approved by a 7-0 vote.

#### **ITEM 6: LETTERS, PETITIONS, AND PUBLIC COMMENTS**

#### **ITEM 7: COMMITTEE REPORTS**

Mr. Browning discussed the October Parks and Recreation Advisory Board meeting and the request for additional pickleball courts.

#### **ITEM 8: PRESENTATION**

- A. Presentation Delaware City Schools – Paul Craft, Superintendent

#### **ITEM 9: CONSIDERATION OF NEW LIQUOR PERMIT**

- A. Delaware Lanes Inc., 536 Sunbury Road, Delaware, Ohio Permit Class: D5

**Motion:** Mrs. Keller motioned to not request a hearing, seconded by Vice-Mayor Shafer. Motion approved by a 7-0 vote.

#### **ITEM 10: ORDINANCE NO. 17-64** [Public Hearing and Second Reading]

AN ORDINANCE APPROVING THE AMENDMENT TO PETITION FOR EXPANSION OF THE NORTHERN NEW COMMUNITY AUTHORITY AND MAKE RELATED FINDINGS, PROVIDE THE METHOD OF SELECTING THE BOARD OF TRUSTEES OF THE NEW COMMUNITY AUTHORITY, AND DEFINE THE BOUNDARY OF THE EXPANDED NEW COMMUNITY DISTRICT.

RECORD OF PROCEEDINGS

Minutes of

Delaware City Council

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held October 23 20 17

The Clerk read the ordinance for the second time.

There was no public participation.

Motion: Vice-Mayor Shafer motioned to suspend the rules for Ordinance No. 17-64, seconded by Mr. Hellinger. Motion approved by a 7-0 vote.

Motion: Vice-Mayor Shafer motioned to adopt Ordinance No. 17-64, seconded by Mr. Hellinger. Motion approved by a 7-0 vote.

ITEM 11: ORDINANCE NO. 17-61 [Public Hearing and Fourth Reading] AN ORDINANCE AMENDING THE NEGLECT OF COMPANION ANIMALS SECTION OF THE ANIMAL AND FOWL CHAPTER OF THE GENERAL OFFENSES CODE.

The Clerk read the ordinance for the fourth time.

PUBLIC COMMENT: Shannon Roof 248 Westwood Avenue Delaware, Ohio 43015

Ms. Roof voiced her support for the tethering law and provided information on other cities in Ohio that support a tethering law.

Robin Coral 363 Linwood Street Delaware, Ohio 43015

Ms. Coral voiced her support for the tethering law and the need to help animals.

A discussion was held with Council regarding the proposed amendment presented to put tethering restrictions from 10:00 p.m. to 6:00 a.m.

Motion: Mr. Jones motioned to amend Ordinance No. 17-61 to add the second amendment which will add the language "505.25(a)(4) A companion animal shall be considered an 'unattended companion animal' when no owner or harbinger is present and awake on the premises the companion animal is present." and "505.25(b)(4) Leave an unattended companion animal restrained by a tether outdoors for an excess of 15 continuous minutes between the hours of 10:00PM and 6:00AM.", seconded by Mr. Browning. Motion approved by a 5-2 (Rohrer, Hellinger) vote.

Motion: Mr. Jones motioned to adopt Ordinance No. 17-61, as amended, seconded by Mr. Browning. Motion approved by a 6-1 (Hellinger) vote.

ITEM 12: ORDINANCE NO. 17-66 [Public Hearing and Second Reading] AN ORDINANCE FOR THE CITY OF DELAWARE FOR APPROVAL OF A REZONING AMENDMENT FOR FIRE STATION 304 ON 4.102 ACRES TO A-1 (AGRICULTURAL DISTRICT) AND LOCATED AT THE NORTHWEST CORNER OF CHESHIRE ROAD AND GLENN PARKWAY.

RECORD OF PROCEEDINGS

Delaware City Council

Minutes of

Meeting

PEAR GRAPHICS 800-325-8084 FORM NO. 10148

Held October 23 2017

The Clerk read the ordinance for the second time.

APPLICANT:

John Donahue, Fire Chief
99 S. Liberty St.
Delaware, Ohio 43015
Joe Weithman
Mull & Weithman Architects, Inc.
4525 Indianola Avenue
Columbus, Ohio 43214

PUBLIC COMMENT:

David Carpenter
932 Executive Blvd.
Delaware, Ohio 43015

Mr. Carpenter discussed the benefits and cost effectiveness of solar power and for staff to consider the placement of solar panels on the project and future projects.

Mr. Weithman discussed building lay out, roof line concerns and direction building is facing as concerns for placement of solar panels. Mr. Efland informed Council that further decisions can be made through administrative approval regarding potential changes if design can accommodate solar energy.

Motion: Vice-Mayor Shafer motioned to suspend the rules for Ordinance No. 17-66, seconded by Mr. Browning. Motion approved by a 7-0 vote.

Motion: Vice-Mayor Shafer motioned to adopt Ordinance No. 17-66, seconded by Mr. Browning. Motion approved by a 7-0 vote.

ITEM 13: ORDINANCE NO. 17-67 [Public Hearing and Second Reading]

AN ORDINANCE FOR THE CITY OF DELAWARE FOR APPROVAL OF A CONDITIONAL USE PERMIT FOR FIRE STATION 304 ON 4.102 ACRES ZONED A-1 (AGRICULTURAL DISTRICT) AND LOCATED AT THE NORTHWEST CORNER OF CHESHIRE ROAD AND GLENN PARKWAY.

The Clerk read the ordinance for the second time.

Motion: Vice-Mayor Shafer motioned to suspend the rules for Ordinance No. 17-67, seconded by Mr. Browning. Motion approved by a 7-0 vote.

Motion: Vice-Mayor Shafer motioned to adopt Ordinance No. 17-67, seconded by Mr. Browning. Motion approved by a 7-0 vote.

ITEM 14: ORDINANCE NO. 17-68 [Second Reading]

AN ORDINANCE FOR THE CITY OF DELAWARE FOR APPROVAL OF A COMBINED PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR FIRE STATION 304 ON 4.102 ACRES ZONED A-1 (AGRICULTURAL DISTRICT) AND LOCATED AT THE NORTHWEST CORNER OF CHESHIRE ROAD AND GLENN PARKWAY.

The Clerk read the ordinance for the second time.

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Held October 23 20 17

**Motion:** Vice-Mayor Shafer motioned to suspend the rules for Ordinance No. 17-68, seconded by Mr. Browning. Motion approved by a 7-0 vote.

**Motion:** Vice-Mayor Shafer motioned to adopt Ordinance No. 17-68, seconded by Mr. Browning. Motion approved by a 7-0 vote.

**ITEM 15: RESOLUTION NO. 17-57** [Third Reading]  
A RESOLUTION CREATING A DESIGNATED OUTDOOR REFRESHMENT AREA (DORA) FOR DOWNTOWN DELAWARE AND ENACTING REGULATIONS.

The Clerk read the resolution for the third time.

A discussion was held with Council regarding the color of the cup to be used and recommended label.

**Motion:** Mr. Browning motioned to adopt Resolution No. 17-57, seconded by Vice-Mayor Shafer. Motion approved with a 6-1 (Hellinger) vote.

**ITEM 16: ORDINANCE NO. 17-62** [Third Reading]  
AN ORDINANCE AMENDING THE EMPLOYMENT AGREEMENT WITH THE CITY MANAGER.

The Clerk read the ordinance for the third time.

**Motion:** Vice-Mayor Shafer motioned to adopt Ordinance No. 17-62, seconded by Mr. Jones. Motion approved by a 7-0 vote.

**ITEM 17: RESOLUTION NO. 17-60** [First Reading]  
A RESOLUTION AUTHORIZING THE CITY TO PARTICIPATE IN JOINT LITIGATION TO CHALLENGE PROVISIONS OF STATE LAW WHICH VIOLATE HOME RULE AUTHORITY GRANTED TO CITIES BY THE OHIO CONSTITUTION.

The Clerk read the resolution for the first time.

Mr. Stelzer introduced Ms. Johnson, City Tax Administrator, to Council.

**Motion:** MR. Jones motioned to adopt Resolution No. 17-60, seconded by Vice-Mayor Shafer. Motion approved by a 7-0 vote.

**ITEM 18: ORDINANCE NO. 17-69** [First Reading]  
AN ORDINANCE SUPPLEMENTING THE 2017 APPROPRIATIONS ORDINANCE TO PROVIDE ADDITIONAL FUNDING FOR LAND DEVELOPMENT ENGINEERING PROFESSIONAL SERVICES, AND DECLARING AN EMERGENCY.

The Clerk read the ordinance for the first time.

**ITEM 19: ORDINANCE NO. 17-70** [First Reading]  
AN ORDINANCE SUPPLEMENTING THE 2017 APPROPRIATIONS ORDINANCE TO PROVIDE ADDITIONAL FUNDING FOR VARIOUS WATER PLANT LINE ITEMS ACCOUNTS, AND DECLARING AN EMERGENCY.

The Clerk read the ordinance for the first time.

**RECORD OF PROCEEDINGS**

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Delaware City Council

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held October 23 2017

**Motion:** Vice-Mayor Shafer motioned to suspend the rules for Ordinance No. 17-70, seconded by Mrs. Keller. Motion approved by a 7-0 vote.

**Motion:** Vice-Mayor Shafer motioned to enact the emergency clause for Ordinance No. 17-70, seconded by Mrs. Keller. Motion approved by a 7-0 vote.

**Motion:** Vice-Mayor Shafer motioned to adopt Ordinance No. 17-70, seconded by Mrs. Keller. Motion approved by a 7-0 vote.

**ITEM 20: ORDINANCE NO. 17-71** [First Reading]  
AN ORDINANCE SUPPLEMENTING THE 2017 APPROPRIATIONS ORDINANCE TO PROVIDE ADDITIONAL FUNDING FOR ADMINISTRATIVE SERVICES WAGES LINE ITEM.

The Clerk read the ordinance for the first time.

**ITEM 21: FINANCE DIRECTOR'S REPORT**

**ITEM 22: CITY MANAGER'S REPORT**

Mr. Homan provided information to Council regarding the upcoming Delaware County Courthouse Dedication and Open House. Mr. Homan also discussed continued conversations with the County regarding parking at the courthouse.

Mr. Homan provided information on the Sagan National Colloquium that will be held at Ohio Wesleyan University.

Information was provided to Council on the upcoming Thanksgiving Dinner that will be held for officials visiting from Sakata, Japan.

**ITEM 23: COUNCIL COMMENTS**

Mr. Jones thanked Council for their support regarding Ordinance No. 17-61.

Mrs. Keller discussed the opportunity to explore medical marijuana as an opportunity for economic development.

Mayor Riggle requested an update regarding Council accessing their emails on their personal phone.

**ITEM 24: ADJOURNMENT**

**Motion:** Mr. Jones motioned to adjourn the meeting, seconded by Vice-Mayor Shafer. The meeting adjourned at 9:19 p.m.

\_\_\_\_\_  
Mayor Carolyn Kay Riggle

\_\_\_\_\_  
Elaine McCloskey, Council Clerk

**PLANNING COMMISSION**  
**October 4, 2017**  
**MOTION SUMMARY**

ITEM 1. Roll Call

Chairman Simpson called the meeting to order at 7:00 p.m.

Members Present: Robert Badger, Jim Halter, Dean Prall, Andy Volenik  
Councilmember George Hellinger, Vice-Chairman George Mantzoros, and  
Chairman Stacy Simpson.

Staff Present: Matt Weber, Deputy City Engineer, Jerry Warner, Chief Building  
Inspector, John Donahue, Fire Chief, Lance Schultz, Zoning Administrator, and  
Dave Efland, Planning and Community Development Director

ITEM 2. Approval of the Motion Summary of the Planning Commission  
meeting held on September 6, 2017, as recorded and transcribed.

**Motion:** Mr. Halter moved to approve the Motion Summary for September 6,  
2017 Planning Commission meeting, seconded by Councilmember Hellinger.  
Motion approved 7-0 vote.

ITEM 3. REGULAR BUSINESS

A. Fire Station 304

- (1) 2017-2359: A request by the City of Delaware for approval of a Rezoning  
Amendment for Fire Station 304 on 4.102 acres to A-1 (Agricultural  
District) and located at the northwest corner of Cheshire Road and Glenn  
Parkway.
- (2) 2017-2360: A request by the City of Delaware for approval of a Conditional  
Use Permit for Fire Station 304 on 4.102 acres zoned A-1 (Agricultural  
District) and located at the northwest corner of Cheshire Road and Glenn  
Parkway.
- (3) 2017-2361: A request by the City of Delaware for approval of a Combined  
Preliminary and Final Development Plan for Fire Station 304 on 4.102  
acres zoned A-1 (Agricultural District) and located at the northwest corner  
of Cheshire Road and Glenn Parkway.

**Anticipated Process**

a. Staff Presentation

Mr. Schultz reviewed the location map, annexation history, comprehensive land  
use map, and the proposed site plan. Mr. Schultz discussed the tree removal  
and replacement plan and reviewed the landscaping plan. The proposed building  
elevations, materials to be used and proposed signage were reviewed by staff.

b. Applicant Presentation

APPLICANT:

John Donahue, Fire Chief  
99 S. Liberty St.  
Delaware, Ohio 43015

Mr. Prall voiced a concern over the location of the ground mounted solar panels. Staff reviewed the site plan of potential locations.

Mr. Badger voiced a concern over the site distance for the trees placed on Cheshire Rd.

Mr. Warner reviewed the plans for groundbreaking and timeframe of completion.

c. Public comment (public hearing)

There was no public comment.

d. Commission Action

**Motion:** Mr. Prall moved to approve 2017-2359, along with all staff recommendations and conditions, seconded by Mr. Badger. Motion approved by a 7-0 vote.

**Motion:** Mr. Prall moved to approve 2017-2360, along with all staff recommendations and conditions, seconded by Mr. Badger. Motion approved by a 7-0 vote.

**Motion:** Mr. Prall moved to approve 2017-2361, along with all staff recommendations and conditions, seconded by Mr. Badger. Motion approved by a 7-0 vote.

ITEM 4. PLANNING DIRECTOR'S REPORT

Mr. Efland provided an update on the American Planning Association Conference that Mr. Schultz and he recently attended.

ITEM 5. COMMISSION MEMBER COMMENTS AND DISCUSSION

Councilman Hellinger voiced concerns regarding the surrounding conditions to the S. Sandusky St. entrance to the City of Delaware. Mr. Efland discussed code enforcement efforts in the area.

Mr. Prall requested an update on the Terra Alta development and surrounding area. Mr. Efland informed the Commission that the developer is working on a Master Plan over the development with the recent acquisition of additional land.

Mr. Badger voiced his approval over the restriping improvements on Curtis St. and London Rd, as well as, the new sidewalk on Central Avenue.

ITEM 6. NEXT REGULAR MEETING: November 1, 2017

ITEM 7. ADJOURNMENT:

**Motion:** Chairman Simpson moved for the October 4, 2017 Planning Commission meeting to adjourn. The meeting adjourned at 7:40 p.m.



Stacy Simpson, Chairperson



Elaine McCloskey, Clerk

**HISTORIC PRESERVATION COMMISSION  
MOTION SUMMARY  
September 27, 2017**

ITEM 1. Roll Call

Chairman Koch called the Historic Preservation Commission meeting to order at 7:04 p.m.

Members Present: Joe Coleman, Erinn Nicley, Sherry Riviera, Stephanie Van Gundy, Councilman Kyle Rohrer, Vice-Chairman Hatten and Chairman Roger Koch

Staff Present: Dave Efland, Planning and Community Development Director, Sean Hughes, Economic Development Director, and R. Thomas Homan, City Manager

ITEM 2. APPROVAL OF MOTION SUMMARY of the Historic Preservation Commission meeting held on July 26, 2017, as recorded and transcribed.

**Motion:** Councilman Rohrer motioned to approve the amended Motion Summary of the Historic Preservation Commission meeting held on July 26, 2017, as recorded and transcribed, seconded by Vice-Chairman Hatten. Motion approved a by 6-01 (Coleman) vote.

ITEM 3. REGULAR BUSINESS

A. 2017-2403: A request by the City of Delaware for a Certificate of Appropriateness for the demolition of 20 East William Street which is zoned B-2 (Central Business District) and located in the Transitional Sub-District of the Downtown Historic District Overlay.

Mr. Efland reviewed the Zoning Code 1190.07 for demolition and the Concept Plan for Parking Lot Development. Mr. Efland discussed the increase to a 24 ft. wide drive aisle and the addition of parking spaces with the demolition. Mr. Efland reported that there is a potential to lose some on street parking. Mr. Efland discussed efforts to reach out to the neighbor to the east to have shared access to their parking lot, but that no interest was expressed.

Mr. Homan discussed the need to increase parking to the public and that the demolition of the building will increase the current parking availability and be easier to access. Mr. Homan plans for public parking to be available after working hours and weekends.

Mr. Efland did explain the appeal process that the city can proceed with if the Commission does not approve the request.

Mr. Hughes updated the Commission on current negotiations on a company that provides co working space utilizing the first floor of the Gazette building.

The Commission voiced concerns regarding the proposed demolition and the potential affects to the appearance and loss of a historically significant building. Mr. Coleman discussed other denied cases that were brought before the Commission requesting surface parking spaces and discussed the Parking Study and the need for a parking garage. Vice-Chairman Hatten voiced concerns over the gap to the entryway of the City. Chairman Koch recommended that the City look at demolition to the south section of the Gazette Building. Ms. Van Gundy recommended the use of trolley transportation for public transportation to surrounding parking lots.

PUBLIC COMMENT:

Chairman Koch read into the record a letter received September 26, 2017 from:  
Larry and Marian Vance  
188 N. Franklin Street  
Delaware, Ohio 43015

Mr. and Mrs. Vance wrote their encouragement to the Commission to deny the permit to demolish 20 E. William Street.

Chairman Koch read into the record a letter received September 25, 2017 from:  
Maggie Schmidt  
4050 Columbia Street  
Hilliard, Ohio 43026

Ms. Schmidt wrote in the letter her support to save the house on 20 E. William Street.

Devon Hardwick  
Preservation Ohio Representative  
219 N Sandusky Street  
Delaware, Ohio 43015

Mr. Hardwick informed the Commission that the potential demolition of 20 E. William Street was discussed at the recent Preservation Ohio Board meeting. Mr. Hardwick voiced concerns over the proposed demolition.

Mr. Homan recommended for the Commission to consider tabling 2017-2403 to allow staff to provide additional information.

**Motion:** Vice-Chairman Hatten motioned to table 2017-2403, seconded by Mr. Coleman. Motion approved by a 7-0 vote.

ITEM 4. COMMISSION MEMBER COMMENTS AND DISCUSSION

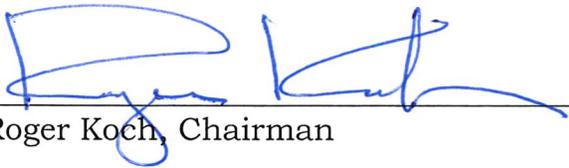
Mr. Efland discussed continued efforts to keep signage in compliance.

A discussion was held regarding the outside vestibule and process to permit use.

ITEM 5. NEXT REGULAR MEETING: October 25, 2017

ITEM 6. ADJOURNMENT

**Motion:** Mr. Coleman moved to adjourn the meeting, seconded by Mr. Nicley. The Historic Preservation Commission meeting adjourned at 8:34 p.m.



Roger Koch, Chairman



Elaine McCloskey, Clerk

**SHADE TREE COMMISSION**  
**September 26, 2017**  
**MOTION SUMMARY**

ITEM 1. Roll Call

Chairman Olen called the meeting to order at 7:00 p.m.

Members Present: Gracie Schafer, Tom Wolber, Becki Wood-Meek, Vice-Chairwoman Susan Wright, and Chairman Paul Olen

Members Absent: Shannon Brewster, Jim Buck, Dave Carey and Tom Glissman

Staff Present: Ted Miller, Parks and Natural Resource Director, Doug Richmond, Arborist and Linda Mathews, Customer Service Liaison

**Motion to Excuse:** Mr. Wolber moved to excuse Ms. Brewster, Mr. Buck, Mr. Carey and Mr. Glissman, seconded by Chairman Olen. Motion approved with a 5-0 vote.

ITEM 2. APPROVAL OF MOTION SUMMARY of Shade Tree Commission meeting of July 25, 2017 as recorded and transcribed.

**Motion:** Vice-Chairwoman Wright moved to approve the Motion Summary for the July 25, 2017 meeting, seconded by Ms. Wood-Meek. Motion approved with a 5-0 vote.

ITEM 3. PUBLIC COMMENTS

ITEM 4. DISCUSSION of Chapter 1168 Tree Preservation Regulations of the Planning and Zoning Code

The Commission held a discussion regarding the definition of reasonable development as written in 1168.01. Vice-Chairwoman Wright expressed the need for City Council to make this definition. Mr. Wolber recommended using a definition from MORPC. Mr. Miller to provide additional comments from staff for the next scheduled Shade Tree Commission meeting.

Vice-Chairwoman Wright discussed the need to change the wording of city trees to Urban Forest.

A discussion was held regarding the fee schedule. Mr. Richmond recommended to the Commission to keep the \$100 per caliper inch.

**Motion:** Mr. Wolber moved that the Shade Tree Commission recommends to City Council that the replacement fee remains at \$100 per caliper inch, seconded by Chairman Olen. Motion approved by a 5-0 vote.

ITEM 5. ARBORIST REPORT

Mr. Richmond reviewed the arborist report and discussed the trees that were removed for August and September 2017. Mr. Richmond informed the Commission that 82 street trees were pruned for street, sidewalk, and signage clearance. Mr. Richmond reviewed potential situations in which a tree may be deemed hazardous and need to be removed.

ITEM 6. STAFF COMMENTS

ITEM 7. MEMBER COMMENTS

Mr. Wolber provided to the Commission for their review the article, "Scientists: Ash tree species pushed near extinction", by the *Delaware Gazette*.

Mr. Wolber voiced concerns regarding bagworms that have been observed throughout conifer trees along Houk Rd. Mr. Richmond discussed treatment options that can occur in the spring or for residents to remove by hand.

ITEM 8. PLAN REVIEWS

- A. Communities at Glenross-Section 12 – approved with species suggestions provided by Arborist in keeping with previous area tree selections
- B. Midway Structural (revised) – suggestion to not use any Aristocrat Pears, but to plant Silver Lindens along the road and Tree Lilacs along the drive into the facility
- C. Delaware Fire Station #304 – approved with the request to remove two Pin Oaks and replace with Shumard Oak or White Swamp Oak

ITEM 9. ADJOURNMENT

**Motion:** Chairman Olen moved to adjourn the meeting, seconded by Vice-Chairwoman Wright. The Shade Tree Commission meeting adjourned at 8:02 p.m.



Chairman Olen



Clerk



## FACT SHEET

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AGENDA ITEM NO: CONSENT ITEM D      DATE: 11/13/2017  
ORDINANCE NO:                              RESOLUTION NO: 17-61  
READING: FIRST                              PUBLIC HEARING: NO

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TO:                      Mayor and Members of City Council  
FROM:                 R. Thomas Homan, City Manager  
VIA:                    ---

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

A RESOLUTION APPOINTING MEMBERS TO VARIOUS BOARDS, COMMISSIONS, AND/OR COMMITTEES, AND SPECIFYING THE TERM OF THE APPOINTMENTS.

**BACKGROUND:**

**REASON WHY LEGISLATION IS NEEDED:**

**COMMITTEE RECOMMENDATION:**

**FISCAL IMPACT(S):**

**POLICY CHANGES:**

**PRESENTER(S):**

Mayor Riggle

**RECOMMENDATION:**

**ATTACHMENT(S)**

Letters of Interest

RESOLUTION NO. 17-61

A RESOLUTION APPOINTING MEMBERS TO VARIOUS  
BOARDS, COMMISSIONS, AND/OR COMMITTEES, AND  
SPECIFYING THE TERM OF THE APPOINTMENTS.

WHEREAS, Members are to be appointed to serve on various Committees, Commissions and Boards by the Mayor of the City of Delaware and confirmed by Council; and

WHEREAS, the Mayor has appointed and Council has confirmed the following appointments.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Delaware that:

SECTION 1. The following appointments are hereby made:

1. Civil Service Commission – Eric Coss (Term Expiring November 30, 2023)
2. Board of Zoning Appeals – Robert Whitmore (First Ward, Term Expiring November 30, 2020)
3. Parks & Recreation Advisory Board – Michael Rush (At-Large, Term Expiring December 31, 2020)
4. Parks & Recreation Advisory Board – Gary Hayward (At-Large, Unexpired Term ending December 31, 2018)

SECTION 2. This resolution shall be effective immediately upon its passage.

PASSED: \_\_\_\_\_, 2017

YEAS \_\_\_\_ NAYS \_\_\_\_  
ABSTAIN \_\_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

**NOTICE TO LEGISLATIVE  
AUTHORITY**

**OHIO DIVISION OF LIQUOR CONTROL**  
6606 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

TO

0006425		N		ASAHI RESTAURANT GROUP LLC DBA ASAHI JAPANESE RESTAURANT 1139 COLUMBUS PIKE DELAWARE OH 43015
PERMIT NUMBER		TYPE		
ISSUE DATE				
01	28	2015		
FILING DATE				
D1				
PERMIT CLASSES				
21	022	B	A74970	
TAX DISTRICT		RECEIPT NO.		

FROM 10/20/2017

PERMIT NUMBER		TYPE	
ISSUE DATE			
FILING DATE			
PERMIT CLASSES			
TAX DISTRICT		RECEIPT NO.	



MAILED 10/20/2017

RESPONSES MUST BE POSTMARKED NO LATER THAN. 11/20/2017

**IMPORTANT NOTICE**

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES **B N 0006425**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD  IN OUR COUNTY SEAT.  IN COLUMBUS.

WE DO NOT REQUEST A HEARING.

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)-  Clerk of County Commissioner

(Date)

Clerk of City Council

Township Fiscal Officer

**CLERK OF DELAWARE CITY COUNCIL  
1 SOUTH SANDUSKY ST  
DELAWARE OHIO 43015**

Commerce Division of Liquor Control : Web Database Search

**OWNERSHIP DISCLOSURE INFORMATION**

This online service will allow you to obtain ownership disclosure information for issued and pending retail liquor permit entities within the State of Ohio.

**Searching Instructions**

Enter the known information and click the "Search" button. For best results, search only ONE criteria at a time. If you try to put too much information and it does not match exactly, the search will return a message "No records to display".

The information is sorted based on the Permit Number in ascending order.

To do another search, click the "Reset" button.

SEARCH CRITERIA	
<b>Permit Number</b>	<input type="text" value="0006425"/>
<b>Permit Name / DBA</b>	<input type="text"/>
<b>Member / Officer Name</b>	<input type="text"/>

[Search](#)[Reset](#)[Main Menu](#)

Member/Officer Name	Shares/Interest	Office Held
<b>Permit Number:</b> 0006425; <b>Name:</b> ASAHI RESTAURANT GROUP LLC; <b>DBA:</b> DBA ASAHI JAPANESE RESTAURANT; <b>Address:</b> 1139 COLUMBUS PIKE DELAWARE 43015		
JIANBIN CHEN	MANAGE MEM	PRESIDENT

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## Delaware Police Department Liquor Permit Report

<b>DPD Report Number</b> <b>L-17-10</b>		<b>Investigating Officer</b> Det. T. Donoghue	
<b>Applicant (Primary Shareholder)</b> Jianbin Chen		<b>Company Name (LLC) ASAHI Restaurant Group LLC; DBA: Asahi Japanese Steakhouse</b>	
<b>Common Name</b> Asahi		<b>Address</b> 1139 Columbus Pike, Delaware, OH 43015	
<b>Applicant Phone Number</b> 917-463-6886		<b>Applicant E-Mail Address:</b> viccjq@gmail.com	
<input checked="" type="checkbox"/> <b>Existing Business</b>	<b>Type of Business</b> Japanese steakhouse/Teppanyaki grill	<b>Notification Type:</b>	<b>Date of Report</b> 10/3/2017
<input type="checkbox"/> <b>New Business</b> (Supplement Attached)			
<b>Permit Type</b> <input type="checkbox"/> C1/C2X Beer only in original sealed container for carry out only. <input type="checkbox"/> C2 Wine and mixed beverages in sealed containers for carry out. <input checked="" type="checkbox"/> D1/D2X Beer only for on premises consumption or in sealed containers for carry out. <input type="checkbox"/> D2 Wine and mixed beverages for on premises consumption or in sealed containers for carryout. <input type="checkbox"/> D4 Beer and any intoxicating liquor to members only, for on premises consumption only until 1:00am. <input type="checkbox"/> D5 Spirituous liquor for on premises consumption only, beer, wine and mixed beverages for on premises, or off premises in original sealed containers, until 2:30am. <input type="checkbox"/> Other			

### Location Information

<b>Churches, Libraries and or schools within 500 feet</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>School, church or library objection</b> <input type="checkbox"/> Yes (Supplement Attached) <input checked="" type="checkbox"/> No N/A.
<b>Police Calls for Service in past 12 months: three</b>	<b>Number of Police Reports in past 12 months: zero</b>
<b>Calls for Service excluding calls not related to the business in past 12 months: zero</b>	<b>Location is excessive drain on Police Resources:</b> <input type="checkbox"/> Yes (Supplement Attached) <input checked="" type="checkbox"/> No
<b>Nuisance Abatement Pending</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Accessible by Law Enforcement</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Site compliance checked by Dept. of Commerce Week of 10/23/2017 per applicant. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Private Club (Restricted Access Door)</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Applicant Information

<b>Records Checked</b> <input checked="" type="checkbox"/> Online public sources (attached) <input checked="" type="checkbox"/> Delaware Police Department Database (NIF)	<b>Applicant has an active warrant</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Record located for Liquor Law Violation</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Local Record on file</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Problem History with DPD</b> <input type="checkbox"/> Yes (Supplement Attached) <input checked="" type="checkbox"/> No	<b>Contact made with Applicant</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

### Determination on Objection

<input checked="" type="checkbox"/> <b>The Delaware Police Department does not find a legislative basis for requesting a hearing to object to the issuance of a liquor permit for this business.</b>
--

<input type="checkbox"/> <b>The Delaware Police Department recommends requesting a hearing into the issuance of a liquor permit for this business, due to one or more of the following criteria for objection as set forth by the Ohio Revised Code.</b>
<input type="checkbox"/> Site does not conform to local building, safety and health codes (excluding zoning). <input type="checkbox"/> Law enforcement or state agents do not have ready access to the premises where alcoholic beverages are being served. <input type="checkbox"/> Physical location causes a public nuisance. <input type="checkbox"/> Site has been officially classified as a nuisance according to State Law. <input type="checkbox"/> Conviction of a crime by the applicant that relates to operating a liquor establishment. <input type="checkbox"/> Past improper operation of a location with a liquor permit. <input type="checkbox"/> Misrepresentation of material fact on the application. <input type="checkbox"/> Addiction of the applicant to alcohol or narcotics. <input type="checkbox"/> Formal objection by specific types of other locations to which the site is in certain proximity. <input type="checkbox"/> Conviction of the applicant of food stamp or WIC fraud.
(Supplement Attached)



**Delaware Police Department  
Liquor Permit Report**

**Supplement**

**Supplement Type**

- New Business Description
- Police Department Objection
- Community Objection
- Other :

Applicant Mr. Jianbin Chen is the sole owner/operator of Asahi Japanese Steakhouse, a dine-in restaurant specializing in Teppanyaki style (flat grill) at-your-table food preparation. Asahi is located at 1139 Columbus Pike and is an already established/operating restaurant. There are no churches/schools/libraries within the immediate area and the restaurant is in the strip plaza of Delaware Square. Asahi has previously obtained a "wine only" liquor permit, to serve small glasses of sake primarily. The restaurant also has a small bar area which seats approximately eight and is off to the side of the floor plan, compared to the main eating area. Chen's application for this permit is in order to expand the drink offerings to include bottled beer on location. During our conversation at the restaurant, Mr. Chen indicated a Liquor Control representative conducted a site compliance check with him last week for this permit. Of the three calls for service to this address, I do not find that any directly involved the restaurant (location used for radio or due to large parking lot). One call involved a City Officer calling after spotting a known wanted/warrant person leaving the restaurant. In checking local public databases, Mr. Chen is not listed for any criminal or liquor related issues. There is no history in the Delaware Police database either. Besides the main foyer entrance/exit, there is one emergency exit from the eating area that exits to the common area of the plaza at the former location of the Delaware movie theater. There are two additional exits through the back of the kitchen that exit to the rear of the plaza (delivery/employee entrances).

Det J. Ayler #47                      11/31/2017  
 Investigating Officer Signature      Date

Det. Sgt. David Flis                      11-6-17  
 Supervisor Signature                      Date

**NOTICE TO LEGISLATIVE  
AUTHORITY**

**OHIO DIVISION OF LIQUOR CONTROL**  
6606 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

TO

5186622		NEW		LIBERTY FUEL INC DBA LONDON RD SHELL 132 LONDON RD DELAWARE OH 43015	
PERMIT NUMBER		TYPE			
10 12 2017					
ISSUE DATE		FILING DATE			
C1 C2 D6		PERMIT CLASSES			
21	022	B	B76698		
TAX DISTRICT		RECEIPT NO.			

FROM 10/23/2017

PERMIT NUMBER		TYPE	
ISSUE DATE		FILING DATE	
PERMIT CLASSES		TAX DISTRICT	
RECEIPT NO.			



MAILED 10/23/2017

RESPONSES MUST BE POSTMARKED NO LATER THAN. 11/24/2017

**IMPORTANT NOTICE**

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.  
REFER TO THIS NUMBER IN ALL INQUIRIES **B NEW 5186622**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD  IN OUR COUNTY SEAT.  IN COLUMBUS.

WE DO NOT REQUEST A HEARING.

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)-  Clerk of County Commissioner

(Date)

Clerk of City Council

Township Fiscal Officer

**CLERK OF DELAWARE CITY COUNCIL**  
1 SOUTH SANDUSKY ST  
DELAWARE OHIO 43015

### OWNERSHIP DISCLOSURE INFORMATION

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#### SEARCH CRITERIA

<b>Permit Number</b>	<input type="text" value="5186622"/>
<b>Permit Name / DBA</b>	<input type="text"/>
<b>Member / Officer Name</b>	<input type="text"/>

[Search](#)      [Reset](#)      [Main Menu](#)

Member/Officer Name	Shares/Interest	Office Held
<b>Permit Number:</b> 5186622; <b>Name:</b> LIBERTY FUEL INC; <b>DBA:</b> DBA LONDON RD SHELL; <b>Address:</b> 132 LONDON RD DELAWARE 43015		
MOHAMAD IBRAHIM	100.00	PRESIDENT

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## Delaware Police Department Liquor Permit Report

<b>DPD Report Number</b> <b>L-17-09</b>		<b>Investigating Officer</b> Sgt. Mike Bolen	
<b>Applicant (Primary Shareholder)</b> Mohamad Ibrahim		<b>Company Name:</b> <b>DBA: London Rd. Shell</b>	
<b>Common Name</b> <b>London Rd. Shell (Liberty Fuel Inc.)</b>		<b>Address</b> 132 London Rd. Delaware, Ohio 43015	
<b>Applicant Phone Number</b> 614-619-4438		<b>Applicant E-Mail Address:</b>	
<input type="checkbox"/> Existing Business	<b>Type of Business</b> <b>Gas Station and Carry Out</b>	<b>Notification Type:</b> <b>New</b>	<b>Date of Report</b> 11/1/2017
<input checked="" type="checkbox"/> <b>New Business</b> (Supplement Attached)			
<b>Permit Type</b>			
<input checked="" type="checkbox"/> C1/C2X Beer only in original sealed container for carry out only. <input checked="" type="checkbox"/> C2 Wine and mixed beverages in sealed containers for carry out. <input type="checkbox"/> D1/D2X Beer only for on premises consumption or in sealed containers for carry out. <input type="checkbox"/> D2 Wine and mixed beverages for on premises consumption or in sealed containers for carryout. <input type="checkbox"/> D4 Beer and any intoxicating liquor to members only, for on premises consumption only until 1:00am. <input type="checkbox"/> D5 Spirituous liquor for on premises consumption only, beer, wine and mixed beverages for on premises, or off premises in original sealed containers, until 2:30am. <input checked="" type="checkbox"/> Other D6			

### Location Information

<b>Churches, Libraries and or schools within 500 feet</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>School, church or library objection</b> <input type="checkbox"/> Yes (Supplement Attached) <input checked="" type="checkbox"/> No Note: Objections are only permitted for <i>new permits</i> .
<b>Police Calls for Service in past 12 months: 39</b>	<b>Number of Police Reports in past 12 months: 4</b>
<b>Calls for Service excluding calls not related to the business in past 12 months: 8</b>	<b>Location is excessive drain on Police Resources:</b> <input type="checkbox"/> Yes (Supplement Attached) <input checked="" type="checkbox"/> No
<b>Nuisance Abatement Pending</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Accessible by Law Enforcement</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Site compliance checked by Dept. of Commerce <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Private Club (Restricted Access Door)</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Applicant Information

<b>Records Checked</b> <input type="checkbox"/> Ohio Law Enforcement Gateway <input checked="" type="checkbox"/> Delaware Police Department Database
<b>Applicant has an active warrant</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Local Record on file</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Problem History with DPD</b> <input type="checkbox"/> Yes (Supplement Attached) <input checked="" type="checkbox"/> No
<b>Record located for Liquor Law Violation</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Criminal History Checked by Dept. of Commerce</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Contact made with Applicant</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

### Determination on Objection

<input checked="" type="checkbox"/> The Delaware Police Department does not find a legislative basis for requesting a hearing to object to the issuance of a liquor permit for this business.
---

<input type="checkbox"/> The Delaware Police Department recommends requesting a hearing into the issuance of a liquor permit for this business, due to one or more of the following criteria for objection as set forth by the Ohio Revised Code. <ul style="list-style-type: none"> <li><input type="checkbox"/> Site does not conform to local building, safety and health codes (excluding zoning).</li> <li><input type="checkbox"/> Law enforcement or state agents do not have ready access to the premises where alcoholic beverages are being served.</li> <li><input type="checkbox"/> Physical location causes a public nuisance.</li> <li><input type="checkbox"/> Site has been officially classified as a nuisance according to State Law.</li> <li><input type="checkbox"/> Conviction of a crime by the applicant that relates to operating a liquor establishment.</li> <li><input type="checkbox"/> Past improper operation of a location with a liquor permit.</li> <li><input type="checkbox"/> Misrepresentation of material fact on the application.</li> <li><input type="checkbox"/> Addiction of the applicant to alcohol or narcotics.</li> <li><input type="checkbox"/> Formal objection by specific types of other locations to which the site is in certain proximity.</li> <li><input type="checkbox"/> Conviction of the applicant of food stamp or WIC fraud.</li> </ul> (Supplement Attached)
---



## Delaware Police Department Liquor Permit Report

### Supplement

**Supplement Type**

- New Business Description
- Police Department Objection
- Community Objection
- Other :

132 London Rd. is the former USA Smokes. USA Smokes has been closed for approximately 4 years and the property was recently sold at Sheriff's Auction in July of this year. Aldamen Real Estate LLC (owned by Aldamen Ibrahim) purchased the property at auction and has renovated it in order to re-open as a Shell Gas Station. The Shell Gas Station did open on 10/30/17 and is currently in operation without alcohol sales.

On 11/1/17, I met with Mohamad Ibrahim at the 132 London Rd. Shell location. Mohamad is the owner/operator for the business and liquor permit request. Mohamad is originally from Jordan and has been in the United States for approximately 3 1/2 years. He has lived and worked in Columbus and currently resides at 43 South St. E Ashville, Ohio (Pickaway County). Mohamad explained how he has worked for Aldamen Ibrahim for approximately two years at one of Aldamen's gas stations in Columbus. According to Mohamad, Aldamen offered to lease 132 London Rd. to him because he didn't want to operate another gas station. Mohamad agreed to the offer and signed a two year lease agreement with Aldamen.

When asked, Mohamad claimed to have no criminal history. I checked local records; DPD CHIEFS, Franklin Co., Pickaway Co., Cuyahoga Co., Delaware County Clerk of Courts and CPD Records. I did not find any criminal history. Mohamad also stated he has no liquor violations while working in gas stations in Columbus. When asked, Mohamad said he had a good understanding of the liquor permit types.

This location has 39 police calls for service over the past 12 months, but they are all unrelated to this new business. The business has been vacant for several years. There were 4 criminal reports at the address, but all related to breaking and entering / criminal damaging.

I do not believe there is any reason to request a hearing to object to this liquor permit. I gave Mohamad my business card and welcomed him to the city of Delaware.

Det. Sgt. Amir Al-Hadi  
Investigating Officer Signature                      Date

Cap. Appleton #5  
Supervisor Signature                      Date 11/1/17



## FACT SHEET

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AGENDA ITEM NO: 11

DATE: 11/13/2017

ORDINANCE NO: 17-69

RESOLUTION NO:

READING: SECOND

PUBLIC HEARING: NO

---

TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: William L. Ferrigno, P.E., Director of Public Works/City Engineer

---

**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

AN ORDINANCE SUPPLEMENTING THE 2017 APPROPRIATIONS ORDINANCE TO PROVIDE ADDITIONAL FUNDING FOR LAND DEVELOPMENT-ENGINEERING PROFESSIONAL SERVICES, AND DECLARING AN EMERGENCY.

**BACKGROUND:**

The Public Works Department – Division of Traffic & Engineering Services – utilizes engineering consulting firms to supplement in-house staff efforts to provide plan review and construction inspection services for land development projects. The majority of the cost to provide these services is reimbursed through a flat fee invoiced before the services are provided.

**REASON WHY LEGISLATION IS NEEDED:**

The Land Development activity in the City of Delaware currently remains at record levels. The original 2017 appropriation of \$500,000 was expended by August. Ordinance 17-50 provided a supplemental appropriation of \$400,000 for these services, however, it is estimated these funds will run out at the end of the 3<sup>rd</sup> quarter. The past 90 days has provided exceptional weather for construction activities and it is anticipated the need for contract services to continue well into the 4<sup>th</sup> quarter.

**COMMITTEE RECOMMENDATION:**

None

**FISCAL IMPACT(S):**

The engineering fees invoiced thus far in 2017 for professional plan review and construction inspection services total \$1,679,860. The estimated total 2017 expense for contract services is \$1,559,443, which includes \$390,000 in partial cost recovery for in-house staff directly involved in land development activity. An additional \$350,000 is requested to cover 4<sup>th</sup> quarter plan review and inspection services.

**POLICY CHANGES:**

None

**PRESENTER(S):**

William L. Ferrigno, P.E., Director of Public Works/City Engineer

**RECOMMENDATION:**

Approval at Second Reading

**ATTACHMENT(S)**

Public Works – Land Development Cost/Revenue Tracking Sheets (2)

ORDINANCE NO. 17-69

AN ORDINANCE SUPPLEMENTING THE 2017 APPROPRIATIONS ORDINANCE TO PROVIDE ADDITIONAL FUNDING FOR LAND DEVELOPMENT-ENGINEERING PROFESSIONAL SERVICES, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Delaware and its agents, provide both plan review and construction inspection services through the Public Works Department – Division of Traffic & Engineering Services, for infrastructure elements of development projects; and

WHEREAS, the provision of plan review and construction inspection services is an integral part in assuring the quality of new infrastructure constructed within and dedicated to the City; and

WHEREAS, the cost to the City of providing these services is charged to and reimbursed back to the City by the individual developers; and

WHEREAS, the amount included in the 2017 Budget to pay for these services is not sufficient based on current and projected development activity this year; and

WHEREAS, a supplemental appropriation will be necessary to continue to perform plan reviews and provide construction inspection on new development in 2017.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That there is hereby appropriated from the unencumbered balance of the General Fund \$350,000 increasing the following account:

Engineering Department  
Professional Services–Development (101-0065-5231)    \$350,000

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Ohio Revised Code.

SECTION 3. EMERGENCY CLAUSE. That this ordinance is hereby declared to be an emergency measure necessary to provide for the public

peace, safety, health and welfare of the City and for the further reason to provide for the timely review of development plans and for the continued utilization of construction inspection services, and as such will be in full force and effect immediately upon its passage.

VOTE ON RULE SUSPENSION:

YEAS \_\_\_ NAYS \_\_\_  
ABSTAIN \_\_\_

VOTE ON EMERGENCY CLAUSE:

YEAS \_\_\_ NAYS \_\_\_  
ABSTAIN \_\_\_

PASSED: \_\_\_\_\_, 2017

YEAS \_\_\_ NAYS \_\_\_  
ABSTAIN \_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

**2017 Land Development & ROW Professional Service Expense Summary**

**(PROJECTIONS IN RED)**

**Professional Services - Expenses Acct: 101.0065.5231**

**1st Quarter (January-March)**

	<u>January</u>	<u>February</u>	<u>March</u>		
Quality Control Inspection**	\$32,205.59	\$25,608.52	\$25,524.08		\$83,338.19
Pomeroy & Associates	\$9,687.62	\$11,805.31	\$8,441.55		\$29,934.48
City of Columbus	\$118.00	\$0.00	\$472.00		\$590.00
				<b>Total</b>	<b>\$113,862.67</b>

**2nd Quarter (April-June)**

	<u>April</u>	<u>May</u>	<u>June</u>		
Quality Control Inspection**	\$46,475.69	\$51,314.99	\$76,452.18		\$174,242.86
Pomeroy & Associates	\$17,699.19	\$8,868.61	\$3,372.53		\$29,940.33
City of Columbus	\$2,596.00	\$354.00	\$1,283.25		\$4,233.25
				<b>Total</b>	<b>\$208,416.44</b>

**3rd Quarter (July-September)**

	<u>July</u>	<u>August</u>	<u>September</u>		
Quality Control Inspection**	\$105,916.57	\$99,630.23	\$123,904.16		\$329,450.96
Resource International	\$0.00	\$0.00	\$17,843.00		\$17,843.00
Pomeroy & Associates	\$9,690.53	\$10,000.00	\$12,999.28		\$32,689.81
City of Columbus	\$3,944.15	\$236.00	\$0.00		\$4,180.15
				<b>Total</b>	<b>\$384,163.92</b>

**4th Quarter (October-December)**

	<u>October</u>	<u>November</u>	<u>December</u>		
Quality Control Inspection**	<del>\$115,000.00</del>	<del>\$115,000.00</del>	<del>\$70,000.00</del>		\$300,000.00
Resource International	<del>\$40,000.00</del>	<del>\$40,000.00</del>	<del>\$40,000.00</del>		\$120,000.00
Pomeroy & Associates	<del>\$12,000.00</del>	<del>\$12,000.00</del>	<del>\$12,000.00</del>		\$36,000.00
City of Columbus	\$1,253.75	<del>\$2,500.00</del>	<del>\$1,500.00</del>		\$5,253.75
				<b>Total</b>	<b>\$461,253.75</b>

**Projected Year End Vendor Totals**

Quality Control Inspection		\$887,032.01
Resource International		\$137,843.00
Pomeroy & Associates		\$128,564.62
City of Columbus		\$14,257.15
	<b>Total</b>	<b>\$1,167,696.78</b>

\*\* Includes ROW expenses

<u>City Staffing</u>	<u>Annual Cost</u>	<u>Utility</u>	<u>Total</u>
Deputy Engineer	\$130,000.00	40%	\$52,000.00
Project Engineer II	\$115,000.00	90%	\$103,500.00
Project Engineer I	\$115,000.00	90%	\$103,500.00
Construction Manager	\$95,000.00	90%	\$85,500.00
Engineering Technician	\$92,000.00	50%	\$46,000.00
	<b>\$547,000.00</b>		<b>\$390,500.00</b>

**Total Estimated Expense      \$1,558,196.78**

<u>2017 Available Funds</u>	<u>Date</u>	<u>Amount</u>
2017 Appropriation	1/1/2017	\$500,000.00
2017 Supp No. 1	7/24/2017	\$400,000.00
	<b>Total YTD</b>	<b>\$900,000.00</b>

2017 Land Development & ROW Revenue Summary

(Based on amount Invoiced - not amount collected)

Professional Services - Revenue

Project	Plan Review	Inspection	Total
Enclave @ Glenross (Revision)	\$250.00		\$250.00
Communities of Glenross 8 & 10	\$14,700.00	\$99,527.29	\$114,227.29
Delaware Golf Course	\$3,500.00		\$3,500.00
Klema-Delaware Development (Coughlin's Crossing-- Traffic Study (Complex); SWMP-Level II)	\$7,000.00		\$7,000.00
Communities of Glenross offsite water	\$5,600.00	\$25,153.51	\$30,753.51
Communities of Glenross offsite san	\$2,450.00	\$12,363.18	\$14,813.18
Communities of Glenross pool house	\$5,600.00	\$7,272.15	\$12,872.15
Heatherton Sec. 6	\$9,450.00	\$59,650.55	\$69,100.55
Ravines at Olentangy Sec. 1 revision (March 2017)	\$250.00		\$250.00
Lantern Chase 2-6 part 1		\$92,560.43	\$92,560.43
Enclave @ Adalee (willowbrooke west)	\$14,000.00		\$14,000.00
Communities of Glenross offsite water Rev 1 2.17.17	\$250.00		\$250.00
Communities of Glenross Section 11	\$21,850.00	\$138,044.76	\$159,894.76
OWU Honors Housing 81 Oakhill	\$1,400.00		\$1,400.00
OWU SLU Phase 3	\$1,400.00		\$1,400.00
Speedway north revision 1	\$250.00		\$250.00
Communities of Glenross Cheshire Widening	\$25,900.00	\$114,207.68	\$140,107.68
Stratford Church Office	\$1,050.00		\$1,050.00
Braumiller Woods 3	\$17,150.00		\$17,150.00
Heatherton Sec. 6 (revision 1)	\$250.00		\$250.00
Stockdale Farms Ph. 1 Re-Design	\$32,350.00		\$32,350.00
Speedway North Revisions (#2) two revisions	\$500.00		\$500.00
Speedway North Revisions (4.5.17 hillsmiller hydrant)	\$250.00		\$250.00
Terra Alta - Offsite		\$126,683.63	\$126,683.63
Terra Alta - Plan Revision - Water Main	\$250.00		\$250.00
Braumiller Woods 3		\$50,364.18	\$50,364.18
Old Colony 2		\$100,888.95	\$100,888.95
Enclaves at Adalee		\$35,631.06	\$35,631.06
DACC South - Turn Lane		\$5,363.71	\$5,363.71
Enclave at Adalee (subsequent Submission)	\$1,050.00		\$1,050.00
Curtis Farms 4		\$22,451.70	\$22,451.70
Ravines at Olentangy		\$184,917.42	\$184,917.42
Terra Alta Onsite - Section 1, Part 1		\$182,103.47	\$182,103.47
Lantern Chase 2-6 part 1 - Plan Revision 2 (field tile outlet rev/structure revisio	\$250.00		\$250.00
Preserve at Quail Pass 2B		\$4,675.68	\$4,675.68
Lantern Chase 2-6 part 1 - Plan Revision 3 (Revision to storm run between struc	\$250.00		\$250.00
Lantern Chase 2-6 part 1 - Plan Revision 4 ( Sanitary Revisions for lateral service	\$250.00		\$250.00
Belmont Place 4 & 5 Plan Review - Belmont 4 Construction Inspection	\$11,900.00	\$55,053.78	\$66,953.78
Klema-Coughlin's Crossing (Site Engineering Plan)	\$22,950.00		\$22,950.00
Klema-Coughlin's Crossing (US 23 Improvements Engineering Plan)	\$24,500.00		\$24,500.00
Communities of Glenross - Section 11 (Correction)		-\$9,863.37	-\$9,863.37
Lantern Chase 2-6 part 1 - Plan Revision 4 (Side yard storm)	\$250.00		\$250.00
Colatruglio - River St Business Park	\$5,600.00		\$5,600.00
Ravines at Olentangy, Plan Revision 2 (monument boxes, side yard storm, wate	\$250.00		\$250.00
Terra Alta - Section 1, Parts 1 & 2 - Sanitary (Revision 1: MH 3 to 32)	\$250.00		\$250.00
Communities of Glenross - Plan Revision 01 (Water Main Crossings)	\$250.00		\$250.00
Midway Pipe & Supply	\$8,350.00		\$8,350.00
McDonald's Rebuild US 23 North	\$4,200.00		\$4,200.00
Lantern Chase 2-6 Part 1 - Revision 5 (field tile tie-in to storm system)	\$250.00		\$250.00
Lantern Chase 2-6 Part 1 - Sanitary Revision 2 (Additional revisions to sanitary I	\$250.00		\$250.00
Terra Alta - Section 1 Part 2	\$88,077.41		\$88,077.41
Lantern Chase 2-6 Part 3	\$37,782.83		\$37,782.83
Old Colony 2 (Revision 1)	\$250.00		\$250.00
Old Colony 2 (Revision 2)	\$250.00		\$250.00
			\$0.00
<b>Current</b>	<b>\$372,810.24</b>	<b>\$1,307,049.76</b>	<b>\$1,679,860.00</b>

Indicates fee not paid

last verified with Finance/Rob Alger: 8/28/2017

Right of Way Revenues

Columbia Gas	\$25,381.74
WOW Cable	\$30,479.00
<b>Total</b>	<b>\$55,860.74</b>

Total Estimated Revenue

\$1,735,720.74



## FACT SHEET

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AGENDA ITEM NO: 12

DATE: 11/13/2017

ORDINANCE NO: 17-71

RESOLUTION NO:

READING: SECOND

PUBLIC HEARING: NO

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TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: Jackie Walker, Assistant City Manager

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

AN ORDINANCE SUPPLEMENTING THE 2017 APPROPRIATIONS ORDINANCE TO PROVIDE ADDITIONAL FUNDING FOR ADMINISTRATIVE SERVICES WAGES LINE ITEM.

**BACKGROUND:** The Department of Administrative Services has the responsibility of administering to City employees all aspects of their human resources needs. In 2017, a tenured employee resigned from the department and caused the anticipated wage line item budget to be exceeded due to paying for the accrued time by the employee. Also, the DAS staff needed to engage the assistance of seasonal help in the interim. DAS would also like to complete a digitizing project prior to the end of the year.

**REASON WHY LEGISLATION IS NEEDED:** In lieu of hiring an outside firm to digitize personnel records, staff has identified that a seasonal staff member could make significant progress in this project before the end of 2017. Further, the unexpected departure of a tenured employee and her subsequent accrued time pay out, has left a deficit in the wages line item. A supplemental appropriation to the 2017 budget will be necessary to pay a seasonal employee to work on this project through the end of 2017 and to address the wages deficit.

**COMMITTEE RECOMMENDATION:**

N/A

**FISCAL IMPACT(S):** The \$15,000 is being requested from the General Fund Balance.

**POLICY CHANGES:**

N/A

**PRESENTER(S):**

Jessica Feller, Human Resource Manager and Workers Compensation Coordinator

**RECOMMENDATION:**

Approval at Second Reading

**ATTACHMENT(S)**

N/A

ORDINANCE NO. 17-71

AN ORDINANCE SUPPLEMENTING THE 2017 APPROPRIATIONS ORDINANCE TO PROVIDE ADDITIONAL FUNDING FOR ADMINISTRATIVE SERVICES WAGE LINE ITEM.

WHEREAS, the City of Delaware appropriates funding for wages for all staff; and

WHEREAS, the Department of Administrative Services identified a need to digitize all personnel files of current and past employees to enhance the effectiveness and efficiency of using these records; and

WHEREAS, in lieu of hiring an outside firm to make the transition, staff has identified that a seasonal staff member could make significant progress in this project before the end of 2017; and

WHEREAS, the unexpected departure of a tenured employee and her subsequent accrued time pay out, has left a deficit in the wages line item; and

WHEREAS, a supplemental appropriation to the 2017 budget will be necessary to pay a seasonal employee to work on this project through the end of 2017 and to address the wages deficit.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DELAWARE, OHIO THAT:

SECTION 1. That there is hereby appropriated from the unencumbered balance of the General Fund of \$15,000.00 increasing the following account:

Wages (101-0013-5100) \$15,000.00

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

VOTE ON RULE SUSPENSION:

YEAS \_\_\_ NAYS \_\_\_  
ABSTAIN \_\_\_

PASSED: \_\_\_\_\_, 2017

YEAS \_\_\_ NAYS \_\_\_  
ABSTAIN \_\_\_

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR



## FACT SHEET

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AGENDA ITEM NO: 13

DATE: 11/13/2017

ORDINANCE NO:

RESOLUTION NO: 17-62

READING: FIRST

PUBLIC HEARING: NO

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TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: William L. Ferrigno, Public Works Director/City Engineer

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LOCAL PUBLIC AGENCY (LPA) AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE POINT RAILROAD BRIDGE REPLACEMENT PROJECT, DEL-36-11.03, AND TO EXECUTE CONTRACTS AS REQUIRED TO DESIGN, ACQUIRE PROPERTY FOR, AND TO CONSTRUCT THE PROJECT.

**BACKGROUND:**

This project will replace the Norfolk Southern railroad bridge over US 36/SR 37 and widening this route to two lanes in each direction. Additional through and turn lanes will also be constructed at "the 36/37 - SR 521 intersection. This project will improve traffic safety and flow on this important commuter route and statewide freight corridor. The planned improvements will benefit emergency service response and the Delaware Area Transit Agency, both of which are impacted by the congestion of this corridor. Bike and pedestrian mobility will be enhanced through the project area by constructing new shared use paths from "The Point" to 521 and Mill Run Crossing.

The Point Project represents the City's largest transportation improvement projects since the US 23 bypass that was constructed in the 1950's. The Total cost of the project is expected to be \$25.2 million. Due to its large scale and cost, the City is partnering with several other agencies for both funding and project management. These partners include The Ohio Department of

Transportation (ODOT), Mid-Ohio Regional Planning Commission (MORPC), and The Federal Highway Administration (FHWA). The City applied for and was awarded three State and Federal funding sources for this project. To initiate these funding sources, the City must obtain Federal Authorization from the FHWA. The City has requested financial participation from Delaware County as this project was recognized as a critical regional project, as such, it was ranked third on MORPC's Competitive Project list. In addition, the City will also be seeking participation from the private sector. One of requirements for this authorization is that an LPA Agreement be in place between the City and ODOT. These grants account for 75% of the projected project cost. City staff is exploring other outside funding sources to further reduce the City's local funding match.

Upon executing the LPA Agreement the City will enter into contract with Columbus-based Gannett Fleming, the engineering firm selected to design the project. The project will also require agreements with Norfolk Southern Railroad, private utility companies, landowners, and contractors. This legislation authorizes the City Manager to sign all appropriate agreements, including the LPA Agreement, for the project which will expedite the project schedule. Legislation is forthcoming regarding the initial funding appropriation for the preliminary design of this project, along with a detailed project schedule.

**REASON WHY LEGISLATION IS NEEDED:**

Intergovernmental Agreements require City Council approval.

**COMMITTEE RECOMMENDATION:**

N/A

**FISCAL IMPACT(S):**

See attached Project Funding Sheet

**POLICY CHANGES:**

N/A

**PRESENTER(S):**

William L. Ferrigno, P.E. – Public Works Director/City Engineer

**RECOMMENDATION:**

Approval

**ATTACHMENT(S)**

Project Funding Sheet

LPA Federal ODOT-Let Project Agreement (Final Draft)

Point Improvements

RESOLUTION NO. 17-62

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LOCAL PUBLIC AGENCY (LPA) AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE POINT RAILROAD BRIDGE REPLACEMENT PROJECT, DEL-36-11.03, AND TO EXECUTE CONTRACTS AS REQUIRED TO DESIGN, ACQUIRE PROPERTY FOR, AND TO CONSTRUCT THE PROJECT.

WHEREAS, the City of Delaware has identified the Point Railroad Bridge replacement as the City's most important transportation improvement project; and

WHEREAS, ODOT has designated the project DEL-36-11.03; PID 103626; and has designated the City of Delaware as the LPA for the project; and

WHEREAS, an LPA Federal ODOT-Let Project Agreement is required at this time to assign responsibilities, convey Federal regulations, and document the current funding arrangement for the project; and

WHEREAS, the City of Delaware will enter into numerous contracts with private consulting firms, Norfolk Southern Railroad, property owners, private utility companies, and contractors to complete this project.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DELAWARE, OHIO THAT:

SECTION 1. The City Manager of the City of Delaware is authorized to enter in to the attached LPA Federal ODOT-Let Project Agreement (or a version very similar to) with ODOT for the Point Railroad Bridge Replacement Project – DEL-36-11.03.

SECTION 2. The City Manager of the City of Delaware is further authorized to enter any agreement as may be necessary and appropriate to design, acquire property for, and to construct the project.

SECTION 3. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Resolution were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

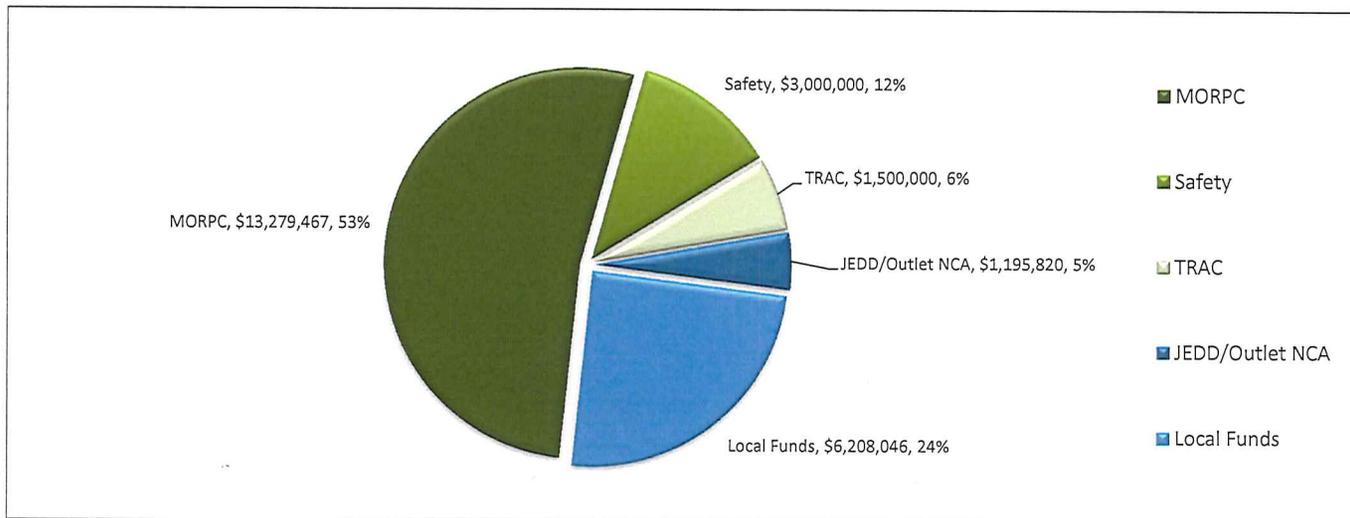


**THE POINT IMPROVEMENTS FUNDING SUMMARY (REV. 11/6/17)**

<i>EXISTING ALLOCATIONS</i>		
<u>Source</u>	<u>Description</u>	<u>Amount</u>
Safety	90/10 Design & ROW	\$3,000,000
TRAC	75/25 Design	\$1,500,000
MORPC	80/20 Construction	\$13,279,467
Local Funds	Includes Req'd Local Match(s)*	\$6,208,046
JEDD/Outlet NCA	2017-2026 Est. Revenue	\$1,195,820
<b>Total</b>		<b>\$25,183,333</b>

<i>CURRENT ESTIMATES</i>		
<u>Category</u>	<u>Estimate</u>	<u>Notes</u>
PE/EE	\$1,000,000	
FE	\$2,333,333	
RR Force Account	\$1,600,000	
ROW	\$2,000,000	
Construction	\$17,500,000	
Construction ENG	\$750,000	Reduced to 5%
<b>Total</b>		<b>\$25,183,333</b>

\* Required Local Match(s) for grants received to date total \$3,485,893



Revised 10/20/17

103626  
PID NUMBER

30385  
AGREEMENT NUMBER

071643498  
DUNS NUMBER

## LPA FEDERAL ODOT-LET PROJECT AGREEMENT

**THIS AGREEMENT** is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the City of Delaware, hereinafter referred to as the LPA, 1 South Sandusky Street, Delaware, Ohio 43015.

### 1. PURPOSE

- 1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs.
- 1.2 Section 5501.03 (D) of the **Ohio Revised Code** (hereinafter referred to as ORC) provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.
- 1.3 The CONSTRUCTION OF ADDITIONAL LANES ON US 36/SR 37 AND RECONSTRUCT THE CSXT RAILROAD STRUCTURE ON THE EAST SIDE OF DELAWARE (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.
- 1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities of ODOT and the LPA for administration of the PROJECT.

### 2. LEGAL REFERENCES

- 2.1 This Agreement is authorized and/or governed by the following statutes and/or policies, which are incorporated, by reference, in their entirety:
  - A. Section 5501.03(D) of the ORC
  - B. Sections 153.65 through 153.71 of the ORC
  - C. Section 4733-35-05 of the Ohio Administrative Code
  - D. ODOT's Manual for Administration of Contracts for Professional Services
  - E. ODOT's Specifications for Consulting Services – 2016 Edition
  - F. ODOT's Consultant Prequalification Requirements and Procedures
  - G. State of Ohio Department of Transportation Construction and Material Specifications Manual
  - H. State of Ohio Department of Transportation Construction Administration Manual of Procedures
  - I. 2 CFR Part 200
  - J. Federal Funding Accountability and Transparency Act (FFATA)

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- K. Title 23 Code of Federal Regulations, Part 172 (23 CFR 172) "Administration of Engineering and Design Related Design Related Service Contracts",
- L. United States Code, Title 23, Section 112 "Letting of Contracts"
- M. 23 CFR 630.106 Authorization to Proceed
- N. Title 40 United States Code, Subtitle I, Chapter 11, Sections 1101-1104, commonly called the "Brooks Act." – "Selection of Architects and Engineers"
- O. 48 CFR Part 31 – Federal Acquisition Regulations
- P. 23 CFR 636.116 - Organizational Conflict of Interest Requirements for Design-Build Projects
- Q. 23 CFR 645 - Utilities
- R. 49 CFR PART 26 - Participation by Disadvantaged Business Enterprises "DBE" in Department of Transportation Financial Assistance Programs

2.2 The LPA shall comply with all applicable Federal and State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

### 3. FUNDING

3.1 The total cost for the PROJECT is estimated to be \$25,183,333 as set forth in Attachment 1. ODOT shall provide to the LPA 90 percent of the eligible preliminary engineering-environmental costs, up to a **maximum of \$3,000,000 in Federal Safety** funds, and 100 percent of the eligible preliminary engineering-detailed design, up to a **maximum of \$1,500,000, in Federal Major-New and State** funds, and 73 percent of the eligible construction and railroad costs, up to a **maximum of \$13,279,467.23 in Federal MPO-STP** funds. These maximum amounts reflect the funding limits for the PROJECT set by the applicable Program Managers, and costs beyond the stated maximums will be the responsibility of the LPA. Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with the actual construction of the transportation project improvements and construction engineering/inspection activities.

3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all 100 percent Locally-funded work, cost overruns and contractor claims.

### 4. PROJECT DEVELOPMENT

4.1 The LPA and ODOT agree that the LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for monitoring such projects using the Federal funds involved.

4.2 Project Development shall follow ODOT's Project Development Process and all ODOT standards for environmental evaluations, design, plan preparation, right of way acquisition, utility relocation and other processes as set out in the Department's Design Reference Resource Center, available on ODOT's website ([www.dot.state.oh.us/drrc/Pages/default.aspx](http://www.dot.state.oh.us/drrc/Pages/default.aspx)). Responsibilities for development of the project shall be as follows and further described herein:

### LPA ODOT Let Project Responsibility Assignments

PDP Phase	Activity	Responsibility		Commentary
		LPA	ODOT	
Planning	All	X		ODOT to provide coordination as needed
Preliminary Engineering	All	X		ODOT to: 1) Provide coordination as needed 2) Review all plans and documents and provide comments
Environmental Engineering	Stage 1 Plans	X		ODOT to review all plans and documents and provide comments.
	Stage 2 Plans	X		ODOT to review all plans and documents and provide comments.
	Value Engineering	X		ODOT will coordinate Value Engineering if required. Refer to Section 4.8.
	Cost Estimates	X		LPA/Consultant shall prepare in Estimator format.
	NEPA	X		ODOT will coordinate NEPA approval. Refer to Section 4.7 for Environmental Responsibilities.
	Permits		X	ODOT will obtain permits needed to construct the project.
	R/W Plans	X		ODOT to review all plans and documents and provide comments.
	Public/Stakeholder Involvement	X		ODOT to review all PI plans and materials and provide comments.
Final Engineering & R/W	R/W Acquisition & Relocation		X	Refer to Section 6 for detailed requirements.
	Utility Relocation		X	Refer to Section 6 for additional details.
	Railroad Coordination and Agreements		X	Refer to Section 6.8 for additional details.
	Stage 3 Plans	X		ODOT to review all plans and documents and provide comments.
	Cost Estimates	X		LPA shall prepare in Estimator format.

	Final Plan Package	X		ODOT to review all plans and documents and provide comments.
	Mitigation		X	ODOT will coordinate any required mitigation efforts.
	Public/Stakeholder Involvement	X		ODOT to review all PI plans and materials and provide comments.
Construction	Advertise		X	LPA and consultants to assist in responding to bidder questions and preparation of any addenda.
	Award		X	ODOT Awards Committee
	Administer Construction Contract		X	ODOT will administer the construction contract. The LPA and LPA's consultants shall respond promptly to requests for information or other construction issues.
	Public/Stakeholder Involvement	X	X	ODOT to coordinate in cooperation with the LPA.
All Phases	Federal Authorizations		X	ODOT will coordinate and obtain all needed FHWA Authorizations and notify the LPA upon approval.
All Phases	Encumbrance of Funds		X	ODOT will encumber funds in accordance with this agreement.

- 4.3 The LPA shall designate an LPA employee to act as the LPA Project Manager and act as the point of contact for all communications with ODOT.
- 4.4 If Federal funds are used for a phase of project development and the LPA executes an agreement with a consultant prior to the receipt of the "Authorization" notification from ODOT, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 4.5 ODOT reserves the right to move this PROJECT into a future sale year if the LPA does not adhere to the established PROJECT schedule, regardless of any funding commitments.
- 4.6 Environmental Responsibilities
  - A. In the administration of this PROJECT, the LPA shall be responsible for conducting any required public involvement ~~events~~ activities, for preparing all required documents, reports and other supporting materials needed for addressing applicable environmental assessment, for clearance responsibilities for the PROJECT pursuant to the National Environmental Policy Act and related regulations, including the requirements of the National Historic Preservation Act.
  - B. If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire a consultant in accordance with Section 5.

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- C. ODOT shall be responsible for the review of all environmental documents and reports, and shall complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.
- D. The LPA shall be responsible for assuring compliance with all commitments made as part of the PROJECT's environmental clearance and/or permit requirements during the construction of the project.
- E. The LPA shall require its consultant to prepare a final environmental document pursuant to the requirements of the National Environmental Policy Act.
- F. The LPA shall require its consultant to execute a copy of a disclosure statement specifying that the consultant has no financial or other interest in the outcome of the PROJECT.
- G. The LPA shall provide a letter indicating the proposed Best Management Practices (BMPs) to be utilized for post construction storm water management in accordance with the Ohio EPA National Pollutant Discharge Elimination System (NPDES) Construction General Permit. If no BMPs are proposed, a letter stating concurrence is required from the Ohio EPA.

#### 4.7 Use of ODOT Consultant Agreements

- A. ODOT may provide services through ODOT held consultant agreements at its discretion subject to funding participation by the LPA. Agreements that may be available for use include the following:
  - 1. If the LPA chooses to utilize the CEAO task order contract for environmental services, the parties agree that the total cost shall be shared based on the following percentages: 80 percent federal/state funds and 20 percent local funds. The LPA agrees to pay its share of the estimated cost upon receipt of an invoice from ODOT prior to the issuance of any acquisition authorization. Once the Project is completed and the final costs determined, the LPA shall be refunded any excess amount paid if the total cost is below the estimated cost, or it shall be invoiced for its share of any increased cost above the estimated cost. The LPA agrees that it shall participate at the same funding percentage if the final costs exceed the estimated cost.
  - 2. If the LPA chooses to utilize the CEAO task order contract for right-of-way acquisition services, the parties agree that the total cost shall be shared based on the following percentages: 80 percent federal/state funds and 20 percent local funds. The LPA agrees to pay its share of the estimated cost upon receipt of an invoice from ODOT prior to the issuance of any acquisition authorization. Once the Project is completed and the final costs determined, the LPA shall be refunded any excess amount paid if the total cost is below the estimated cost, or it shall be invoiced for its share of any increased cost above the estimated cost. The LPA agrees that it shall participate at the same funding percentage if the final costs exceed the estimated cost.
  - 3. Value Engineering. If Value Engineering is required, the Department may elect to use an ODOT held agreement to assist in administering the Value Engineering process. If Value Engineering is required, the LPA shall require its consultants to participate as needed.
  - 4. Other ODOT held agreements as agreed by ODOT.

5. CONSULTANT SELECTION AND ADMINISTRATION

5.1 General Requirements

- A. The LPA must select a consultant/ consultant team that is prequalified by ODOT for all services to be performed by the consultant and subconsultants.
- B. The LPA must incorporate ODOT's "Specifications for Consulting Services – 2016 Edition" as a contract document in all of its consultant contracts.
- C. The LPA must require, as a scope of services clause, that project development follow ODOT's Project Development Process, and that all documents and plans prepared by the consultant must conform to ODOT's current standards, including the electronic deliverable requirements of ODOT's CADD Engineering Standards Manual, and Location and Design Manual Volume 3, Section 1500.
- D. The LPA consultant agreement must provide for ongoing consultant involvement during the construction phase of the Project.
- E. The LPA consultant agreement must include a completion schedule acceptable to ODOT.
- F. The LPA must assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.
- G. The LPA must cooperate with ODOT in directing additional or corrective work, and to recover damages due to errors or omissions.
- H. If Federal Funds are used to pay the cost of any contract for professional services, the LPA must comply with 23 CFR 172, Sections 153.65 through 153.71 of the Ohio Revised Code and Section 5.2 below in the selection of consultants, and administer consultant agreements in accordance with ODOT's Manual for Administration of Contracts for Professional Services. Professional services, as defined in Sections 5526.01 and 153.65(C) of the Ohio Revised Code, include the practice of engineering (including inspection of construction), the practice of surveying, the practice of architecture including landscape architecture, evaluation of environmental impacts, right-of-way acquisition services and administration of construction contract claims.

5.2 **Procedures for LPA Selection of Consultants for Agreements that Include Federal Funds**

**A. Policies in Selection of Consultants**

**1. Restrictions Concerning LPA Preferences**

The LPA **shall not** offer direction to consultants concerning preferences (or informal sanctions) for certain subconsultants or team arrangements. These arrangements are business decisions that must be made by consultants without direction from the LPA. The LPA must make selection decisions on the basis of proposed teams without advance "steering" of teams.

## **2. Communications Restrictions**

Please note the following policy concerning communication between Consultants and the LPA during the announcement and selection process:

During the time period between advertisement and the announcement of final consultant selections for the Programmatic Selection Process, communication with consultants (or their agents) shall be limited as follows:

- a. Communications which are strictly prohibited:
  - (1) Communication with the LPA: Any marketing or similar discussions of the specific project if the consultant has submitted or plans to submit a letter of interest, or is included as a subconsultant on a submittal by another firm.
- b. Allowable communications include:
  - (1) Project administration activities for authorized agreements, scope and negotiation activities for projects selected but not under contract.
  - (2) Technical or scope of services questions specific to projects posted with a programmatic group.
- c. When completed selections must be publicly announced.

## **3. Advertisement**

For selection procedures that require public notification, Requests for Letters of Interest "RFLol" must be advertised on the Consultant Services page of ODOT's website.

## **4. Disclosure of Selection Information**

All selection information including consultant letters of interest shall be available for public disclosure upon completion of the selection.

Information that is not subject to public disclosure at any time includes financial statements and other confidential financial information submitted by a consultant.

## **5. Supporting Documentation**

Documentation supporting the solicitation, proposal, evaluation, and selection of the consultant shall be retained.

## **6. Prohibited Selection Factors**

- a. Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.

- b. In-State or local **preference** shall not be used as a factor in the evaluation, ranking, and selection phase. State licensing laws are not preempted by this provision and professional licensure within a jurisdiction may be established as a requirement for the minimum qualifications and competence of a consultant to perform the solicited services.

Refer to Section 5.2.C.1.n. below for additional guidance concerning the use of local **presence** as a nominal evaluation factor where appropriate.

## B. Consultant Selection Processes

The LPA may use any one of five consultant selection processes permitted by 23 CFR 172 and ORC 153.65 – 153.71, the use of which depends on the complexity of the project, estimated total fee, the number of available qualified consultants and whether an emergency exists. The Programmatic and Technical Proposal selection processes are competitive qualifications based selection processes governed by 23 CFR 172.7(a)(1) and ORC 153.65 – 153.71. These selection processes require solicitation, evaluation, ranking, selection, and negotiation in accordance with the qualifications-based selection procurement procedures for architectural and engineering services codified under 40 U.S.C. 1101-1104, commonly referred to as the Brooks Act or Selection of Architects and Engineers.

The Small Purchase selection process is a non-competitive selection process governed by 23 CFR 172.7(a)(2) and ORC 153.71(A). Agreements with total fees less than \$50,000 are eligible for this selection process.

The Emergency and Special Expertise selection processes are non-competitive selection processes governed by 23 CFR 172.7(a)(3) and ORC 153.71.

### 1. Programmatic Selection Process

The Programmatic Selection Process is a one step selection process intended to shorten the selection/authorization process for non-complex projects while reducing paperwork and administrative costs for both consultants and the State. In this process consultants are selected based on standard letter of interest content, and a standard Selection Rating Form.. The “Programmatic” selection process should be used for most projects that do not meet the criteria for the more elaborate Technical Proposal Selection Process.

### 2. Technical Proposal Selection Process

The technical proposal selection process is a two-step process intended for use on larger, more complex projects for which a more informed selection decision can be made based on additional information received through the submittal of a (more elaborate) Technical Proposal, and/or presentations/interviews. The Technical Proposal Selection Process is appropriate to use under the following circumstances:

- a. Complex projects involving multiple PDP steps and multiple disciplines including planning, environmental and design services.
- b. Projects that include complex project management challenges in which the role of the consultant project manager will be crucial to project success, and may require extensive public involvement activities.

- c. Specialized services for which the LPA has limited experience and performance records for past projects.
- d. Generally any project for which a single submittal does not provide sufficient information to make a well informed selection decision.

The technical proposal selection process includes the initial submittal of a letter of interest similar to the Programmatic Selection Process, and then “shortlisting” to at least three of the most highly qualified firms. The standard letter of interest content may be revised to include increased page limits and project specific content. The shortlisted firms are then required to submit additional written information (technical proposal) and/or participate in additional discussions or presentation/interview. The content of the technical proposal and the format of interviews can be tailored to fit the requirements of specific projects.

Discussions, if required by the RFLol, may be written, by telephone, video conference, or by oral presentation/interview and shall be with at least three of the most highly qualified consultants to clarify the technical approach, qualifications, and capabilities provided in response to the RFLol.

The process for shortlisting at least three consultants is identical to that of the Programmatic Selection Process. The final selection of a single consultant also follows the same process but considers the written technical proposal and/or presentation/interview along with the initial letter of interest.

### **3. Emergency Selection Process**

The LPA may directly select a consultants for a project determined by the Director of Transportation to be an emergency which will not permit the time necessary to conduct a competitive selection process. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT’s Consultant Contract Administration.

### **4. Small Purchase Selection Process**

The LPA may directly select consultants without solicitation for projects with an estimated total fee of less than \$50,000. The scope of work, project phases, and contract requirements shall not be broken down into smaller components merely to permit the use of fee exempt procedures. The following requirements apply:

- a. The qualifications of a minimum of three consultants must be reviewed prior to selection. The consultants considered for selection and the reasons for selecting the most qualified consultant shall be documented.

In instances where two or fewer consultants are considered qualified, the LPA may proceed with evaluation and selection if it is determined that the project requirements did not contain conditions or requirements that arbitrarily limited competition. The reasons for proceeding with the selection shall be documented.

- b. The full amount of any contract modification that would cause the total contract amount to exceed \$50,000 is ineligible for Federal-aid funding. The FHWA may withdraw all Federal-aid from a contract if Federal funds are used in modifying an agreement above the \$50,000 simplified acquisition threshold.

- c. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

**5. Special Expertise Selection Process**

The LPA may directly select consultants for projects for which the service is available only from a single source. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

**C. Selection Procedures – Programmatic Selection Process**

**1. Letter of Interest Content**

Requests for Letters of Interest (RFLol) shall include the following:

- a. Project name from Ellis (County-Route-Section);
- b. A description of the project including the location.
- c. A description of the selection process to be used, including the number of steps (direct selection based on the information provided, or a two-step process with a short list and technical proposal and/or interviews, etc.), and the selection rating criteria to be used. The standard selection rating form included herein should be used for most projects.
- d. Any restrictions on communicating with government officials during the selection process.
- e. Any restrictions concerning suspended or debarred firms.
- f. Date that the letter of interest is due. The minimum response time shall be two weeks from the initial posting date.
- g. The approximate construction cost if available.
- h. Any special provisions or contract requirements associated with the services.
- i. The following notification:

*The [LPA] in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all bidders including disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability, low-income status, or limited English proficiency in consideration for an award.*

- j. The DBE Goal requirements and related selection procedures.
- k. Major work elements involved.
- l. A detailed scope of services for the agreement.

- m. The ODOT prequalification(s) required to provide the services;
- n. Subfactors - Any important aspects of a project, if any, that will play a large role in the consultant selection process.

In-State or local preference shall not be used as a selection factor or subfactor, however a local presence may be used as a nominal evaluation factor where appropriate. This criteria shall not be based on political or jurisdictional boundaries and may be applied on a project-by-project basis for contracts where a need has been established for a consultant to provide a local presence, a local presence will add value to the quality and efficiency of the project, and application of this criteria leaves an appropriate number of qualified consultants, given the nature and size of the project. If a consultant from outside of the locality area indicates as part of a proposal that it will satisfy the criteria in some manner, such as establishing a local project office, that commitment shall be considered to have satisfied the local presence criteria.

- o. The contract type and payment method(s) anticipated to contract for the solicited services. Refer to Chapter 4 of ODOT's Consultant Contract Administration for detailed explanations of contract types and payment methods.
- p. Estimated date of authorization.
- q. Time period in which the work must be completed.
- r. Instructions for submitting a letter of interest including content and required format. The information requested should be consistent with the rating criteria.
- s. Required content of the letter of interest (RFLol) including;
  - (1) The firm's general qualifications.
  - (2) Proposed key staff including key subconsultant staff and project approach.
  - (3) A listing of subconsultants including project responsibility.
  - (4) Whether resumes of key staff members must be submitted.
  - (5) Other information needed to make an informed selection decision.

## **2. Evaluation Process**

- a. Initially evaluate all firms for compliance with the following requirements, advise Districts of the firms that must be eliminated from further consideration and the reason for elimination:
  - (1) Compliance with general Lol requirements, current negligence issues, and ongoing performance issues identified through CES, overall low CES rating, insufficient staff, excessive workload, or any other significant issues relative to a firm's performance.
  - (2) Inclusion on the list of firms suspended or debarred by the Federal Government.
  - (3) For projects noted as having DBE Goals, ODOT will determine whether the consultant made a good faith effort to meet the goal in accordance with 49

CFR 26.53 and Appendix A to Part 26. The letter of interest must show that the consultant has made good faith efforts to meet the goal. Good faith efforts may include: (1) Documentation that the consultant has obtained enough DBE or EDGE (Encouraging Diversity, Growth and Equity) participation to meet the goal; or (2) Documentation that it made adequate good faith efforts, as defined in 49 CFR 26.53, to meet the goal, even though it did not succeed in obtaining enough DBE/EDGE participation to do so. Consultants that do not show good faith efforts to meet the Goal will not be eligible for selection.

- b. Compliance with prequalification requirements.
- c. Reduce the number of firms to 3-6 for each project through a process of elimination, based on the selection rating factors included in the Consultant Selection Rating Form. Firms may be eliminated due to fatal flaws, overall weakness of team relative to other firms, weak project approach, etc. Provide written documentation concerning the reasons for eliminating a firm from consideration.

In instances where two or fewer consultants respond to the RFLol, or two or fewer consultants are considered qualified to be shortlisted, the LPA may proceed with evaluation and selection if it is determined that the solicitation did not contain conditions or requirements that arbitrarily limited competition. The reasons for proceeding with the selection shall be documented.

- d. For each project, rate each shortlisted firm using the selection rating form. Supplement the numerical ratings with written comments that explain the differential scoring. The highest rated firm shall be selected.

### 3. Selection Rating Procedures

- a. ODOT's standard consultant selection rating form is shown below. The LPA may use a modified selection rating form that meets the requirements of 23 CFR 172 and ORC 153.65 – 153.71.
- b. Selection evaluations should be based on collaborative discussions of the selection committee members concerning the overall strengths and weaknesses of the teams, including the relative importance of the various selection rating factors relative to the specific requirements of the project. Numerical weights are a guide as to what is important but the selection should not be a mathematical exercise consisting of the addition of scores determined by individual team members. The selection team members should work to reach consensus in determining a single selection rating including written comments that document the reasons for the numerical scores.
- c. For each selection rating factor, each short listed firm shall be ranked, with the highest ranked firm receiving the maximum number of points, and lower ranked firms receiving commensurately lower scores. If firms are considered to be equally qualified, the firms may receive the same score for that selection rating factor. The rankings and scores should be based on each firm's specific proposal and project approach, including the named project manager, staff and subconsultants. Experience on similar projects, past performance for the LPA and other agencies should be considered. The selection committee may contact other ODOT Districts

and outside agencies if necessary. Any subfactors identified in the RFLol should be weighed heavily in the differential scoring.

Differential scoring should consider the relative importance of a selection factor in the success of a given project. The project manager’s role in a simple project may be less important than for a complex project, and differential scoring should reflect this, with higher differential scores assigned to projects that require a larger role for the project manager. Similar consideration should be given to all selection factors

**4. ODOT’s Consultant Selection Rating Form and Selection Rating Notes**

Category	Total Value	Scoring Criteria	Score
<b>Management &amp; Team</b>			
Project Manager	10	See Note a. below	
Strength/Experience of Assigned Staff including Subconsultants	25	See Note b. below	
Firm's Current Workload/ Availability of Personnel	10	See Note c. below	
<b>Consultant's Past Performance</b>	30	See Note d. below	
<b>Project Approach</b>	25	See Note e. below	
<b>Total</b>	100		

The following discussion addresses each selection rating factor including scoring methodology, appropriate sources of information and factors that may not be considered.

a. Project Manager

The proposed project manager for each consultant shall be ranked, with the highest ranked project manager receiving the greatest number of points, and lower ranked project managers receiving commensurately lower scores. The rankings and scores should be based on each project manager's experience on similar projects and past performance for the LPA. The selection committee may contact ODOT and outside agencies if necessary. Any subfactors identified should be weighed heavily in the differential scoring.

Differential scoring should consider the relative importance of the project manager's role in the success of a given project. The project manager's role in a simple project may be less important than for a complex project, and differential scoring should reflect this, with higher differentials assigned to projects that require a larger role for the project manager.

b. Strength/Experience of Assigned Staff including Subconsultants

The experience and strength of the assigned staff, including subconsultant staff, should be ranked and scored as noted for Number 1 above, with higher differential scores assigned on more difficult projects. Any subfactors identified in the project notification should be weighed heavily in the differential scoring.

As above, ODOT and other agencies may be contacted.

c. Firm's Current Workload/ Availability of Personnel (Considered at statewide meeting)

In instances when consultant's current workload may impact their ability to complete the work as proposed, the firm's current workload and availability of qualified personnel shall be considered.

d. Consultant's Past Performance

The consultants' past performance on similar projects, including subconsultant performance, shall be ranked and scored on a relative, differential scoring type basis, with the highest ranked consultant receiving a commensurately greater number of points. The selection team should consider ODOT CES performance ratings if available, and consult other ODOT Districts, ODOT Central Offices, and other agencies as appropriate. The use of CES ratings shall place emphasis on the specific type of services requested.

The differential scoring should consider the complexity of the project and any subfactors identified in the project notification.

e. Project Approach

Evaluation of the firm's project approach shall consider:

- (1) The firm's technical approach and understanding of the project.
- (2) The firm's qualifications for the project including knowledge and experience concerning relevant ODOT standards, procedures and guidance documents.
- (3) Any innovative ideas.

When considering this factor in rating firms, the type of project and the relevance of this factor to the project must be considered. For task order and construction inspection projects, and small uncomplicated design projects, the possibility for innovation may be very limited. Larger more complex projects will generally offer more opportunities for innovation. Consultants that identify truly innovative ideas should receive credit in the selection rating, but this factor can be disregarded when projects offer little opportunity for innovation.

- (4) The firm's project specific plan for ensuring increased quality, reduced project delivery time and reduced project costs.

These factors will be relatively more important and relevant to a complex PDP project, and much less important for a construction inspection or task order contract. Please remember that Federal rules prohibit consideration of overhead rates, wage rates or any other cost data submitted voluntarily by the consultant.

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D. Negotiation of Consultant Agreements

Agreements shall be negotiated in accordance with ODOT's Manual for Administration of Contracts for Professional Services, Volume 1 Consultant Contract Administration, Section 3.9.

E. Agreements

ODOT will prepare the LPA/Consultant Agreement between the Consultant and LPA. The agreement will be transmitted to the LPA by the ODOT District Office. A copy of the executed LPA/Consultant Agreement shall be returned to the District Office.

F. Documentation of Consultant Selections

The LPA shall maintain a consultant selection file that includes the following information, and provide copies of all documents to the District for their files.

1. A copy of the Request for Proposal and the date posted on ODOT's website;
2. A listing of firms that submitted Letters of Interest;
3. Letters of Interest from all firms that submitted;
4. Selection rating forms and any supporting notes and documentation, including membership of the selection committee;
5. A listing of firms selected to submit technical proposals (if applicable), copies of the technical proposals, and related correspondence;
6. Selected consultant's Price Proposal;
7. Negotiation records; and
8. A copy of the Agreement, Scope of Services, authorization letter, Invoice and Project Schedule, and any other documents relevant to the agreement.

6. RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION

- 6.1 All right-of-way acquisition activities shall be performed by ODOT in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (hereinafter referred to as Uniform Act), any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. Refer to Sections 4.2 and 4.4 concerning Federal authorization.
- 6.2 If existing and newly-acquired right of way is required for this PROJECT, ODOT shall certify that the all right of way has been acquired in conformity with Federal and State laws, regulations, policies, and guidelines. Per ODOT's Office of Real Estate, any LPA staff who perform real estate functions shall be prequalified. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process.
- 6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.
- 6.4 All relocation assistance activities shall be performed by ODOT in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. ODOT shall not hire a consultant to perform both the relocation and relocation review functions nor shall ODOT hire a sub-consultant

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for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff person or independent fee reviewer and shall be hired directly by ODOT.

- 6.5 ODOT shall provide its certification that all right of way property rights necessary for the PROJECT are under the ODOT's control, that all right of way has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with PROJECT construction activities.
- 6.6 ODOT will coordinate with utilities, complete RE-75 forms, establish encumbrances towards each utility if needed, prepare an invoice to the LPA for the local share, and pay the State share as needed. In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a utility relocation agreement with each utility prior to the letting of construction. No reimbursable costs shall be incurred prior to the receipt of Federal Authorization for Right of Way from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval.
- 6.8 ODOT shall be responsible for any necessary railroad coordination and agreements in accordance –with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.
- 6.9 Consistent with sections 10.1 and 10.4 of this agreement, the LPA shall assure that, if any property acquired for this project is subsequently sold for less than fair market value, all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 10.1 and 10.4 of this agreement, the LPA shall assure that if the LPA grants a permit or license for the property acquired for this project that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.

## 7. ADVERTISING, SALE AND AWARD

- 7.1 ODOT will prepare the State's estimate and manage the advertising, sale and award process. The LPA and its consultant shall assist in responding to bidder questions, preparation of any addenda and other coordination as needed. ODOT's Awards Committee shall determine award of the contract.

## 8. CONSTRUCTION CONTRACT ADMINISTRATION

- 8.1 ODOT will administer the construction contract in accordance with ODOT's Construction Administration Manual of Procedures. The LPA and LPA's consultants shall respond promptly to requests for information or other construction issues. The LPA shall review and approve all change orders. The LPA and LPA's consultant shall assist in defending ODOT against any contractor claims.

## 9. CERTIFICATION AND RECAPTURE OF FUNDS

- 9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to

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the certification of funds by the Office of Budget and Management, as required by ORC section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.

9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it has received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the project, any funds recovered from the performance and payment bond as required under section 7.7 shall be used to offset the Federal dollars reimbursed to FHWA.

10. NONDISCRIMINATION

10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, age, disability as that term is defined in the American with Disabilities Act, military status (past, present, or future), or genetic information. The LPA shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, ancestry, age, disability, military status, or genetic information. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10.2 The LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex, national origin, ancestry, age, disability, military status, or genetic information. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such PROJECT work.

10.3 The LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. For a PROJECT upon which a DBE goal is assigned, the LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

Disadvantaged Business Enterprise (DBE) Requirement. DBE participation goals (subcontracts, materials, supplies) have been set on this project for those certified as DBEs pursuant to Title 23, U.S.C. section 140(c) and 49 CFR, Part 26, and where applicable qualified to bid with ODOT under Chapter 5525 of the ORC.

Pursuant to 49 CFR 26.13(b), the LPA agrees not to discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The LPA agrees to carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. The LPA understands that failure to carry out these requirements is a material breach

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of this Agreement, which may result in the termination of this Agreement or such other remedy as ODOT deems appropriate.

10.4 During the performance of this contract, the LPA, for itself, its assignees and successors in interest agrees as follows:

(1) **Compliance with Regulations:** The LPA will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter "U.S. DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

In addition, the LPA will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").

(2) **Nondiscrimination:** The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, or disability, in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

(3) **Solicitations for Professional Services:** In all solicitations for professional services made by the LPA for work to be performed under a contract or subcontract, each potential consultant will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

(4) **Information and Reports:** The LPA will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the LPA's noncompliance with the nondiscrimination provisions of this contract, the STATE will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to the LPA under the contract until the LPA complies, and/or
- (b) cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The LPA will include the provisions of paragraphs (1) through (5) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing such provisions including sanctions for

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noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

## 11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

11.1 The LPA shall ensure that any designs, specifications, processes, devices or other intellectual properties specifically devised for the PROJECT by its consultants or contractors performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT and FHWA with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultants and contractors shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices or other intellectual properties, and in providing them to the PROJECT, shall relinquish any such protections should they exist.

11.2 The LPA shall not allow its consultants or contractors to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device or other intellectual property unless the consultant or contractor has provided for such use by suitable legal agreement with the owner of such copyright, patent or similar protection. A consultant or contractor making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.

11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

## 12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA's control. If a default has occurred, ODOT may terminate this agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.

12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether

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payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.

- 12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its rights, title, and interest to any contracts it has with any consultants or contractors. Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.
- 12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

- 13.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the ORC.
- 13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA's obligations made or agreed to herein.

14. NOTICE

- 14.1 Notice under this Agreement shall be directed as follows:

If to the LPA:

Matthew B. Weber, P.E.  
City of Delaware  
440 East William Street  
Delaware, Ohio 43015

If to ODOT:

Leslie Montgomery, P.E.  
ODOT, District Six  
400 East William Street  
Delaware, Ohio 43015

15. GENERAL PROVISIONS

15.1 Financial Reporting and Audit Requirements: The LPA shall comply with the financial reporting and audit requirements of 2 CFR Part 200.

The LPA must submit performance reports at the interval required by the Federal awarding agency and pass-through entity. Annual reports must be due 90 calendar days after the reporting period; quarterly and semi-annual reports must be due 30 calendar days after the reporting period. Alternatively, ODOT may require annual reports before the anniversary dates of multiple year Federal awards.<sup>1</sup>

LPAs that expend \$750,000 or more in the LPA's fiscal year in Federal awards must have a Single Audit, or program-specific audit, conducted for that year in accordance with 2 CFR §200.501.

Federal and State funds expended to or on behalf of a subrecipient must be recorded by the subrecipient (LPA). The LPA is responsible for tracking these payments throughout the life of the project in order to ensure an accurate Schedule of Expenditures of Federal Award (hereinafter referred to as *Schedule*) is provided for 20.205 funding. The LPA must identify each ODOT PID and/or Project and the corresponding expenditures on its Schedule separately. LPAs are responsible for ensuring funds related to this PROJECT are reported when the activity related to the Federal award occurs.<sup>2</sup> The LPA is required to report its own expenditures, in addition to any expenditures made by ODOT for the project in the applicable Schedule when the expenditure was made. When a Schedule is not accurately reported for the project, the LPA will be required to make corrections to past, current, and possibly future Schedules and Audit Reports to ensure Federal funds are accurately reported in the correct fiscal year matching the project expenditure. The LPA is required to report all Federal funds received, or expended on its behalf, regardless to differences in the LPA expenditure date and ODOT reimbursement date.

15.2 *Record Retention*: The LPA, when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its records and financial statements as necessary relating to the LPA's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three years after FHWA approves the LPA's final Federal voucher for reimbursement of PROJECT expenses. In the event that an audit-related dispute should arise during this retention period, any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

As the LPA, ODOT or the United States government may legitimately request from time to time, the contractor agrees to make available for inspection and/or reproduction by the LPA, ODOT or United States government, all records, books, and documents of every kind and description that relate to this contract.

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<sup>1</sup> See 2 CFR §200.328.

<sup>2</sup> Per 2 CFR §200.502

Revised 10/20/17

Nothing contained in this Agreement shall in any way modify the LPA's legal duties and obligations to maintain and/or retain its records under Ohio public records laws.

- 15.3 *Ohio Ethics Laws:* LPA agrees they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the ORC.
- 15.4 *State Property Drug-Free Workplace Compliance:* In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.
- 15.5 *Governing Law:* This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 15.6 *Assignment:* Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
- 15.7 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 15.8 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 15.9 ***Signatures:*** Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.
- 15.10 *Facsimile Signatures:* Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature on any other party delivered in such a manner as if such signature were an original.

(the remainder of this page is intentionally left blank)

Revised 10/20/17

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

LPA: \_\_\_\_\_

**STATE OF OHIO  
OHIO DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Jerry Wray  
Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachment 1**

**PROJECT BUDGET – SOURCES AND USES OF FUNDS**

SOURCES USES	LPA FUNDS			FHWA FUNDS			STATE FUNDS			TOTAL
	Amount	%	SAC	Amount	%	SAC	Amount	%	SAC	
PE-ENV-DD	\$333,333	10	LNTF	\$3,000,000	90	4HJ7				\$3,333,333
RIGHT-OF-WAY	\$500,000	100	LNTF	\$1,200,000	80	4BK7	\$300,000	20	4BD7	\$2,000,000
CONSTRUCTION	\$4,725,000	27	4BG7	\$12,775,000	73	4TA7				\$17,500,000
INSPECTION	\$750,000	100	4BG7							\$750,000
RAILROAD	\$186,583	27	4BG7	\$504,467	73	4TA7				\$1,600,000
	\$908,949	100	4BG7							
TOTALS	\$7,403,866			\$17,479,467			\$300,000			\$25,183,333

\_\_\_\_\_  
COUNTY-ROUTE-SECTION

**Attachment 2**

\_\_\_\_\_  
PID NUMBER

\_\_\_\_\_  
AGREEMENT NUMBER

\_\_\_\_\_  
DUNS NUMBER

**DIRECT PAYMENT OF CONSULTANT**

At the direction of the LPA and upon approval of ODOT, payments for work performed under the terms of the Agreement by the LPA's consultant shall be paid directly to the consultant in the pro-rata share of Federal/State participation. The invoice package shall be prepared by the LPA as previously defined in this agreement, and shall indicate that the payment is to be made to the consultant. In addition, the invoice must state the consultant's name, mailing address and OAKS Vendor ID. Separate invoices shall be submitted for payments that are to be made to the consultant and those that are to be made to the LPA.

When ODOT uses Federal funds to make payment to the consultant, all such payments are considered to be expenditures of Federal funds received and also expended by the LPA (subrecipient). Accordingly, the LPA is responsible for tracking the receipts and payments and reporting the payments Federal (Receipts) Expenditures on the Schedule of Expenditures of Federal Awards (SEFA). An LPA that fails to report these funds accurately and timely may be required to restate the SEFA to comply with Federal reporting requirements.

We \_\_\_\_\_ (*INSERT NAME OF LPA*) \_\_\_\_\_ request that all payments for the Federal/State share of the consultant costs of this agreement performed by \_\_\_\_\_ (*CONSULTANT'S NAME*) \_\_\_\_\_ be paid directly to \_\_\_\_\_ (*CONSULTANT'S NAME*) \_\_\_\_\_.

\_\_\_\_\_

Consultant Name:  
Oaks Vendor ID:  
Mailing Address:

LPA signature

LPA Name:  
Oaks Vendor ID:  
Mailing Address:

\_\_\_\_\_  
Approved, ODOT signature



## FACT SHEET

---

AGENDA ITEM NO: 14

DATE: 11/13/2017

ORDINANCE NO: 17-72

RESOLUTION NO:

READING: FIRST

PUBLIC HEARING: YES  
NOVEMBER 27, 2017 at 7:20 P.M.

---

TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: David Efland, Planning and Community Development Director

---

**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

AN ORDINANCE FOR THE JUDITH D. HOOK REVOCABLE TRUST FOR APPROVAL OF A REZONING AMENDMENT FOR APPROXIMATELY 44.258 ACRES ON PARCEL #519-312-01-009-000 FROM R-4 (MEDIUM DENSITY RESIDENTIAL DISTRICT) AND R-6 (MULTI-FAMILY RESIDENTIAL DISTRICT) TO R-3 (ONE-FAMILY RESIDENTIAL DISTRICT) AND LOCATED ON THE WEST SIDE OF TROY ROAD.

**BACKGROUND:**

See attached staff report.

**REASON WHY LEGISLATION IS NEEDED:**

Per Chapter 1130 Amendments of the Codified Ordinances.

**COMMITTEE RECOMMENDATION:**

Planning Commission approved this case 7-0 on November 1, 2017.

**FISCAL IMPACT(S):**

N/A

**POLICY CHANGES:**

N/A

**PRESENTER(S):**

David Efland, Planning and Community Development Director

**RECOMMENDATION:**

Staff recommends approval

**ATTACHMENT(S)**

See attached

ORDINANCE NO. 17-72

AN ORDINANCE FOR THE JUDITH D. HOOK REVOCABLE TRUST FOR APPROVAL OF A REZONING AMENDMENT FOR APPROXIMATELY 44.258 ACRES ON PARCEL #519-312-01-009-000 FROM R-4 (MEDIUM DENSITY RESIDENTIAL DISTRICT) AND R-6 (MULTI-FAMILY RESIDENTIAL DISTRICT) TO R-3 (ONE-FAMILY RESIDENTIAL DISTRICT) AND LOCATED ON THE WEST SIDE OF TROY ROAD.

WHEREAS, the Planning Commission at its meeting on November 1, 2017 recommended approval of a Rezoning Amendment for the Judith D. Hook Trust for approximately 44.258 acres on parcel #519-312-01-009-000 from R-4 (Medium Density Residential District) and R-6 (Multi-Family Residential District) to R-3 (One-Family Residential District) and located on the west side of Troy Road (2017-2592).

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That the Rezoning Amendment for the Judith D. Hook Trust for approximately 44.258 acres on parcel #519-312-01-009-000 from R-4 (Medium Density Residential District) and R-6 (Multi-Family Residential District) to R-3 (One-Family Residential District) and located on the west side of Troy Road, is hereby confirmed, approved, and accepted.

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

VOTE ON RULE SUSPENSION:

YEAS\_\_\_NAYS\_\_\_  
ABSTAIN \_\_\_

PASSED: \_\_\_\_\_, 2017

YEAS\_\_\_NAYS\_\_\_  
ABSTAIN \_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR



## PLANNING COMMISSION / STAFF REPORT

CASE NUMBERS: 2017-2592  
REQUEST: Rezoning Amendment  
PROJECT: Hook Revocable Trust  
MEETING DATE: November 1, 2017

---

### APPLICANT/OWNER

Judith D. Hook Revocable Trust  
4166 Dingman Drive  
Sanibel Island, Florida 33957

### REQUEST

2017-2592: A request by Judith D. Hook Revocable Trust for approval of a Rezoning Amendment for approximately 44.258 acres of Parcel #519-312-01-009-000 from R-4 (Medium Density Residential District) and R-6 (Multi-Family Residential District) to R-3 (One-Family Residential District) and located on the west side of Troy Road.

### PROPERTY LOCATION & DESCRIPTION

The subject site is located on the west side of Troy Road across from Smith Park and located just east of the eastern terminus of Merrick Boulevard and just north of the Westfield Hills Subdivision. The property to north is zoned R-3, the properties to the east are zoned R-3 and B-3 (Community Business District), the properties to the south are zoned R-3 and the property to the west is FR-1 (Farm Residential) in the Township.

### BACKGROUND/PROPOSAL

The subject property was annexed into the City on May 14, 1973 per Ordinance 73-11 as part of the Delvest Annexation which included 156.408 acres of the Troy Farms Partnership. The remainder of the annexed land has been developed and appears to encompass present day Lexington Glen, Lexington Glen West, Nottingham and Westfield Hills subdivisions. The subject property was subsequently zoned R-4 and R-6, as it stands today. This was to be incorporated with the B-3 area located along Troy Road. This area was subject to much action, discussion, and, as Staff understands it, even referendum many years ago which established the district.

Now the current owner, who purchased the property in 2016, is proposing to down zone the subject property to R-3 from R-4 and R-6 to be consistent with the adjacent residential properties to market the site for a single family subdivision. The adjacent portion of the Westfield Hills single family subdivision is zoned R-3, for example, as is the nearby Lantern Chase subdivision. The property to the immediate southeast, which is currently used for farming, is also zoned R-3.

---

### STAFF ANALYSIS

- **LAND USE / COMPREHENSIVE PLAN:** The majority of the subject site is designated as a low density single family district on the future land use map of the Comprehensive Plan, while the extreme southern portion of the site is designated medium density in the Delaware Run Subarea. For reference, the current zoning allowed densities of 6.05 units per acre in an R-4 district and 7.26 units per acre in an R-6 district compared to the 4.96 units per acre in an R-3 district. The adjacent sections of Westfield Hills have a constructed density of a little over 3 dwelling units per acre which is what would be expected for the subject parcel. Therefore, the proposed rezoning would achieve compliance with the Comprehensive Plan and the existing residential developments to the south and southwest while being significantly more compatible than the existing current R-4 and R-6 zoning districts.
- **ZONING:** As mentioned above, the rezoning to an R-3 straight letter zoning district would allow the property to develop per the City subdivision regulations or the owner could request a rezoning to a PMU (Planned Mixed Use Overlay District) for more design flexibility of a future development.
- **ENGINEERING** Because this is a straight letter zoning request, no development plan is required and hence there are no engineering plans required. Whether the land is developed per the City subdivision requirements or a future request to rezone to a PMU overlay district, any future plans would have to achieve compliance with the minimum engineering requirements and all adopted City codes, plans, and policies pertaining to this site.
- **ROADS AND TRAFFIC:** When the site is developed, additional right-of-way per the City Thoroughfare Plan shall be dedicated along Troy Road. Also, the Thoroughfare Plan requires the extension of Merrick Parkway from the current eastern terminus to Troy Road through the subject site. The exact alignment and design specifications of future Merrick Parkway would be determine by the City Engineering Division during the

development review process of the subject site. As of now and given the straight letter zoning request in this case, the property owner would be responsible for this improvement upon development.

- **SITE LAYOUT:** No site layout is provided or required in the straight letter zoning request
- **BIKE PATHS AND PEDESTRIAN ROUTES:** Bike paths would be required within the future development per the adopted Bicycle and Pedestrian Master Plan 2027. In addition, sidewalk would be required on both sides of all public streets.
- **LANDSCAPING:** Any future plans would have to achieve compliance with Chapter 1166 Landscaping and Screening Requirements.
- **TREE PRESERVATION:** Any future plans would have to achieve compliance with Chapter 1168 Tree Preservation Regulations.
- **LIGHTING PLAN:** Any future plans would have to achieve compliance with Chapter 1158 Lighting Plans
- **MISC:** Any future plans would have to achieve compliance with all other development requirements.

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**STAFF RECOMMENDATION (2017-2592 – REZONING AMENDMENT)**

Staff recommends approval of a request by Judith D. Hook Revocable Trust of a Rezoning Amendment for approximately 44.258 acres of Parcel #519-312-01-009-000 from R-4 (Medium Density Residential District) and R-6 (Multi-Family Residential District) to R-3 (One-Family Residential District) and located on the west side of Troy Road

**COMMISSION NOTES:**

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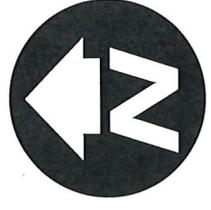
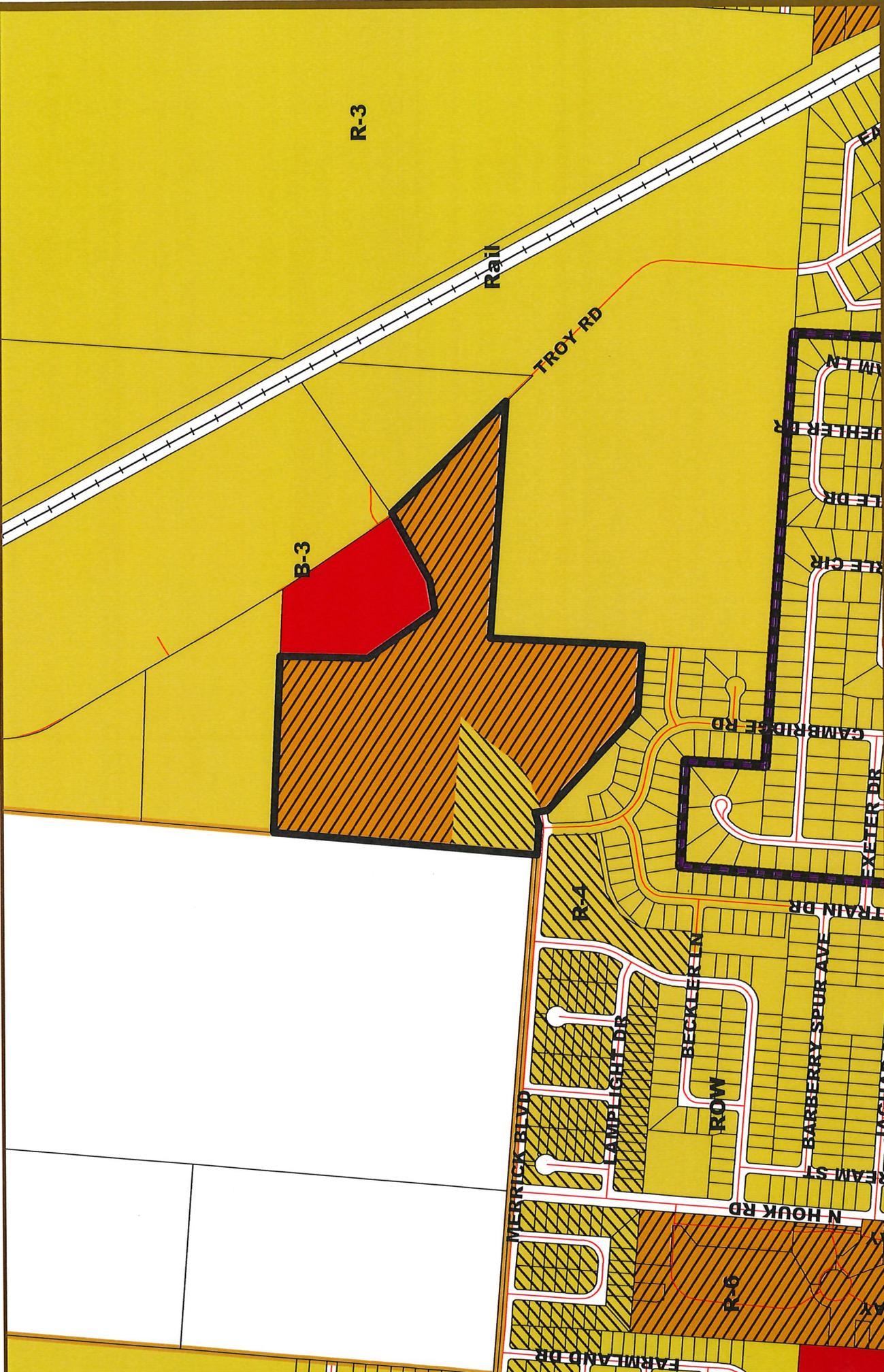
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*CONDITIONS/MISCELLANEOUS:*

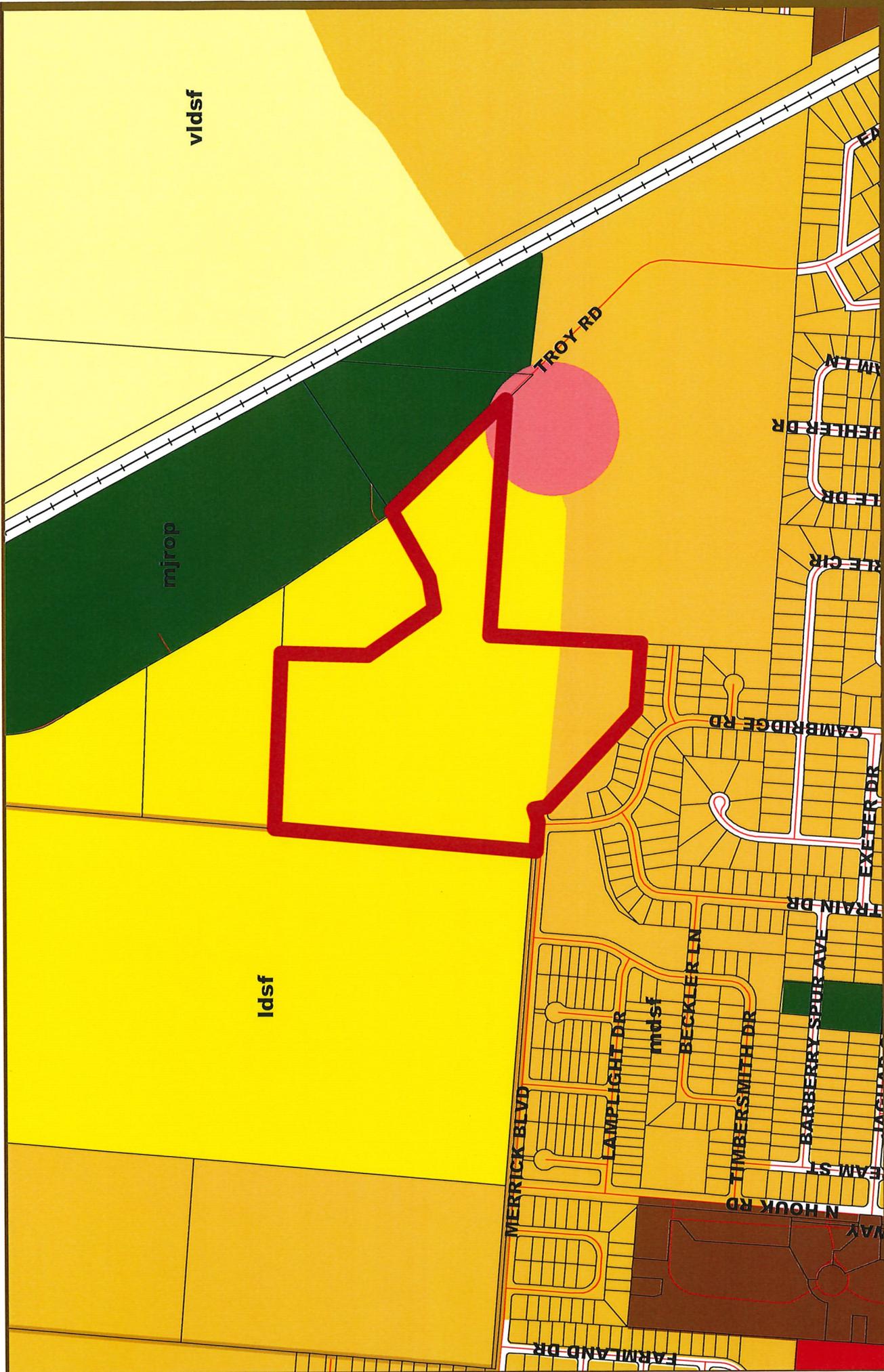
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**ORIGINAL:**  
**REVISED:**      10/26/17

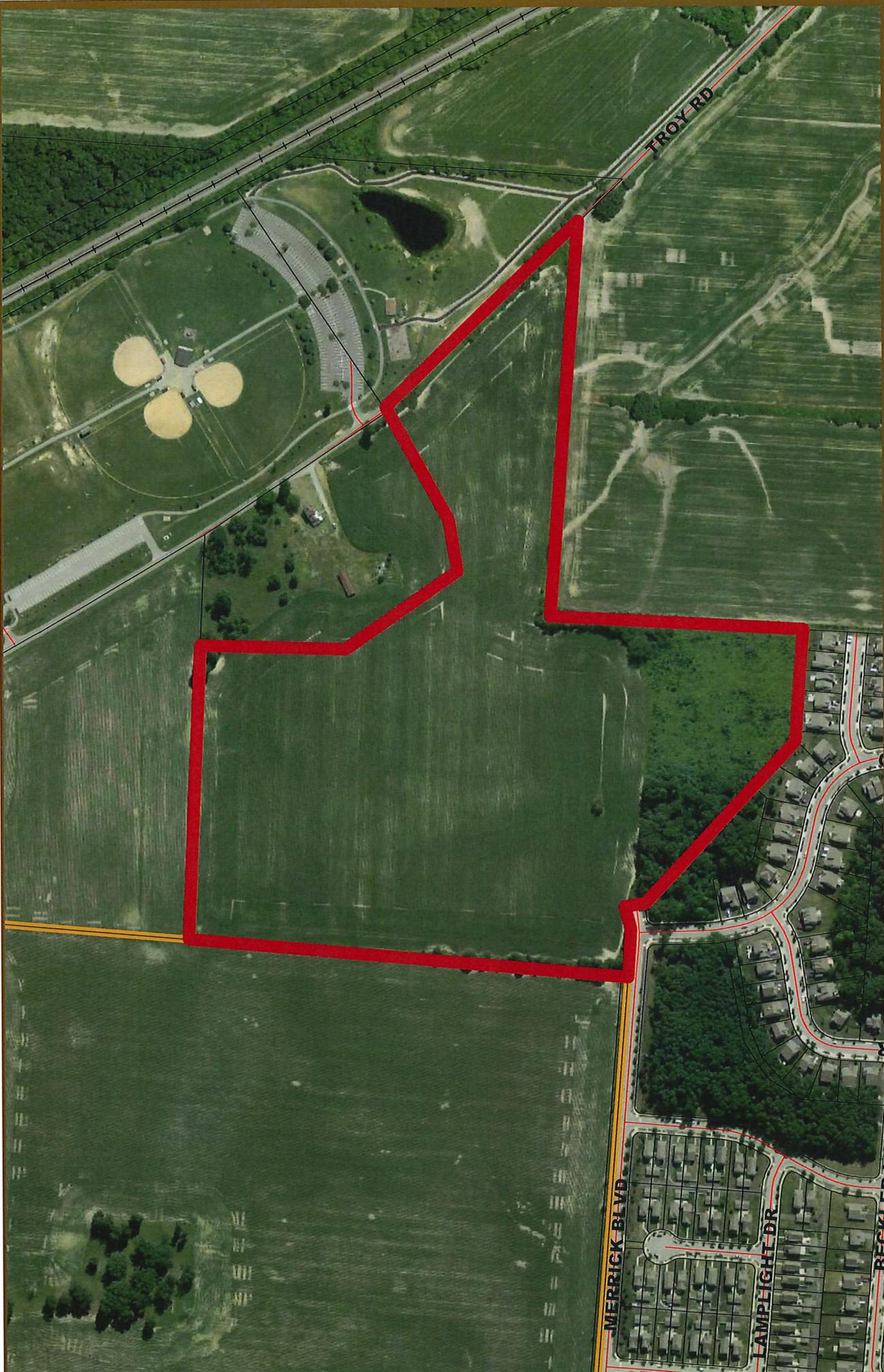




2017-2592  
 Rezoning Amendment  
 Hook Revocable Trust - Troy Rd  
 Zoning Map



2017-2592  
 Rezoning Amendment  
 Hook Revocable Trust - Troy Rd  
 Comprehensive Land Use Map



2017-2592  
Rezoning Amendment  
Hook Revocable Trust - Troy Rd  
Aerial (2016) Map

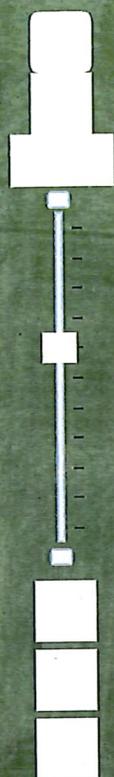




Delaware County GIS  
George Kaitsa, County Auditor  
Robert Parsons, GIS Director



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George Kaisa, County Auditor  
Robert Parsons, GIS Director



Property Search

Advanced Search

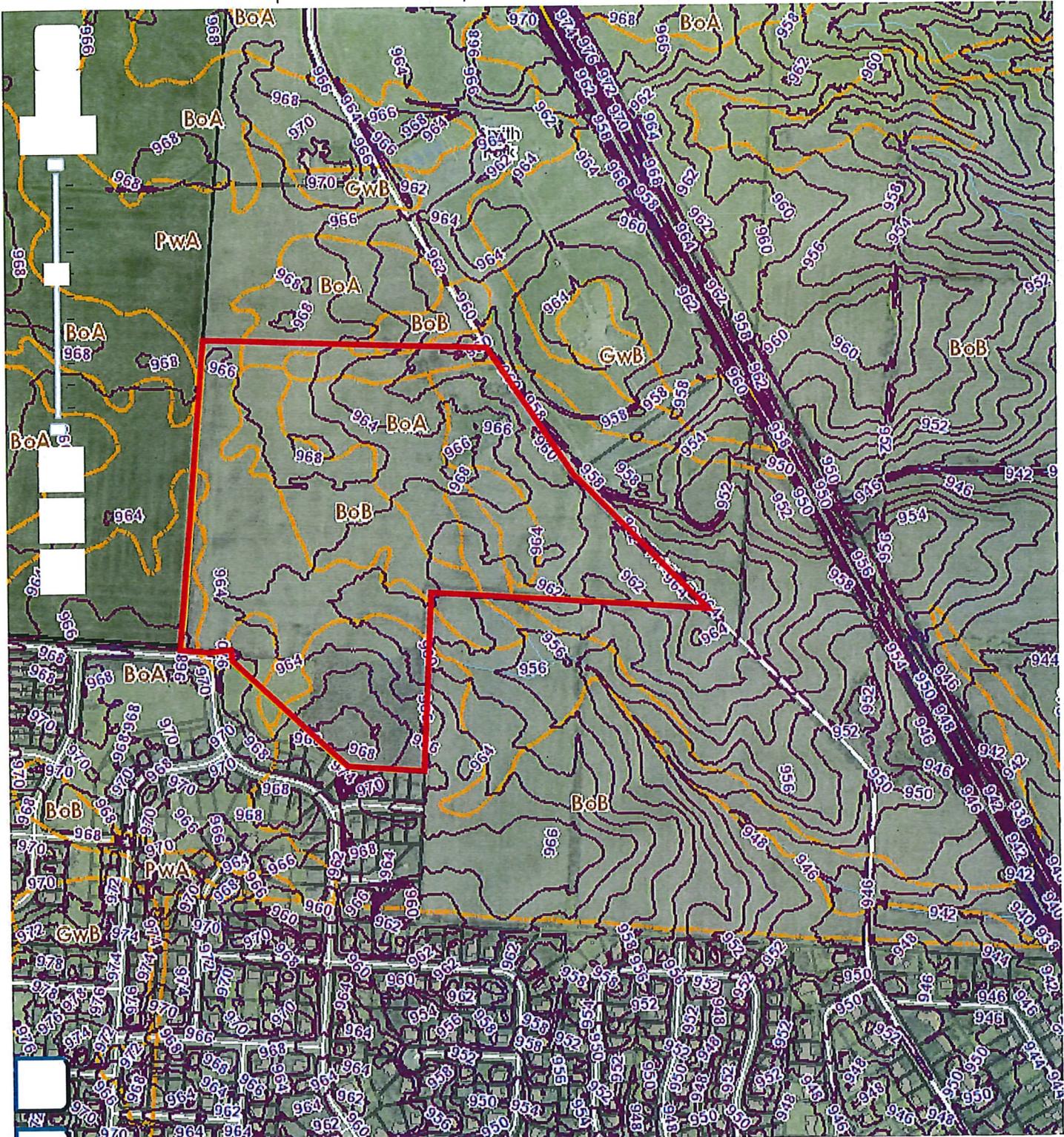
Intersections

Search Maps

Printing

Links

Help



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Delaware County GIS  
George Kaitsa, County Auditor  
Robert Parsons, GIS Director



Property Search

Advanced Search

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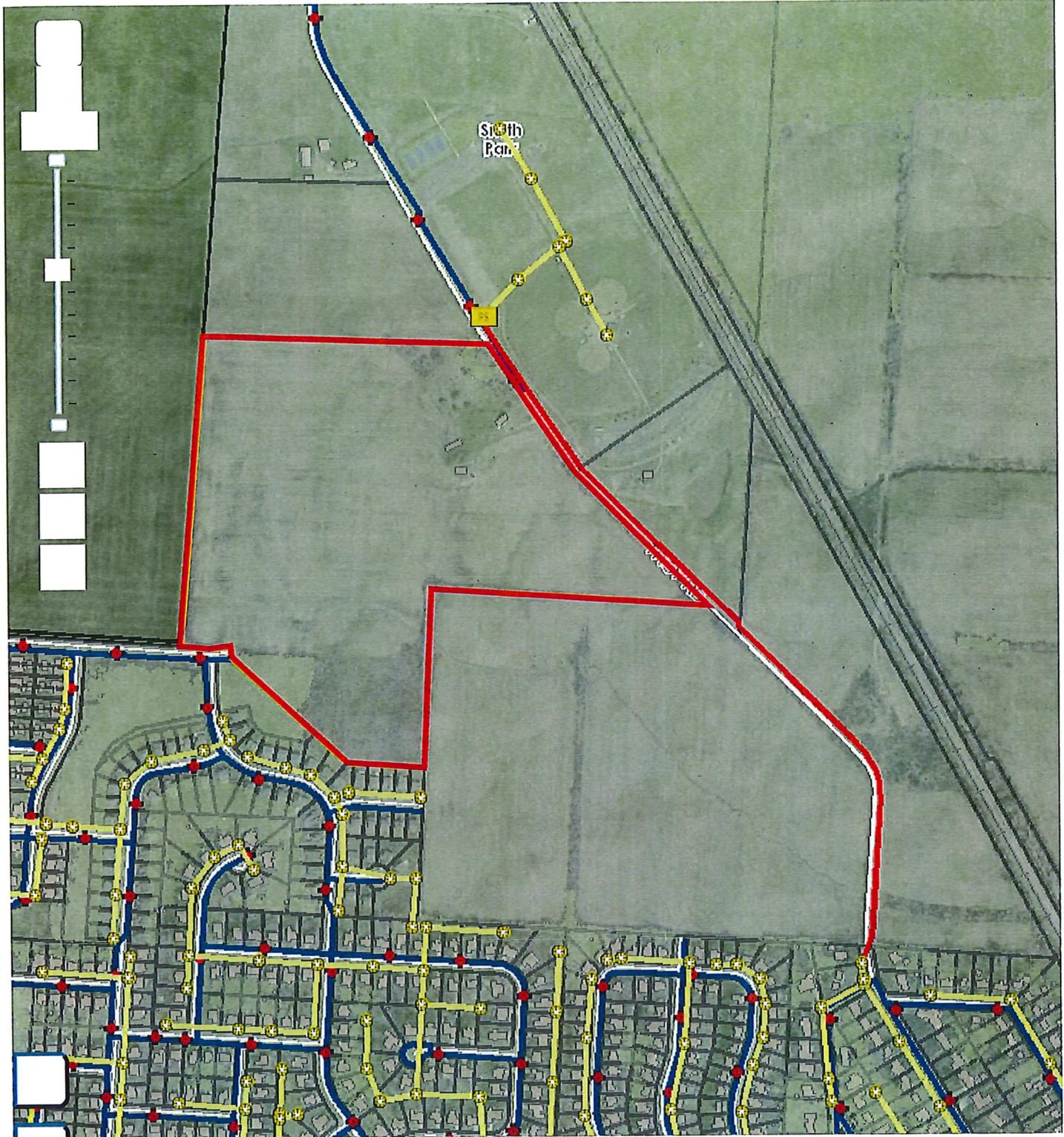
Intersections Search

Maps

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**1041 TROY RD**

519-312-01-009-000 Print

General Info   Tax   Transfer History   Value History   Land   Improvements   Tax Distribution   Photos   Levy   Tax Estimator   Map

- [Auditor's Home Page](#)
- [Owner Search](#)
- [Address Search](#)
- [Parcel Number Search](#)
- [GIS Property Search](#)
- [Auditor Forms](#)
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Follow the Auditor's Office

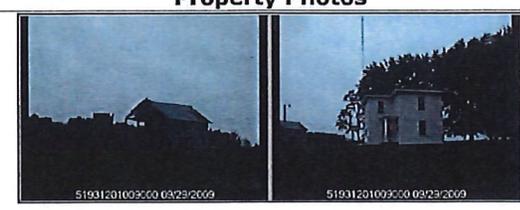
Property Information		
Parcel Number	519-312-01-009-000	Property Address:
Owner Name	SIEKMANN LLC	1041 TROY RD
Owner Address	1041 TROY RD DELAWARE OH 43015	DELAWARE OH 43015
Tax District	14 DELAWARE CORP	
School District	2103 DELAWARE CSD	
Neighborhood	14007 Del Corp 007	
Use Code	515 Single family Dwlg Unplat 40 Plus acres	Tax Payer Address:
Acres	52.25800	SIEKMANN LLC
Description		9000 MEMORIAL DR PLAIN CITY OH 43064 USA
LANDS 19 5 3 13 & 14		

Assessment Info	Current Value	Recent Transfer
Board of Revision	Y    Mkt Land Value    \$840,100	# Parcels    1 Deed Type    Warranty Deed Amount       \$350,000 Sale Date     9/28/2016 Conveyance   4207 Deed #
<a href="#">Homestead/Disability</a>	N    CAUV    \$180,120	
<a href="#">Owner Occ Credit</a>	N    Mkt Impr Value    \$110,000	
Divided Property	N    Total    \$950,100	
New Construction	N <b>Current Tax</b>	
Foreclosure	N    Tax Due    \$6,006.52	
Other Assessments	N    Paid To Date    \$6,006.52	
Front Ft.	N    Current Balance Due    \$0.00	

<< Previous Card    Card 1 of 1    Next Card >>

Dwelling Information					
Above Grade	1915	Room Count	9	Fireplace(s)	0
Below Grade	988	Story Height	2	Year Built	1901
Finished Basement	No	# Bedrooms	4	Year Remodeled	0
Basement Type	Pt Basement	Full Baths	1	Style	Convention
*See Improvements Tab		Half Baths	0	Ext Walls	Frame/Siding
For More Detail On		Heating	Yes		
Fields Shown Above		Air Cond	None		

Card - 1

Property Sketch and Photos -- Card 1	
<div style="border: 1px solid black; padding: 5px;"> <p style="text-align: center; margin: 0;"><b>Property Sketch</b></p>  <p style="text-align: center; margin: 5px 0;"><a href="#">Print Version</a></p> </div>	<div style="border: 1px solid black; padding: 5px;"> <p style="text-align: center; margin: 0;"><b>Property Photos</b></p>  </div>

Last Updated: 10/3/2017

[Click here for Legal Disclaimer](#)

RECEIVED

OCT -4 2017



CITY OF DELAWARE, OHIO
PLANNING & COMMUNITY DEVELOPMENT
MASTER APPLICATION FORM



Project # \_\_\_\_\_

Case # 2017-2592 + 500 + 4426 = 4926

Planning Commission

- Amended Final Development Plan
Amended Final Subdivision Plat
Amended Preliminary Development Plan
Amended Preliminary Subdivision Plat
Annexation Review
Combined Preliminary & Final Development Plan
Comprehensive Plan Amendment
Concept Plan
Conditional Use Permit
Determination of Similar Use
Development Plan Exemption
Final Development Plan
Final Development Plan Extension
Final Subdivision Plat
Final Subdivision Plat Extension
Floodplain Permit
Lot Split
Pre-annexation Agreement
Preliminary Development Plan
Preliminary Dev Plan Extension
Preliminary Sub Plat
Preliminary Sub Plat Extension
Rezoning
Subdivision Variance
Substitution of a Non-Conforming Use
Vacation-Alley
Vacation-Easement
Vacation-Street
Board of Zoning Appeals
Appeal Administrative Decision or Interpretation
Conditional Use Permit
Substitution of Equal or Less Non-Conforming Use
Variance

Subdivision/Project Name Unnamed at Present Address 1041 Troy Road, Delaware, OH 43015
Acreage 44.258+/- Square Footage Unknown Number of Lots Unknown Number of Units Unknown
Zoning District/Land Use R-4/R-6 Proposed Zoning/Land Use R-3 Parcel # 519-312-01-009-000

Applicant Name Judith D. Hook Revocable Trust Contact Person Judith D. Hook, Trustee
Applicant Address 4166 Dingman Drive, Sanibel Island, FL 33957-5107
Phone 239-472-7776 Fax None E-mail jdhook7@aol.com
Owner Name Siekmann LLC Contact Person Robert W. Siekmann
Owner Address 9000 Memorial Drive, Plain City, OH 43064
Phone 614-530-6045 Fax 614-873-0606 E-mail bob@siekmannco.com
Engineer/Architect/Attorney Michael R. Shade Contact Person Michael R. Shade
Address 1 West Winter Street, Suite 410, P.O. Box 438, Delaware, OH 43015
Phone 740-363-9232 Fax 740-363-0146 E-mail mrs@ss-dta.com

The undersigned, do hereby verify the truth and correctness of all facts and information presented with this application and authorize field inspections by City Staff.

Handwritten signatures for Robert W. Siekmann (Owner) and Michael R. Shade (Agent)

Robert W. Siekmann
Owner Printed Name
Michael R. Shade
Agent Printed Name
Attorney for the Applicant

Sworn to before me and subscribed in my presence this 2nd day of October, 2017.



KELSEY J. CORDING
Notary Public, State of Ohio
My Commission Expires 08-20-2019

Handwritten signature of Kelsey J. Cording
Notary Public



## FACT SHEET

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AGENDA ITEM NO: 15

DATE: 11/13/2017

ORDINANCE NO: 17-73

RESOLUTION NO:

READING: FIRST

PUBLIC HEARING: NO

---

TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: Sean Hughes, Economic Development Director

---

### **TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

AN ORDINANCE DECLARING THE IMPROVEMENT TO CERTAIN PARCELS ALONG CENTRAL AVENUE IN THE CITY TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION PURSUANT TO ORC 5709.40(B); PROVIDING FOR THE COLLECTION AND DEPOSIT OF SERVICE PAYMENTS AND SPECIFYING THE PURPOSES FOR WHICH THOSE SERVICE PAYMENTS MAY BE EXPENDED; AND AUTHORIZING SCHOOL COMPENSATION PAYMENTS, AND DECLARING AN EMERGENCY.

### **BACKGROUND:**

We are requesting Council to allow parcels in Exhibit A to be exempted from taxation through a Tax Increment Finance (TIF) ordinance with service payments to be made by property owners in lieu of property taxes. Service payments equaling the amount of property taxes received by the schools if unabated would be distributed to the schools and an amount equal to non-school property taxes would be made to Delaware County Treasurer to be provided to the City of Delaware. These funds would be used for future necessary improvements to Central Ave. that would possibly be required if either the current Jackson retail development were to lease to a tenant that required such improvements or a second parcel to the West of the Jackson parcel developed. These funds would be used in combination with developer contributions for to pay for these road improvements. The proceeds from a non-school TIF are estimated to be nearly \$140,000 after 30 years. The first developer, Jackson Real Estate & Development, has made a \$50,000 contribution towards these future improvements as part of their outlot development. This contribution was a condition of approval made by Planning Commission on their August 2, 2017 Planning Commission meeting.

This TIF follows all criteria set forth in ORDINANCE NO. 05-55 – an ordinance adopting the Tax Increment Financing (TIF) District principles for the City of Delaware even though this is a parcel TIF and not a District TIF:

- The TIF proceeds are used for a public purpose – needed improvements to Central Ave.
- The boundaries of the proposed TIF will not impact future opportunities to utilize other parcels for further improvements.
- The road improvements will be completed within the 30 years of the proposed TIF.
- Improvements funded by the TIF benefit the entire community.
- Improvements are accessible with sidewalks and ADA ramps.
- This is a non-school TIF, and, therefore, does not impact the schools.
- Other agencies supported by property tax revenues were considered, but due to the nature of the TIF ONLY being for improvements and not through baseline tax values, the TIF revenues have little impact.
- While we are not charging an administrative fee for administering the TIF, we are collecting contributions from the developer(s) to be applied to the public improvements.

This project also will create jobs and payroll taxes, thus, benefiting the greater City of Delaware economy.

**REASON WHY LEGISLATION IS NEEDED:**

Under ORC 5709.40(B) it is required to pass an ordinance, after proper required school notifications, to allow funds for parcels under Tax Increment Finance to be redistributed for necessary public improvements that would be needed for development project to move forward.

**COMMITTEE RECOMMENDATION:**

N/A

**FISCAL IMPACT(S):**

COST: ~\$140,000

FUND SOURCES: Service payments made in lieu of property taxes by property owners in the TIF.

BUDGETED: NO

DEPARTMENTS IMPACTED: Economic Development, Public Works, Finance

**POLICY CHANGES:**

N/A

**PRESENTER(S):**

Sean Hughes, Economic Development Director

**RECOMMENDATION:**

Approval

**ATTACHMENT(S)**

TIF School Notification Letters

TIF Ordinance

Exhibit A – Identification and Map of the Parcels

Exhibit B – Public Infrastructure Improvements

ORDINANCE NO. 17-73

AN ORDINANCE DECLARING THE IMPROVEMENT TO CERTAIN PARCELS ALONG CENTRAL AVENUE IN THE CITY TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION PURSUANT TO ORC 5709.40(B); PROVIDING FOR THE COLLECTION AND DEPOSIT OF SERVICE PAYMENTS AND SPECIFYING THE PURPOSES FOR WHICH THOSE SERVICE PAYMENTS MAY BE EXPENDED; AND AUTHORIZING SCHOOL COMPENSATION PAYMENTS, AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code (“ORC”) 5709.40, 5709.42, and 5709.43 (collectively, the “TIF Act”) authorize this Council, by ordinance, to declare the improvement to parcels of real property located within the City to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, establish a municipal public improvement tax increment equivalent fund for the deposit of the those service payments, and specify the purposes for which money in that fund will be expended; and

WHEREAS, the City desires to implement a tax increment financing program on the Parcels (as defined in Section 1) pursuant to the TIF Act to enable the City to make public infrastructure improvements that will directly benefit the Parcels; and

WHEREAS, notice of this proposed ordinance has been delivered to the Board of Education of the Delaware City School District and the Delaware Joint Vocational School District in accordance with and within the time periods prescribed in ORC 5709.40 and 5709.83; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, Delaware County, Ohio, that:

SECTION 1. Parcels. The real property subject to this ordinance is identified and depicted on Exhibit A (as currently or subsequently configured, the “*Parcels*”, with each individual parcel a “*Parcel*”).

SECTION 2. Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B (the “*Public Infrastructure Improvements*”) and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit, or that once made will directly benefit, the Parcels.

SECTION 3. Exemption. This Council hereby finds and determines that 100% of the increase in assessed value of each Parcel subsequent to the effective date of this ordinance (which increase in assessed value is hereinafter referred to as the “*Improvement*” as defined in ORC 5709.40(A)) is hereby declared to be a public purpose and will be exempt from taxation for a period commencing on the date an Improvement attributable to a new structure on that Parcel first appears on the tax list and duplicate were it not for the exemption granted in this ordinance and ending on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act. The exemption provided by this ordinance is subordinate to any exemption for a Parcel granted pursuant to ORC 3735.65 to 3735.70.

SECTION 4. Service Payments. As provided in ORC 5709.42, the owner of each Parcel is hereby required to make service payments in lieu of taxes with respect to the Improvement allocable to each Parcel to the Delaware County Treasurer on or before the final dates for payment of real property taxes. The service payments in lieu of taxes will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and collected against that Improvement if it were not exempt from taxation pursuant to Section 3, including any penalties and interest (collectively, the “*Service Payments*”). The Service Payments, and any other payments with respect to each Improvement that are received in connection with the reduction required by ORC 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the “*Property Tax Rollback Payments*”), will be deposited and distributed in accordance with Section 6.

SECTION 5. TIF Fund. This Council establishes, pursuant to and in accordance with the provisions of ORC 5709.43, the Central Avenue Tax Increment Equivalent Fund (the “*TIF Fund*”), into which the Service Payments and Property Tax Rollback Payments collected with respect to the Parcels will be deposited. The TIF Fund will be maintained in the custody of the City. The City may use amounts deposited into the TIF Fund only for the purposes authorized in the TIF Act and this ordinance (as it may be amended). The TIF Fund will remain in existence so long as the Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund will be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with ORC 5709.43.

SECTION 6. Distributions; Payment of Costs. Pursuant to the TIF Act, the County Treasurer is requested to distribute the Service Payments and Property Tax Rollback Payments as follows:

(i) To the Delaware City School District and the Delaware Joint Vocational School District, an amount equal to the amount the school district

would otherwise receive as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to each Parcel if the Improvement had not been exempt from taxation pursuant to this ordinance.

(ii) To the City, all remaining amounts for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including, without limitation, debt charges on any notes or bonds issued to pay or reimburse finance costs or costs of those Public Infrastructure Improvements.

All distributions required under this Section are requested to be made at the same time and in the same manner as real property tax distributions. The City shall make any distributions to the extent not made by the County Treasurer.

SECTION 7. Further Authorizations. This Council hereby authorizes and directs the City Manager, the City Attorney, the Finance Director, and the Economic Development Director, or other appropriate officers of the City to deliver a copy of this ordinance to the Ohio Development Service Agency and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the City Manager, the City Attorney, the Finance Director, and the Economic Development Director, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this ordinance.

SECTION 8. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including ORC 121.22.

SECTION 9. Emergency Clause. This Ordinance is declared to be an emergency measure necessary of the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the reason that this Ordinance is required to be immediately effective in order to facilitate the commencement of construction of the Project; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

VOTE ON RULE SUSPENSION:

YEAS\_\_NAYS\_\_  
ABSTAIN\_\_

VOTE ON EMERGENCY CLAUSE:

YEAS\_\_NAYS\_\_  
ABSTAIN\_\_

PASSED: \_\_\_\_\_, 2017.

YEAS\_\_NAYS\_\_  
ABSTAIN\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR



October 18, 2017

To: Board of Education of the Delaware Joint Vocational School District  
DACC South Campus  
4565 Columbus Pike  
Delaware, Ohio 43015

Subject: Notice of Ohio Revised Code Section 5709.40(B)  
Proposed Tax Increment Financing for Central Avenue TIF

This letter constitutes notice to the Board of Education of the Delaware Joint Vocational School District of the intent of the City of Delaware, Ohio, to declare certain improvements to be a public purpose under Ohio Revised Code Section 5709.40(B). The following information is provided pursuant to Ohio Revised Code Sections 5709.40 and 5709.83:

***Description of Parcels to be Exempted:*** See Exhibit A of the attached proposed TIF Ordinance.

***Estimate of the True Value in Money of the Private Improvements:*** \$8,264,000.

***Period for Which the Improvement to Each Parcel Will be Exempted from Taxation:*** The improvements to each parcel will be exempted for a period commencing on the date an improvement attributable to a new structure on the parcel appears on the tax list and duplicate and ending on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of Ohio Revised Code Sections 5709.40 and 5709.42, and all as further described in the attached TIF ordinance.

***Percentage of the Improvement to each Parcel to be Exempted:*** 100%. The TIF ordinance provides that the School District will receive, at the same time and in the same manner as real property tax payments, all amounts it would otherwise receive as real property tax payments from the improvement to each parcel absent the exemption granted pursuant to the proposed TIF ordinance.



City Council intends to take final action on the proposed TIF Ordinance on: November 6, 2017.

Sincerely,

By: Christopher Ballard, Assistant City Attorney  
on behalf of Sean Hughes  
Economic Development Director

Received by: Reggy C Harvie's

Title: Receptionist, Delaware Joint Vocational School District

Date: 10/20, 2017

Attachment: Proposed TIF Ordinance





October 18, 2017

To: Board of Education  
Delaware City School District  
74 W. William Street  
Delaware, Ohio 43015

Subject: Notice of Ohio Revised Code Section 5709.40(B)  
Proposed Tax Increment Financing for Central Avenue TIF

This letter constitutes notice to the Board of Education of the Delaware City School District of the intent of the City of Delaware, Ohio, to declare certain improvements to be a public purpose under Ohio Revised Code Section 5709.40(B). The following information is provided pursuant to Ohio Revised Code Sections 5709.40 and 5709.83:

***Description of Parcels to be Exempted:*** See Exhibit A of the attached proposed TIF Ordinance.

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***Percentage of the Improvement to each Parcel to be Exempted:*** 100%. The TIF ordinance provides that the School District will receive, at the same time and in the same manner as real property tax payments, all amounts it would otherwise receive as real property tax payments from the improvement to each parcel absent the exemption granted pursuant to the proposed TIF ordinance. Therefore, Ohio Revised Code Section 5709.40(D) does not require the School District's prior approval of the TIF ordinance.



City Council intends to take final action on the proposed TIF Ordinance on: November 6, 2017.

Sincerely,

By: Christina Bellard, Assistant City Attorney  
on behalf of Sean Hughes  
Economic Development Director

Received by: Ymelva N See

Title: Treasurer/CTO, Delaware City School District

Date: Oct 20, 2017

Attachment: Proposed TIF Ordinance



ORDINANCE NO. 17-\_\_

DECLARING THE IMPROVEMENT TO CERTAIN PARCELS ALONG CENTRAL AVENUE IN THE CITY TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION PURSUANT TO ORC 5709.40(B); PROVIDING FOR THE COLLECTION AND DEPOSIT OF SERVICE PAYMENTS AND SPECIFYING THE PURPOSES FOR WHICH THOSE SERVICE PAYMENTS MAY BE EXPENDED; AND AUTHORIZING SCHOOL COMPENSATION PAYMENTS.

WHEREAS, Ohio Revised Code (“ORC”) 5709.40, 5709.42, and 5709.43 (collectively, the “TIF Act”) authorize this Council, by ordinance, to declare the improvement to parcels of real property located within the City to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, establish a municipal public improvement tax increment equivalent fund for the deposit of the those service payments, and specify the purposes for which money in that fund will be expended; and

WHEREAS, the City desires to implement a tax increment financing program on the Parcels (as defined in Section 1) pursuant to the TIF Act to enable the City to make public infrastructure improvements that will directly benefit the Parcels; and

WHEREAS, notice of this proposed ordinance has been delivered to the Board of Education of the Delaware City School District and the Delaware Joint Vocational School District in accordance with and within the time periods prescribed in ORC 5709.40 and 5709.83; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, Delaware County, Ohio, that:

SECTION 1. Parcels. The real property subject to this ordinance is identified and depicted on Exhibit A (as currently or subsequently configured, the “*Parcels*”, with each individual parcel a “*Parcel*”).

SECTION 2. Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B (the “*Public Infrastructure Improvements*”) and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit, or that once made will directly benefit, the Parcels.

SECTION 3. Exemption. This Council hereby finds and determines that 100% of the increase in assessed value of each Parcel subsequent to the effective date of this ordinance (which increase in assessed value is hereinafter referred to as the “*Improvement*” as defined in ORC 5709.40(A)) is hereby declared to be a public purpose and will be exempt from taxation for a period commencing on the date an Improvement attributable to a new structure on that Parcel first appears on the tax list and duplicate were it not for the exemption granted in this ordinance and ending on the earlier of (a) 30 years after such commencement or (b) the date on which the City

can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act. The exemption provided by this ordinance is subordinate to any exemption for a Parcel granted pursuant to ORC 3735.65 to 3735.70.

SECTION 4. Service Payments. As provided in ORC 5709.42, the owner of each Parcel is hereby required to make service payments in lieu of taxes with respect to the Improvement allocable to each Parcel to the Delaware County Treasurer on or before the final dates for payment of real property taxes. The service payments in lieu of taxes will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and collected against that Improvement if it were not exempt from taxation pursuant to Section 3, including any penalties and interest (collectively, the “*Service Payments*”). The Service Payments, and any other payments with respect to each Improvement that are received in connection with the reduction required by ORC 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the “*Property Tax Rollback Payments*”), will be deposited and distributed in accordance with Section 6.

SECTION 5. TIF Fund. This Council establishes, pursuant to and in accordance with the provisions of ORC 5709.43, the Central Avenue Tax Increment Equivalent Fund (the “*TIF Fund*”), into which the Service Payments and Property Tax Rollback Payments collected with respect to the Parcels will be deposited. The TIF Fund will be maintained in the custody of the City. The City may use amounts deposited into the TIF Fund only for the purposes authorized in the TIF Act and this ordinance (as it may be amended). The TIF Fund will remain in existence so long as the Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund will be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with ORC 5709.43.

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(ii) To the City, all remaining amounts for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including, without limitation, debt charges on any notes or bonds issued to pay or reimburse finance costs or costs of those Public Infrastructure Improvements.

All distributions required under this Section are requested to be made at the same time and in the same manner as real property tax distributions. The City shall make any distributions to the extent not made by the County Treasurer.

SECTION 7. Further Authorizations. This Council hereby authorizes and directs the City Manager, the City Attorney, the Finance Director, and the Economic Development Director, or other appropriate officers of the City to deliver a copy of this ordinance to the Ohio Development Service Agency and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the City Manager, the City Attorney, the Finance Director, and the Economic Development Director, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this ordinance.

SECTION 8. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including ORC 121.22.

SECTION 9. Effective Date. This ordinance is effective on the earliest date permitted by law.

PASSED: \_\_\_\_\_, 2017.

YEAS \_\_\_ NAYS \_\_\_  
ABSTAIN \_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

EXHIBIT A  
IDENTIFICATION AND MAP OF THE PARCELS

The area within the red lines on the following map specifically identifies and depicts the Parcels and constitutes part of this Exhibit A.



**Central Ave. TIF Parcels**

Information contained within this map may be used to generally locate, identify and inventory land parcels within Delaware County. Delaware County cannot warrant or guarantee the information contained herein, including, but not limited to its accuracy or completeness. The map parcel lines shown are approximate and this information cannot be construed or used as a "legal description" of a parcel. Flood Plain information is obtained from FEMA and is administered by the Delaware County Building Department (746-833-2204). Please report any errors or omissions to the Delaware County Auditor's office at [dc.auditor@delaware.de.us](mailto:dc.auditor@delaware.de.us). Prepared by: Delaware County Auditor's GIS Office



Delaware County Auditor  
George Kalba



EXHIBIT B  
PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under ORC 5709.40(A)(7) and that directly benefits the Parcels and specifically include, but are not limited to, any of the following improvements that will directly benefit the Parcels and all related costs of those permanent improvements (including, but not limited to, those costs listed in ORC 133.15(B)):

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto, including, without limitation, construction of improvements to Central Avenue from Troy Road to Houk Road, including turn lanes, repaving and traffic control devices.
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto.
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the construction of the private improvements on the Parcels or the Public Infrastructure Improvements, and the construction of public health facilities.
- **Utilities.** Construction, reconstruction, burial or installation of gas, electric and communication service facilities and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above.
- **Stormwater.** Construction, reconstruction, relocation, modification and installation of stormwater and flood remediation projects and facilities, both for storm water quantity and quality, including the payment and reimbursement for such projects and facilities on private property when determined to be necessary for public health, safety and welfare.
- **Demolition.** Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare.
- **Parks.** Construction or reconstruction of one or more public parks and park or recreational facilities, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto.
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing,

street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in “Roadways” above.

- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research.
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

TO: Mayor Riggle and Members of Council

FROM: R. Thomas Homan, City Manager

SUBJECT: Miscellaneous Matters

DATE: November 9, 2017

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1. **Calendar**  
See Attached
  
2. **Per Section 73 Of The City Charter The City Manager Is To Report Contract Agreements**  
See Attached
  
3. **Bi-Weekly Meetings**  
October 19
  - \* Andrews House
  - \* SWCI Open HouseOctober 23
  - \* Rotary
  - \* Youth Exchange Meeting at SourcePoint
  - \* CouncilOctober 25
  - \* SourcePoint 25<sup>th</sup> Anniversary CelebrationOctober 26
  - \* Education Council Meeting at Willis Education CenterOctober 27
  - \* Party in the Barn EventOctober 28
  - \* City Trunk or Treat Halloween Party at MingoOctober 30
  - \* Rotary SocialNovember 1
  - \* County Courthouse Employee Open HouseNovember 2
  - \* Airport to pick up Sakata DelegatesNovember 3
  - \* Sakata Welcome Assembly at Dempsey Middle School

November 4

- \* Women's City Club Thanksgiving Dinner with Sakata Delegates

November 6

- \* Rotary
- \* Tour of SourcePoint with Sakata Delegates
- \* JASCO meeting

November 9

- \* City of Delaware Thanksgiving Lunch

**CONTRACT APPROVAL – November 13, 2017**

<b>VENDOR</b>	<b>EXPLANATION OF AGREEMENT</b>	<b>2017 AMOUNT</b>	<b>DEPARTMENT</b>
Sky Climber Fabricating	Addendum for Precision Tower Products closing binder documents	\$0.00	Economic Development
St. Mary Parish	Temporary easement for Oak Grove Cemetery for Halloween event October 29, 2017	\$0.00	CMO
Archall	Cluster Campus Site Concept Plan	\$4,700.00	Economic Development
Ohio Department of Public Safety	Agreement for the provision and Use of Information	\$0.00	Police Department
Ohio Power Company	Two agreements authorize AEP to relocate the primary electrical feed to the Public Works Facility for construction of the new refuse building	\$15,750.68	Public Works

# November

*Sun*      *Mon*      *Tue*      *Wed*      *Thu*      *Fri*      *Sat*

**1**      **2**      **3**      **4**

Civil Service –  
Cancelled  
Planning

**5**      **6**      **7**      **8**      **9**      **10**      **11**

BZA-cancelled

**12**      **13**      **14**      **15**      **16**      **17**      **18**

Council

**19**      **20**      **21**      **22**      **23**      **24**      **25**

Council Re-Org  
6:30 p.m.  
Parking & Safety  
7 p.m.

Parks & Rec Bd 7  
p.m.

City Offices  
Closed

City Offices  
Closed

**26**      **27**      **28**      **29**      **30**

Council 7 p.m.

Shade Tree 7 p.m.

HPC 7 p.m.

**2017**