

St. Clairsville, Ohio

April 21, 2010

The Board of Commissioners of Belmont County, Ohio, met this day in regular session. Present: Ginny Favede, Matt Coffland and Charles R. Probst, Jr., Commissioners and Jayne Long, Clerk of the Board.

MEETINGS ARE NOW BEING RECORDED
ALL DISCUSSIONS ARE SUMMARIZED. FOR COMPLETE PROCEEDINGS
PLEASE SEE CORRESPONDING CD FOR THIS MEETING DAY.

IN THE MATTER OF ALLOWANCE OF BILLS
AS CERTIFIED IN THE AUDITOR'S OFFICE

"BILLS ALLOWED"

The following bills having been certified in the Auditor's office, on motion by Mrs. Favede, seconded by Mr. Coffland, all members present voting YES, each bill was considered and it is hereby ordered that the County Auditor issue his warrant on the County Treasurer in payment of bills allowed.

<u>Claim of</u>	<u>Purposes</u>	<u>Amount</u>
C-Pure Water Finance	Water/Mediation Fund-Probate Court	79.95
K-Draft-Co., Inc.	Supplies/Engineer's MVGT Fund	177.60
N-Carr Concrete	Box Beams/Bridge & Retaining Wall Construction Improv. Fund	15,509.95
N-Hammontree & Associates, Ltd.	Services/Mt. Victory Waterline Ext. Construction	14,400.00
P-Belmont Co. Commissioners	Cost Allocation/BCSSD Funds	112,611.00
P-Bridgeport Water Dept.	Services/WWS#3 Revenue Fund	16,966.00
S-AT&T	Phone Service/Port Authority	156.62
S-AT&T	Phone Service/Certificate of Title Admn. Fund	61.97
S-Belmont Senior Services	1 st Quarter Operating Expenses/In Home Care Levy/Comm on Aging	470,000.00
S-Cardmember Service	Expenses/Oakview Juvenile Residential Center Funds	342.53
S-Crowne Plaza	Spring Conference-Hotel/Northern Ct. General Special Projects Fund	260.00
S-Crystal Springs	Water/Eastern Ct. General Special Projects Fund	14.95
S-Wheeling Office Supply	Supplies/Certificate of Title Admn. Fund	381.48
W-Delinquent Collectors of Ohio, Inc.	Services/DRETAC Treasurer's Office	957.83
W-Matthew Bender	Books/Law Library Fund	344.94
W-West	Monthly service-books/Law Library Fund	595.60
Y-Bridgeport, Village of	Patching Various Streets/County Motor Vehicle License Tax Fund	866.15

IN THE MATTER OF APPROVING RECAPITULATION
OF VOUCHERS FOR THE VARIOUS FUNDS

Motion made by Mrs. Favede, seconded by Mr. Coffland to approve the Recapitulation of Vouchers dated for April 21, 2010 as follow:

FUND	AMOUNT
A-GENERAL	\$21,574.38; \$602.53; \$1,326.24
A-GENERAL/AUDITOR	\$3,250.30
A-GENERAL/SHERIFF	\$7,946.80
H-Job & Family, Public Assistance	\$3,801.30; \$1,185.81; \$50.21; \$5,030.08; \$322.00
H-Job & Family, WIA	\$16,331.11
K-Engineers MVGT	\$23,248.88; \$1,128.12; \$2,386.50
M-Juvenile Ct. – Placement Services	\$31,853.91
M-Juvenile Ct. – Placement II	\$3,500.00
M-Juvenile Ct. – Title IV-E Reimb.	\$707.95
P-Sanitary Sewer District	\$1,240.26; \$9,500.95; \$2,259.33; \$381.58; \$18,556.11; \$40,308.55; \$570.94
S-District Detention Home	\$838.53
S-Job & Family, Children Services	\$10,909.03
S-Juvenile Ct. General Special Projects	\$218.02
S-Oakview Juvenile Residential Center	\$3,937.88
S-Sheriff Commissary	\$2,807.94
T-FEMA-HAZARD MITIGATION NEFFS	\$36,062.00
T-Sanitary Sewer District	\$233.85

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Absent

IN THE MATTER OF TRANSFER WITHIN FUND FOR
THE GENERAL FUND/BOARD OF ELECTIONS

Motion made by Mrs. Favede, seconded by Mr. Coffland to approve the following transfer within fund for the General Fund.

FROM	TO	AMOUNT
E-0181-A003-A11.000 Other Expenses	E-0181-A003-A02.000 Poll Workers Salaries	\$ 25,000.00

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Yes

IN THE MATTER OF TRANSFER WITHIN FUND FOR
THE GENERAL FUND/BOARD OF ELECTIONS

Motion made by Mrs. Favede, seconded by Mr. Coffland to approve the following transfer within fund for the General Fund.

FROM	TO	AMOUNT
E-0181-A003-A11.000 Other Expenses	E-0181-A003-A12.007 Unemployment	\$ 6.88

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Yes

IN THE MATTER OF TRANSFER WITHIN FUND FOR THE DISTRICT DETENTION HOME FUND S33

Motion made by Mr. Probst, seconded by Mr. Coffland to approve the following transfer within fund for the District Detention Home Fund S33.

FROM	TO	AMOUNT
E-0910-S033-S66.000 Medical/GS	E-0910-S033-S63.012 Equipment/GS	\$ 600.00

Upon roll call the vote was as follows:

Mr. Probst	Yes
Mr. Coffland	Yes
Mrs. Favede	Yes

IN THE MATTER OF ADDITIONAL APPROPRIATION FOR THE 911 WIRELESS FUND

Motion made by Mrs. Favede, seconded by Mr. Coffland to make the following additional appropriation, in accordance with the Amended Official Certificate of Estimated Resources as revised by the Budget Commission, under the date of April 21, 2010.

E-2301-E011-E01.011	Contract Services	\$ 14,965.00
---------------------	-------------------	--------------

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Yes

IN THE MATTER OF ADDITIONAL APPROPRIATION FOR THE JUVENILE COURT PLACEMENT SERVICES FUND

Motion made by Mr. Coffland, seconded by Mrs. Favede to make the following additional appropriation, in accordance with the Amended Official Certificate of Estimated Resources as revised by the Budget Commission, under the date of April 21, 2010.

M-64 PLACEMENT SERVICES

E-0400-M064-M05.000	Placement Costs	\$ 18,320.00
---------------------	-----------------	--------------

Upon roll call the vote was as follows:

Mr. Coffland	Yes
Mrs. Favede	Yes
Mr. Probst	Yes

IN THE MATTER OF ADDITIONAL APPROPRIATION FOR THE N041 ISSUE TWO MONIES FUND

Motion made by Mr. Probst, seconded by Mr. Coffland to make the following additional appropriation, in accordance with the Amended Official Certificate of Estimated Resources as revised by the Budget Commission, under the date of April 21, 2010.

N041 ISSUE TWO MONIES

E-9041-N041-N10.055	Project Payments	\$ 3,916.00
---------------------	------------------	-------------

Upon roll call the vote was as follows:

Mr. Probst	Yes
Mr. Coffland	Yes
Mrs. Favede	Yes

IN THE MATTER OF ADDITIONAL APPROPRIATION FOR THE N026 MT. VICTORY WATERLINE EXT. CONSTRUCTION FUND

Motion made by Mr. Probst, seconded by Mr. Coffland to make the following additional appropriation, in accordance with the Amended Official Certificate of Estimated Resources as revised by the Budget Commission, under the date of April 21, 2010.

N026 MT. VICTORY WATERLINE EXT. CONSTRUCTION

E-9026-N026-N05.013	Contract Projects	\$ 14,400.00
---------------------	-------------------	--------------

Upon roll call the vote was as follows:

Mr. Probst	Yes
Mr. Coffland	Yes
Mrs. Favede	Yes

IN THE MATTER OF ADDITIONAL APPROPRIATION FOR THE STATE HOMELAND SECURITY GRANT/EMA

Motion made by Mr. Probst, seconded by Mr. Coffland to make the following additional appropriations, in accordance with the Amended Official Certificate of Estimated Resources as revised by the Budget Commission, under the date of April 21, 2010.

E-1723-P093-P13.000	Other Expenses DOJ 09	\$ 78,330.32
---------------------	-----------------------	--------------

Upon roll call the vote was as follows:

Mr. Probst	Yes
Mr. Coffland	Yes
Mrs. Favede	Yes

IN THE MATTER OF ADDITIONAL APPROPRIATIONS FOR THE S025 BELMONT CO. DJFS CHILDREN SERVICES FUND 50

Motion made by Mr. Probst, seconded by Mr. Coffland to make the following additional appropriations, in accordance with the Amended Official Certificate of Estimated Resources as revised by the Budget Commission, under the date of April 21, 2010.

BELMONT COUNTY DJFS / CHILDREN SERVICES FUND 50

E-2766-S025-S10.074	Transfers Out	\$ 74,148.47
E-2766-S025-S10.074	Transfers Out	\$ 12,565.69

Upon roll call the vote was as follows:

Mr. Probst	Yes
Mr. Coffland	Yes
Mrs. Favede	Yes

IN THE MATTER OF ADDITIONAL APPROPRIATION FOR THE S066 MENTAL RETARDATION FUND

Motion made by Mr. Probst, seconded by Mr. Coffland to make the following additional appropriation, in accordance with the Amended Official Certificate of Estimated Resources as revised by the Budget Commission, under the date of April 21, 2010.

E-2410-S066-S53.100 Other Expenses-ARRA \$ 29,249.39

Upon roll call the vote was as follows:

Mr. Probst Yes
Mr. Coffland Yes
Mrs. Favede Yes

IN THE MATTER OF APPROVING THEN AND NOW CERTIFICATE/AUDITOR'S

Motion made by Mr. Probst, seconded by Mr. Coffland to execute payment of Then and Now Certification dated April 21, 2010, presented by the County Auditor pursuant to O.R.C. 5705.41(d) 1, and authorizing the drawing of warrant(s) in payment of amounts due upon contract or order.

Upon roll call the vote was as follows:

Mr. Probst Yes
Mr. Coffland Yes
Mrs. Favede Yes

IN THE MATTER OF RESCHEDULING COMMISSIONERS' REGULAR MEETING OF APRIL 28, 2010 TO APRIL 27, 2010

Motion made by Mrs. Favede, seconded by Mr. Coffland to reschedule the commissioners' regular meeting from Wednesday, April 28 to Tuesday, April 27, 2010 at 10:00 a.m., and to notify the media of the same.

Upon roll call the vote was as follows:

Mrs. Favede Yes
Mr. Coffland Yes
Mr. Probst Absent

IN THE MATTER OF ENTERING INTO CONTRACT WITH DAVID JONES, HOMELAND REALTY, INC., AND AUCTION TO SELL THE OLD BETHESDA SCHOOL

Motion made by Mrs. Favede, seconded by Mr. Coffland to enter into contract with David Jones, Homeland Realty, Inc. and Auction, to sell the old Bethesda School at public auction.

Homeland Realty, Inc. and Auction
111 East Market Street, Cadiz, Oh. 740-942-3300
David Jones CAI Auctioneer Box 467, Flushing, Oh. 43977
740-968-3710 Fax: 740-968-3690

Real Estate Auction Sale Agreement Date: 4-6-10 Expiration Date 7-10-2010
I hereby grant unto Homeland Realty and Auction the exclusive right and authority to sell the Real property of Belmont County Commissioners At public auction. Located at Old Bethesda High School (6 acres) Vol. 748 Page 880 County Belmont State OH on Date _____. I have the full power and authority to sell the Real property and the said property is free and clear of all liens and encumbrances except as follow: _____
I agree to pay Homeland Realty and Auction Co. a commission of * percent of the gross proceeds the real property. A minimum fee of \$ None is to be paid up front prior to any advertising of said property.
The seller agrees to pay for None paper ads and the following other expenses.
*The Auctioneer will collect 10% buyers fee and pays all advertising.
All proceeds will be deposited in Homeland Realty escrow account.
The auctioneer's policy will not accept absentees bids.
Auction shall be a reserve auction as defined in ORC 4707.01
Real Estate broker/auctioneer is authorized to place sign on property and have access to said property.
The seller agrees to indemnify and save harmless Homeland Realty/David Jones and his employees, against any and all claims, demands, action or causes of action whatsoever in any manner arising by the execution of this contract.
The auctioneer may hire other auctioneer to assist him in any auctions he may conduct.
The undersigned auctioneer is licensed by the Ohio Department of Agriculture and bonded by the state of Ohio under the auction recovery fund.

I have read the above contract and agree to the conditions thereof. I hereby acknowledge receipt of a copy of this agreement.
It is illegal, pursuant to the Ohio Fair Housing Law, Division [H] of Section 4112.02 of the revised code and the federal fair housing law, 42 U.S.C.A. 3601 to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status, ancestry, handicap, or national origin; or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services: It is also illegal, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons belonging to one of the protected classes.”

In witness whereof the parties have hereunto executed this contract in duplicate on the date set forth above.

By: Ginny Favede /s/ Address 101 W. Main St. Phone 699-2155
By: Charles R. Probst, Jr. /s/ St. Clairsville, OH 43950 Phone 699-2155

Auctioneer: David Jones /s/ Salesman Auctioneer

APPROVED AS TO FORM:
David K. Liberati /s/ (Assistant)
PROSECUTING ATTORNEY

Upon roll call the vote was as follows:

Mrs. Favede Yes
Mr. Coffland Yes
Mr. Probst Absent

**IN THE MATTER OF ENTERING INTO CONTRACT WITH
TOM'S CONSTRUCTION/NEFFS FEMA HAZARD MITIGATION GRANT PROJECT**

Motion made by Mrs. Favede, seconded by Mr. Coffland to enter into contract with Tom's Construction in the amount of \$12,875.00 for the demolition of three flood damaged houses in Neffs, based upon the recommendation of A.C. Wiethe, Assistant Director of Management Services, Belomar Regional Council; FEMA Hazard Mitigation Grant Project.

DEMOLITION CONTRACT

This Agreement, made this 21 day of April, 2010 by and between Tom's Construction hereinafter called the "Contractor" and the Belmont County Commissioners hereinafter called the "Local Public Agency" for the consideration stated herein mutually as follows:

1. **STATEMENT OF WORK**

The Contractor shall furnish all supervision, labor, materials, machinery, tools, equipment and services and perform and complete all work in an efficient and workmanlike manner, as follows:

Description of Work

Demolish, remove debris and backfill with selected materials from the property located at 56164 Church Lane, 65117 School Street, 65197 School Street, Neffs, Ohio; all in strict accordance with the technical specifications which are attached to and form a part of this Contract as fully as if they were herein repeated. Work is only permitted to take place during the regular business hours of the Local Public Agency unless other hours of operation are permitted by approved change order.

2. **THE CONTRACT PRICE**

The Local Public Agency will pay the Contractor for performance of the Contract, in current funds, the sum of \$12,875.00 with no salvage value. The Local Public Agency before making payment, may require the Contractor performing the work to furnish releases of liens and/or receipts from any or all persons performing work and supplying material or services to the Contractor, for work under supplying material or services to the Contractor, for work under this Contract, if this is necessary to protect its interests.

3. **SUBCONTRACTING/ASSIGNMENT**

The Contractor shall not execute an agreement with any subcontractor or permit any subcontractor to perform any work included in this Contract with the exception of rodent/pest extermination and/or asbestos abatement as required in the technical specifications. Likewise, **assignment of this contract in whole or part is prohibited.**

4. **COMPLIANCE WITH "DAVIS-BACON ACT"**

In the event the scope of work under this Contract involves the demolition and clearance of 8 or more residential housing units, or involves non-residential property of any kind with a contract value of more than \$2,000, compliance with Davis-Bacon Act shall be required and payment of prevailing wages and benefits must be made by the Contractor and any subcontractors to employees working under this Contract. In the event Davis-Bacon Act compliance is required, the Local Public Agency will provide the contractor/bidder with a copy of the General Wage Decision as a part of the bid packet. Wage Posters, a copy of the publication "Making Davis Bacon Work - A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects", and other additional information will be provided to the selected Contractor after the contract is awarded. The Local Public Agency will require the submission of certain reports/documents/certifications prior to payment in the event this provision applies.

5. **PERMITS AND CODES**

The Contractor shall give all notices required by, and comply with, all applicable laws, ordinances and codes of the Federal, State and Local Government and shall at his/her own expense, secure and pay the fees or charges for all permits required for the performance of the Contracted Work.

6. **CARE OF WORK**

The Contractor shall be responsible for all damages to persons or property as a result of his fault or negligence in connection with the performance of the work and shall be responsible for the proper care and protection of all work performed until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the Local Public Agency. In the event damages are alleged to have occurred to adjacent property as a result of the Contractor's work and the Contractor cannot settle the matter informally with the adjacent property owner, the Local Public Agency reserves the right to either delay payment to the Contractor until the dispute is resolved or deduct from the amount owed under this contract, the amount necessary to correct such damages.

7. **RISK OF LOSS**

The Contractor shall accept the site in its present condition and shall inspect the site for its character, condition and the type of structures to be demolished. The Local Public Agency assumes no responsibility for the condition of existing buildings or structures, and other property on the demolition site, or the condition of property before or after the solicitation for bids. No adjustment of the bid price or allowance for any change in conditions that occur after acceptance of bids will be allowed.

8. **VACATING OF BUILDINGS**

The structure(s) identified in the contract documents were vacant at the time of bidding. In the event the Contractor finds that any structure is not vacant, the Contractor shall immediately notify the Local Public Agency and shall not begin demolition or clearance work until further directed by the Local Public Agency. No claim of extension of time or increased price will be considered because of occupancy of buildings. In case such occupancy is prolonged, the Local Public Agency reserves the right to terminate the contract. The Contractor shall inspect all buildings and structures to determine they are vacant prior to beginning demolition work.

9. **CHANGES IN WORK**

- a. The Local Public Agency may make changes in the work required to be performed by the Contractor by making additions thereto, by omitting work there from, or by changing requirements from those specified without invalidating this Contract and without relieving or releasing the Contractor from any of his/her obligations under this Contract. All such work shall be executed under the terms of the original contract unless it is expressly provided for otherwise by change order.
- b. Except for the purpose of affording protection against an emergency endangering life or property, the Contractor shall make no change in scope of work, provide any extra or additional work, or supply additional labor, services or materials beyond that actually required for the execution of this Contract unless in pursuance of a written change order from the County authorizing the change. No claims for an adjustment of the contract price will be valid unless so ordered.
- c. Each change order shall include in its final form, a description of the change in the work, the Contractor's definite statement as to the resulting change in the Contract price and/or time, and the statement that all work involved in the change shall be performed in accordance with the contract requirements except as modified by the change order.
- d. Any request for a change order, either by the Local Public Agency or Contractor, regardless of whether it involves an increase or decrease in work to be done, cost and/or time must be approved by the Local Public Agency, and signed by the Local Public Agency and Contractor. All change orders shall be made using forms provided by the Local Public Agency. Any agreements not signed as heretofore indicated shall be considered null and void. Unless otherwise specified, any change order resulting in an increase in cost shall be the responsibility of the Local Public Agency.

10. **GENERAL GUARANTEE AND WARRANTY**

The Contractor warrants that all work completed by the Contractor and any subcontractor shall be of good quality and done in a neat and workmanlike manner. The Contractor shall promptly remedy any defect in the work for a period of 1 year from the date of final acceptance by the Local Public Agency unless a longer period is specified. The Local Public Agency will give notice of observed defects with reasonable promptness.

11. **ACCIDENT PREVENTION**

- a. The Contractor shall exercise proper precaution at all times for the protection of persons or property, either on or off the site, which occur as a result of his performance of work. The safety provisions of applicable laws and building and construction codes shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the Local Public Agency may determine to be reasonably necessary. Machinery, equipment, and all hazards shall be guarded in accordance with the safety provisions of the "Manual of Accident Prevention for Construction" published by the Associated General Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable local laws.
- b. The Contractor shall maintain an accurate record of all cases of deaths, occupational disease and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment or work under the Contract. The Contractor shall promptly furnish the Local Public Agency with reports concerning these matters.

12. **INDEMNIFICATION OF LOCAL PUBLIC AGENCY**

The Contractor shall indemnify and save harmless the Local Public Agency from liability for any injury or damages to persons or property resulting from his performance of work under the contract.

13. **INSURANCE**

- a. The Contractor shall carry **Worker's Compensation Insurance** for all his/her employees in accordance with State Worker's Compensation Laws.
- b. The Contractor shall carry **Liability Insurance** with limits of not less the **\$300,000.00** coverage for personal liability to protect the Contractor against claims for injury to or death to one or more than one person due to accidents which may occur or result from operations under the Contract. Such insurance shall cover the use of all equipment, hoists, and motor vehicles on the site or hauling materials or debris from the site.
- c. The Contractor shall carry at least **\$100,000.00 Property Liability Insurance**. The insurance policy must specify that the Contractor is covered for "Demolition and Collapse".

14. **BOND REQUIREMENTS**

The Contractor shall post a labor and material payment (performance) bond with the County for one hundred (100) percent of the contract amount to assure faithful performance of the contract entered into.

15. **REMOVAL AND SALVAGE OF EXISTING BUILDINGS**

- a. The Contractor shall demolish the buildings and structures as specified in the technical specifications, and unless otherwise specified, no dwelling structure shall be removed from the premises in a whole or substantially whole condition, but all such buildings shall be demolished on the premises.
- b. Upon the demolition of a building or structure in accordance with this Contract, **such building or structure or the remains thereof shall become the property of the Contractor**, except that personal property of third persons or the occupants of such buildings shall not become the property of the Contractor.
- c. Storage of salvage materials and equipment on the project area will be permitted only for the duration of the Contract and such storage shall at no time interfere with the activities of the Local Public Agency or of other contractors.

16. **REGULATIONS PURSUANT TO "COPELAND ANTI-KICKBACK ACT"**

The Contractor shall comply with the applicable regulations of the Secretary of Labor, United States Department of Labor, made pursuant to the "Copeland Anti-Kickback Act" (48 Stat. 948; 62 Stat. 862; Title 18 U.S.C., Section 874; and Title 40 U.S.C.; Section 276(c), and any amendments or modifications thereof, shall cause appropriate provisions to be inserted in subcontracts to insure compliance therewith by all subcontracts subject thereto, and shall be responsible for the submission of statements required of subcontractors there under, except as said Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions from the requirements thereof.

17. **EQUAL EMPLOYMENT OPPORTUNITY**

- a. If the contract or subcontract amount is \$10,000 or less, the following conditions apply:
During the performance of this contract, the contractor agrees as follows:
 1. The Contractor will not discriminate against any employee or applicant for employment because of race, sex, creed, color, or national origin.- The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, sex, creed, color, or national origin. Such action shall include, not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the owner setting forth the provisions of this nondiscrimination clause.
 2. The Contractor will in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants will receive consideration for employment without regard to race, sex, creed, color, or national origin.
 3. The Contractor will send to each labor union or representatives or workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the owner, advising the said labor union or worker's representative of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 4. The Contractor will comply with all provisions of Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.
 5. The Contractor will furnish all information and reports required by Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, and by the rules, regulations, and orders of the said Committee or by the U.S. Department of Housing and Urban Development pursuant thereto and will permit access to his books, records, and accounts by the owner and the United States Government for the purposes of investigation to ascertain compliance with such rules, regulations, and order.
 6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 10924 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, and such other sanctions as may be imposed and remedies invoked as provided in the Said Executive Order or by rule, regulations, or order of the President's Committee on Equal Employment Opportunity or as otherwise provided by law.
 7. The Contractor will include the provisions of the paragraphs 1 through 6 above, in every subcontract or purchase order unless exempted by rules, regulations, or order of the President's Committee on Equal Employment Opportunity issued pursuant to Section 303 or Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or order as the owner may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided however, that in the event the Contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the owner, the contractor may request the United States to enter into such litigation to protect the interest of the United States.
- b. If the contract or subcontract is greater than \$10,000, the following conditions apply:
During the performance of this contract, the contractor agrees as follows:

1. The Contractor's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for Minority participation	Goals for Female participation
6.9%	6.9%

These goals are applicable to all the Contractor's work (whether or not it is Federal or federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR, 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within ten (10) working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number, estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontractor; and the geographical area in which the contract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is Belmont County, Ohio.
5. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246, as amended).
- A. As used in these specifications:
 1. "Covered area," means the geographical area described in the solicitation from which this contract resulted.
 2. "Director" means Director, Office of the Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
 3. "Employer Identification Number" means the Federal Identification Number or Social Security Number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 4. "Minority" includes:
 - (i) "American Indian or Alaska Native" means a person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment;
 - (ii) "Asian" means a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam;
 - (iii) "Black or African American" means a person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American";
 - (iv) "Hispanic or Latino" means a person of Cuban, Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino"; and
 - (v) "Native Hawaiian or Other Pacific Islander" means a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- B. Whenever the Contractor, or any Subcontractor subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
- C. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participation in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
- D. The Contractor shall implement the specific affirmative action standards provided in paragraphs G.1 through 16 of this section. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.
- E. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- F. In order for the non-working training hours of apprentices, and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- G. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 1. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

2. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 3. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
 4. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligation.
 5. Develop on-the-job training opportunities and/or participate in the training programs for the area, which expressly include upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under G.2 above.
 6. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation by assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
 7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time, and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
 8. Disseminate the Contractor's EEO policy externally including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
 9. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
 10. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
 11. Validate all tests and other selection requirements where there is an obligation to do so under State or Federal regulations.
 12. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 13. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 14. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 15. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 16. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
 17. Covered construction contractors performing contracts in geographical areas where they do not have a federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers.
- H. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (G. 1 through 17). The efforts of a Contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling anyone or more of its obligations under G.1 through 17 of this section provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's non-compliance.
- I. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women general, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
- J. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- K. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Orders 12549 and 12689, as amended.

- L. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 12549 and 12689, as amended, and its implementing regulations, by the Office of the Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of this Contract and Executive Order 12549 and 12689, as amended.
 - M. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph G of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
 - N. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
 - O. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).
18. **Certification of Nonsegregated Facilities**
By submission of his/her bid and execution of this Contract, the Contractor or subcontractor certifies that he/she does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that s/he does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The Contractor or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, *transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. He/she further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontract exceeding 10,000 dollars which are not exempt from the provisions of the Equal Opportunity Clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).
* parking lots, drinking fountains, recreation or entertainment areas.
19. **Civil Rights Act of 1964**
Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
20. **Section 109 of the Housing and Community Development Act of 1974**
No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
21. **"Section 3" Compliance in the Provision of Training Employment and Business Opportunities**
If the contract or subcontract is greater than \$100,000, the following conditions apply:
- a. The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended 12 U.S.C. 1701u. (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low and very low income persons, particularly persons who are recipients of HUD assistance for housing.
 - b. The parties to this Contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
 - c. The Contractor agrees to send to each labor organization or representative or workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers; representative of the Contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
 - d. The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
 - e. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
 - f. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
22. **Certification of Compliance with Air and Water Acts**
If the contract or subcontract is greater than \$100,000 the following conditions apply:
- a. **Compliance with Clean Air and Water Acts**
During the performance of this contract, the contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 442 USC 1857 et seq., the Federal Water Pollution Control Act, as amended 33 USC 1251 et seq., Executive Order 11738, and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

1. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
 2. Agreement by the Contractor to comply with all the requirements of Sections 114 and 306 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 USC 1251) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114, Section 306 and Section 308, and all regulations and guidelines issued there under.
 3. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EP A List of Violating Facilities.
 4. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.
23. **Special Contract Conditions Pertaining to Minority/Women=s Business Enterprise**
- a. **MBE/WBE Policy and Goal**

It is the goal of the Local Public Agency MBE/WBE Program that 6.9% of its total contract Dollars available through Federal CDBG/HOME Funds be expended for the performance of contracts and subcontracts executed by MBE/WBE participants as defined in the Local Public Agency's MBE/WBE Affirmative Action Program.

To establish a contractor/bidder as responsive, it shall be the responsibility of the contractor/bidder to utilize MBE/WBE subcontractors and suppliers for portions of the work, as appropriate, or to demonstrate sufficient reasonable efforts to obtain MBE/WBE participants.
 - b. **Pre-Contract Obligations**

A properly submitted bid shall commit the contractor/bidder to exercise positive efforts to comply with the MBE/WBE policy to achieve the stated participation goals and any such bid shall be deemed, relative to MBE/WBE compliance, to the responsive. Such positive efforts shall be exercised by the contractor/bidder through MBE/WBE subcontracts to the fullest extent possible consistent with the efficient performance of the scope of work defined in this Contract and Technical Specifications.

To demonstrate MBE/WBE compliance and goal achievement, the contractor/bidder shall provide the following information with his/her bid:

 - 1) Name and address of the MBE/WBE subcontractor(s) and/or supplier(s), contact person, federal identification number, type of construction and/or supply subcontract and dollar amount of subcontract.

If the information provided does not demonstrate that the contractor/bidder will achieve the stated MBE/WBE goals, the bid may still be considered responsive if the contractor/bidder is able to demonstrate sufficient reasonable efforts to obtain MBE/WBE participants.
 - c. **Definitions of Sufficient Reasonable Efforts**

To demonstrate sufficient reasonable efforts to meet the MBE/WBE requirements, a contractor/bidder shall document the steps taken to obtain MBE/WBE participation including, but not limited to:

 - 1) Written notification, including newspaper publications, to MBE/WBE firms that their interest in the contract is solicited;
 - 2) Efforts made to select portions of the work proposed to be performed by MBE/WBE firms in order to increase the likelihood of utilizing MBE/WBE firms; and
 - 3) Efforts to negotiate with MBE/WBE firms for specific subcontracts including identification of the firms and a statement of why agreements were not reached. When the MBE/WBE negotiation was unsuccessful due to failure to agree on price, the contractor must be able to document that the subcontractor selected bid was on the same work segment under negotiation with the MBE/WBE.
 - d. **Technical Assistance**

Upon request, the Local Public Agency will make available to contractors appropriate resources including the list of agencies who may provide technical assistance services to Minority and Women's Business Enterprise and a list of known MBE/WBE firms eligible to participate in the procurement process for the contractor/bidder's use in soliciting MBE/WBE participation. This technical assistance is intended only to provide potential resources to contractor/bidders and does not relieve the contractor/bidder of the responsibility for affirmatively promoting MBE/WBE participation in the procurement process.
 - e. **Minority/Majority Ventures, Etc.**

For purposes of determining the degree of goal attainment through minority/majority joint ventures, minority subcontractors and minority suppliers, the following methodology will be used.

 - 1) A joint venture consisting of a minority and majority or women/majority business enterprises, functioning as prime contractor, will be credited with MBE or WBE participation on the basis of percentage of the dollar amount of the work to be performed by the MBE/WBE. For example, if a minority/majority joint venture proposes to perform 50 percent of a project and 50 percent of the work is to be performed by the minority partner in the joint venture, minority participation will be credited as 25 percent of the contract work,
 - 2) An MBE/WBE contractor/bidder will be credited with minority participation for the portion of the contract, which it performs and for the portion subcontracted, to minority firms. For example, if the MBE bidder proposes to perform a project and subcontracts 25 percent of the work to a majority firm and 25 percent to a minority firm, minority participation will be credited as 25 percent.
 - f. **Responsibility Determination**

In the event a contractor/bidder is unable to objectively demonstrate positive efforts to meet the stated MBE/WBE goals, the bid may be rejected as non-responsive.

It is the goal of the Local Public Agency to afford maximum opportunities to minority and women's firms to participate in the bidding and contracting process. However, in situations where all contractor/bidders for a project have exercised good faith efforts to solicit MBE/WBE participation but have been unsuccessful in these efforts, the Local Public Agency shall have the option to proceed with awarding a contract for performance of the work. In such situations, the Local Public Agency shall discuss with the contractor the reasons for the lack of success and shall seek to identify actions, which may help resolve such problems in future bidding activities.
 - g. **Geographic Area**

Contractors shall, at a minimum, seek MBE/WBE firms in the same geographic area in which they seek subcontractors and suppliers generally for a given solicitation. If the contractor cannot obtain MBE/WBE firms from this geographic area, the contractor/bidder, as a part of his efforts, shall expand his search to a reasonable wider geographic area.
 - h. **Defaulting Subcontractor/Supplier**

In the event an MBE/WBE subcontractor or supplier is unable to perform successfully, the prime contractor is required to make good faith efforts to replace the subcontractors and supplier with an eligible and qualified MBE/WBE firm.

i. Special Documentation
The Local Public Agency reserves the right to request satisfaction factory documentation of ownership and/or control of any firm identified as a Minority or Women's Business Enterprise. The timely submission of such documentation to the Local Public Agency is the sole responsibility of the contractor.

j. Monitoring
The Local Public Agency will monitor MBE/WBE participation and achievement through the course of the contract to assure the MBE/WBE commitment as identified in the bid documents, is met. The prime contractor must report any and all changes in the subcontractors and/or suppliers which might affect the timely performance of the work and/or the achievement of the MBE/WBE objective.

Should changes in subcontractors or suppliers be necessary, compliance with subparagraph h above shall apply.

24. **INTEREST OF CERTAIN FEDERAL AND OTHER OFFICIALS**

No officer, employee, or member of the federal government or governing body of the Local Public Agency who exercises any functions or responsibilities in connection with the carrying out of this project to which this Contract pertains, shall have any private interest, direct or indirect, in this Contract.

25. **ORGANIZATIONAL CONFLICT OF INTEREST**

a. The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, he/she does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this Contract and a prospective contractor's organizational, financial, contractual or other interests are such that:

1. award of this Contract may result in an unfair competitive advantage;
2. the Contractor's objectivity in performing the contract work may be impaired; or
3. the Contractor has disclosed all relevant information and requested the Local Public Agency to make a determination with respect to this Contract.

b. The Contractor agrees that if after award he/she discovers an organizational conflict of interest with respect to this Contract, he/she shall make an immediate and full disclosure in writing to the Local Public Agency which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The Local Public Agency may, however, terminate this Contract for the convenience of the Local Public Agency if it would be in the best interest of the Local Public Agency.

c. In the event the Contractor was aware of an organizational conflict of interest prior to the award of this Contract and intentionally did not disclose the conflict to the Local Public Agency, the local Public Agency may terminate the Contract for default.

d. The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the Local Public Agency and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance of work under this Contract.

26. **INSPECTION BY LOCAL PUBLIC AGENCY**

The Local Public Agency shall have the right to inspect the work at all times and at the completion thereof.

27. **PAYMENT**

An invoice for payment shall be submitted only after all work under this project is complete and the Local Public Agency has inspected and approved the condition of the work site. The following shall accompany the invoice for payment:

- a. receipts for rodent/pest extermination if required under this Contract;
- b. receipts from the State-approved disposal site where debris under this Contract was taken by the Contractor for disposal; and
- c. receipts from licensed septic tank waste hauler; and
- d. certification of lien releases and waiver of claim from subcontractors and/or suppliers.

Progress payments shall not be permitted, only a single final and full payment after work has been completed and approved shall be made.

28. **TIME FOR COMPLETION**

The work, which the Contractor is required to perform under this Contract, shall be fully 100 percent completed within **thirty (30)** consecutive calendar days following execution of this contract. **No extension of time shall be granted or excusable delays permitted for any reason whatsoever unless by approved change order.** Liquidated damages in the amount of \$50.00 per day for each calendar day beyond thirty (30) days shall be deducted from the contract amount. The Local Public Agency shall not be obligated to notify the contractor in advance when liquidated damages begin to accrue.

29. **EXCUSABLE DELAYS**

The contractor shall not be charged with liquidated damages for any delays in the completion of work due:

- a. To any acts of the Government; including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, National Defense, or any other national emergency.
- b. To any acts of the Local Public Agency;
- c. To causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor; including but not restricted to, acts of God or of the public enemy, acts of another contractor in the performance of some other contract with the owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones, and other extreme weather conditions; and,
- d. To any delay of a subcontractor occasioned by any of the causes specified in subparagraph a., b., and c. above. Provided, however, that the contractor promptly (within 10 days) notifies the Local Public Agency in writing of the cause of the delay. If the facts show the delay to be properly excusable under the terms of this Contract, the Local Public Agency shall extend the contract time by a period commensurate with the period of excusable delay to the completion of the work as a whole.

30. **RECORDS RETENTION**

The Contractor shall retain all records related to this Contract for 5 years after final payment is made and all pending matters related to this Contract are closed. The Contractor shall permit access by the Local Public Agency, the U.S. Department of Housing and Urban Development (HUD), the State of Ohio, and the Comptroller General of the United States, or their designees to any books, documents, papers and records of the Contractor for the purpose of audit examination, excerpts and transcripts.

31. **TERMINATION OF CONTRACT**

The Local Public Agency may terminate this Contract at any time for cause or convenience by giving written notice of such to the Contractor 10 days in advance of such termination as follows:

a. Termination of Clause

If the Contractor should breach this Contract or fail to perform the services required by the Contract, the Local Public Agency may terminate the Contract for cause by giving written notice or may give the Contractor a stated period of time within which to remedy its breach of contract. If the Contractor shall fail to remedy the breach within the time allotted by the Local Public Agency, the Contract may be terminated by the Local Public Agency at any time thereafter upon written notice to the Contractor or, in the alternative, the Local Public Agency may give such extension of time to remedy the breach as the Local Public Agency determines to be in its best interest. The Local Public Agency's forbearance by not terminating the Contract for a breach of contract shall not constitute a waiver of the Local Public Agency's right to terminate nor acquiescence in future act or omissions by the Contractor of a like nature. If the Contract is terminated for cause, breach of contract or failure to perform,

the Contractor may be subject to a claim by the Local Public Agency for the costs and expenses incurred in securing a replacement Contractor to fulfill the obligations of the contract.

b. Termination of Convenience

The contract may be terminated by the Local Public Agency in whole or in part for the convenience of the Local Public Agency without a breach of Contract by delivering to Contractor a written notice of termination specifying the extent to which performance under this Contract is terminated and the effective date of the termination. Upon receipt of such a notice of termination, the Contractor must stop work, including but not limited to work performed by subcontractors and consultants, at such time and to the extent specified in the notice of termination. If the Contract is terminated in whole or in part for the convenience of the Local Public Agency, the Contractor shall be entitled only to payment for work done prior to the notice of termination and thereafter shall be entitled to payment for work, if any, not terminated, but shall not be entitled to lost profits for the portions of the Contract which were terminated.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

CONTRACTOR:

Tom's Construction
By: _____
Title: Owner

BELMONT COUNTY COMMISSIONERS

By: Ginny Favede /s/
Ginny Favede
President

Certificate of Fund Availability:

Andy Sutak /s/
Andy Sutak
Auditor

Approved as to Form and Legality:

David K. Liberati /s/ (Assistant)
Chris Berhalter
County Prosecutor

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Absent

IN THE MATTER OF APPROVING PAY APPLICATION #5 FOR COLAIANNI CONSTRUCTION, INC./NEW EASTERN DIVISION COURT BUILDING PROJECT

Motion made by Mrs. Favede, seconded by Mr. Coffland to approve the Pay Application #5 in the amount of \$177,679.89 for Colaianni Construction, Inc. for the new Belmont County Eastern Division Court Building project, based upon the recommendation of M&G Architects & Engineers, Project Architect, and Danny Popp, Project Manager.

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Absent

IN THE MATTER OF APPROVING INVOICE FOR M&G ARCHITECTS & ENGINEERS, INC./NEW EASTERN DIVISION COURT BUILDING PROJECT

Motion made by Mrs. Favede, seconded by Mr. Coffland to approve the payment of Invoice # 10997 for M&G Architects & Engineers, Inc., in the amount of \$1,819.80 for services from 3/1/10 through 3/31/10 on the new Eastern Division Court Building Project, Construction Administration Phase.

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Absent

IN THE MATTER OF APPROVING THE PAYMENT OF INVOICE FROM DDP AND ASSOCIATES ARCHITECTS/PLANNERS/ NEW EASTERN DIVISION COURT BUILDING PROJECT

Motion made by Mrs. Favede, seconded by Mr. Coffland to approve the payment of the invoice from DDP and Associates, Architects/Planners, in the amount of \$1,454.85 for project management services on the new Eastern Division Court Building project from 3/12/10 through 4/12/10.

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Absent

IN THE MATTER OF REAPPOINTMENTS TO THE BELMONT COUNTY TOURISM BOARD

Motion made by Mrs. Favede, seconded by Mr. Coffland to approve the reappointment of John Rataiczak and George Diab to the Belmont County Tourism Board for a five-year term as follows:

- John Rataiczak-effective March 21, 2010 to March 21, 2015
- George Diab-effective April 27, 2010 to April 27, 2015

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Absent

**IN THE MATTER OF RESOLUTION
ENDORING THE CONSOLIDATION OF THE
BELMONT COUNTY DIVISIONAL COURTS**

Motion made by Commissioner Favede, seconded by Commissioner Coffland, to adopt the following resolution:

Whereas, Belmont County currently has 3 divisional courts-Eastern, Western and Northern Court, with 3 part-time divisional court judges; and
Whereas, Belmont County is building a new court facility in Bellaire, Ohio, current home of Eastern Division Court; and
Whereas, the Martins Ferry Northern Division Court location is only seven miles from the new Bellaire Court Building and only twelve miles from the St. Clairsville Court Building, avoiding undue hardship to the public or the public officials that use the court; and
Whereas, Eastern Division Court Judge D. William Davis is retiring effective December 31, 2010; and
Whereas, the caseloads of the 3 district courts has shown a steady decrease between the years 2000 and 2009; and
Whereas, it is the consensus of this Board that it is in the best interest of the taxpayers to consolidate the courts to 2 locations with 2 part-time judges; and
Whereas, this plan will result in significant savings in salaries, benefits, and building rent and maintenance costs;
Now, therefore, be it resolved, the Belmont County Board of Commissioners endorse the proposal to consolidate the county divisional courts to two (2) locations and eliminate a judgeship position and request the assistance and support of the Supreme Court of Ohio to accomplish the same, and

Upon roll call the vote was as follows:

Mrs. Favede Yes
Mr. Coffland Yes
Mr. Probst Absent

OPEN PUBLIC FORUM – Karen Hammond of West Pipe Creek Road was present to request water to her area. She said she lives within walking distance of two waterlines. She was asking if there was money left over from the Mt. Victory Waterline Project. Mr. Coffland explained in his experience as a trustee for Mead Township, once water is run down the main artery, the waterlines to auxiliary roads waterlines (Cash Hill, Kagg Hill, etc.) were put in at the residents’ expense. The residents came together with a price to find the best contractor. Mr. Coffland said he was of the understanding that the Township Trustees were organizing and working on a master plan. He said York Township has applied for Community Development Block Grant funding to get service to additional areas. Mr. Coffland said he had just been informed by A.C. Wiethe of Belomar that a \$120,000.00 grant came in. Lesia Knight was also present and Mr. Coffland advised her to get estimates, get the cost figure, get donations and then come back with a bottom line cost. He advised her she needs to work with her Trustees and the residents to get monies. Mr. Coffland also noted low interest bank loans are available. The county can donate the pipe for the project.

Mrs. Favede noted for the record the fact that Mt. Victory Road got water is because Powhatan needed a backup water source. She said there are EPA mandates for backup water sources. Mrs. Favede further advised there is no money left from the Mt. Victory Waterline Project. That was county planning money which will be used for the next project. She explained that when she and Mr. Coffland took office, the project that was closest to being ready was the Mt. Victory Waterline Project. It still needed the environmental study, the permit to install and the final engineering. The board made a commitment to put \$109,000.00 towards that project in order to move it forward. When the grant came in, the \$109,000.00 was taken out and put into a fund to be used for nothing but supplying studies and permits to move projects forward. The money that is being used for the Hendrysburg study is the \$109,000.00 and that is all it can be used for. It cannot be used for sewage, but water only. The money was returned to the county to replenish funds.

Mr. Coffland stated if the residents of Pipe Creek want to apply for Issue II Funds that Mead Township would have to do that. He then explained the process of how Issue II works. Usually about 3 projects get funded and it is very competitive. Mr. Coffland continued by stating, “You are competing against every village, township, city and the county and it becomes a “dog fight.”

NOTE: COMMISSIONER PROBST ARRIVED AT 10:00 A.M.

**IN THE MATTER OF ENTERING
EXECUTIVE SESSION AT 10:03 A.M.**

Motion made by Mrs. Favede, seconded by Mr. Coffland to enter executive session with Dave Brooks, CORSA Managing Director, Bob Bethel, Bethel Insurance Agency, Mr. Andes, Matt Steele and Prosecutor Chris Berhalter pursuant to ORC 121.22(G)(3) Court Action Exception to discuss pending litigation. (Note: Mike Kinter, Human Resources Manager, joined executive session at 10:30 a.m.)

Upon roll call the vote was as follows:

Mrs. Favede Yes
Mr. Coffland Yes
Mr. Probst Yes

**IN THE MATTER OF ADJOURNING
EXECUTIVE SESSION AT 11:19 A.M.**

Motion made by Mrs. Favede, seconded by Mr. Probst to adjourn executive session with Dave Brooks, CORSA Managing Director, Bob Bethel, Bethel Insurance Agency, Mr. Andes and Matt Steele, Prosecutor Chris Berhalter and Mike Kinter, Human Resources Manager, pursuant to ORC 121.22(G)(3) Court Action Exception to discuss pending litigation.

Upon roll call the vote was as follows:

Mrs. Favede Yes
Mr. Probst Yes
Mr. Coffland Yes

AS A RESULT OF EXECUTIVE SESSION – NO ACTION TAKEN.

Commissioner Favede noted the Board is trying to schedule the Sheriff in later today.

BREAK

RECONVENE AT 1:30 P.M. ABSENT: COMMISSIONER CHARLES R. PROBST, JR.

**IN THE MATTER OF ENTERING
EXECUTIVE SESSION AT 1:30 P.M.**

Motion made by Mrs. Favede, seconded by Mr. Coffland to enter Executive Session with Sheriff Fred Thompson, HR Manager Mike Kinter and Fiscal Manager Cindi Henry pursuant to ORC 121.22(G)(1) Personnel to discuss the employment of a county employee.

Upon roll call the vote was as follows:

Mrs. Favede Yes
Mr. Coffland Yes
Mr. Probst Absent

**IN THE MATTER OF ADJOURNING
EXECUTIVE SESSION AT 2:08 P.M.**

Motion made by Mrs. Favede, seconded by Mr. Coffland to adjourn Executive Session with Sheriff Fred Thompson, HR Manager Mike Kinter and Fiscal Manager Cindi Henry pursuant to ORC 121.22(G)(1) Personnel to discuss the employment of a county employee.

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Absent

AS A RESULT OF EXECUTIVE SESSION – NO ACTION TAKEN.

Mrs. Favede explained the board has given the Sheriff a letter on behalf Mike Kinter, Human Resources Manager, regarding the need to hire a Jail Administrator as quickly and efficiently as possible. A liability situation exists in that the county does not have proper coverage if we continue to operate the Belmont County Jail without a proper Jail Administrator. She said a copy of the letter will also be sent to CORSA.

BREAK

RECONVENED AT 11:15 A.M., APRIL 22, 2010

PRESENT: COMMISSIONERS GINNY FAVEDE AND MATT COFFLAND

ABSENT: COMMISSIONER CHARLES R. PROBST, JR.

**IN THE MATTER OF ACCEPTING THE RESIGNATION
OF MR. ROBERT “BUBBA” KAPRAL FROM THE BELMONT
COUNTY PLANNING COMMISSION**

Motion made by Mrs. Favede, seconded by Mr. Coffland to accept the resignation of Mr. Robert “Bubba” Kapral from the Belmont County Planning Commission effective immediately.

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Absent

**IN THE MATTER OF APPOINTING MR.
CODY BARACK TO THE BELMONT COUNTY
PLANNING COMMISSION**

Motion made by Mrs. Favede, seconded by Mr. Coffland to appoint Mr. Cody Barack to the Belmont County Planning Commission to fill the unexpired three (3) year term of Robert “Bubba” Kapral, effective immediately through March 3, 2013.

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Absent

BREAK

**IN THE MATTER OF ADJOURNING
COMMISSIONERS MEETING AT 2:15 P.M.**

Motion made by Mrs. Favede, seconded by Mr. Coffland to adjourn the meeting at 2:15 p.m.

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Coffland	Yes
Mr. Probst	Absent

Read, approved and signed this 27th day of April, 2010.

_____ COUNTY COMMISSIONERS

We, Ginny Favede and Jayne Long, President and Clerk respectively of the Board of Commissioners of Belmont County, Ohio, do hereby certify the foregoing minutes of the proceedings of said Board have been read, approved and signed as provided for by Sec. 305.11 of the Revised Code of Ohio.

_____ PRESIDENT

_____ CLERK