MARCH 8, 2012

The Gallia County Board of Commissioners met on this date for the purpose of approving the minutes of the previous meeting and current transfers, appropriations and bills. At 9:00 a.m. the meeting was called to order by President Harold G. Montgomery. Roll Call: Harold G. Montgomery, present; Vice President Mr. Howard J. "Joe" Foster, present; Commissioner Lois M. Snyder, present.

President Montgomery entertained a motion for approval of the March 1, 2012 minutes. Lois Snyder made and Joe Foster seconded the motion; Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea.

TRAVEL REQUESTS				
DEPARTMENT	NAME	DATE	TO	RE:
DJFS	Dana Glassburn	3/16	Columbus	OJFSDA State Wide Meeting
		3/20	Columbus	OJFSDA Fiscal Committee Meeting
		3/28	Circleville	OJFSDA District Meeting
	Kathy Campbell Samantha Reese	3/20	Marietta	Regional Qtrly Meeting

President Montgomery entertained a motion to approve travel requests as submitted. Joe Foster made and Lois Snyder seconded the motion; Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea.

LETTER OF RESIGNATION

Commissioners received the following letter of resignation:

Dear Board of Commissioners,

I respectfully submit my resignation as Gallia County Community and Economic Development Assistant Director. I want to thank you for believing in me for this position and it is with much difficulty that I come to this decision. The knowledge and skills that I gained from this position will be invaluable as I continue forward in my professional career.

My final work day will be March 16, 2012.

Sincerely,
s/ Jake Bodimer

With deep regrets, Joe Foster made and Lois Snyder seconded the motion to accept Mr. Bodimer's resignation; Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea. The Commissioners thanked Jake for his work and service to Gallia County. He has done a great job, representing the county well and we wish him the best with his future employment.

ROAD VACATION

Joe Foster moved to remove from the table "vacation of a portion of various unnamed Patriot Village alleys" and Lois Snyder seconded the motion. Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea.

After expressed concerns from the Shelton's at the Public Hearing (Journal 46, Page 348) the Commissioners decided to vacate only alley one of the petition in order to leave alley two as a public egress. The alley vacated is as described below:

The following is a general route and termini of said road:

Being all that part of unnamed/unimproved alleys in the Village of Patriot, Sections 34 and 35, Township 5, Range 16, Perry Township, Gallia County, State of Ohio, more particularly described as follows:

***Alley 1**: Beginning at the northwest corner of Lot 27 in said Village; thence South along the west line of Lot 27, South 171.6 feet to the southwest corner of said Lot 27 being the north line of a platted alley (now vacated); thence leaving said Lot 27 and with the north line of said platted alley (now vacated), West 16.5 feet to the southeast comer of Lot 26 in said Village; thence with the east line of said Lot 26, North 171.6 feet to the northeast comer of said Lot 26, also being the south line of Village Street; thence leaving said Lot 26 and with the south line of said Village Street, East 16.5 to the place of beginning. It is the intention to describe all that part of an unnamed/unimproved alley bounded on the east by Lot 27, the west by Lot 26, the north by Village Street and the south by an unnamed/unimproved alley (now vacated).*

Lois Snyder moved to vacate alley one as described and Joe Foster seconded the motion; Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea.

FINANCIAL REPORT REVIEW

The County Administrator presented the Commission with:

- The February 2012 Financial Reports for comparison with the February 2011 Financial Reports. The following was noted during the review:
  - 1/1/2011 beginning cash balance was $589,342.87
  - 1/1/2012 beginning cash balance was $259,796.89 (It was noted that $160,000 of this balance is for Davis Hall Lot Purchase Bond, which means the true cash balance was $99,769.98)
  - Difference of $329,545.98
  - 2/28/2011 ending cash balance was (-$244,685.36)
  - 2/29/2012 ending cash balance was (-$572,903.92)
  - Difference of $328,218.56
  - General Fund change in cash balance in comparison with the 1/1/2011 review is $1,327.42
  - Reviewed 6th & 7th Amended Certificate of Estimated Resources

MV SEWER – B-R-09-1AY-1 GRANT AMENDMENT REQUEST

County Administrator Karen Sprague advised the Commission that during the monitoring visit with ODOD for the Mercerville Sewer Project she was notified the county can request a grant amendment to utilize the balance of tap-in

set-aside funds in the amount of $42,953 for any pending sewer construction issues associated with the Mercerville Sewer Project. Discussion of items these funds could be utilized for as follows:
- drainage/culvert issues that remain along Mercerville/Burlington Roads intersection and along Cox Road as a result of the Mercerville sewer project
- asphalt overlay of Burlington Road in the project area due to road cuts for sewer line and lateral crossings
- asphalt overlay of Mercerville Road in the project area due to road cuts for sewer line and lateral crossings

Joe Foster made and Lois Snyder seconded a motion to request permission to amend the grant agreement to allow these items to be completed with these funds. Ms. Sprague presented a letter to ODOD for the Commissioners to sign in this regard. Upon roll call votes were as follows: Harold Montgomery, yea; Joe Foster, absent for vote; Lois Snyder, yea.

Ohio Department of Development
Office of Housing & Community Partnerships
ATTN: Mike Hiler, Deputy Chief
P. O. Box 1001
Columbus, Ohio 43216-1001

RE: Grant Amendment

Dear Mr. Hiler:

Gallia County requests approval to amend our grant agreement for grant number B-R-09-1AY-1 as follows:
- *Activity # 3 has $42,953.00 remaining that will not be spent on connections for LMI residents*
- *We request these funds be moved to Activity # 1 so they can be spent on items that remain for the sewer construction activity as follows:*
  - *drainage/culvert issues that remain along Mercerville/Burlington Roads intersection and along Cox Road as a result of the Mercerville sewer project*
  - *asphalt overlay of Burlington Road in the project area due to road cuts for sewer line and lateral crossings*
  - *asphalt overlay of Mercerville Road in the project area due to road cuts for sewer line and lateral crossings*
- *Gallia County will be able to complete these projects by the grant deadline of 4/30/2012*

Thank you in advance for your consideration in this regard.

Respectfully submitted,
s/ Harold G. Montgomery, Pres.
Gallia County Commissioners

GREENFIELD TOWNSHIP – FIRE SAFETY EQUIPMENT PROJECT

County Administrator Karen Sprague advised the Commission of an email from USDA Rep. Gordon Parker regarding Greenfield Township's USDA application for funding for fire safety equipment. Per the email USDA may be able to fund Greenfield's application this year and USDA and Greenfield Township are looking to the county for assistance with the local match from the county's CDBG grant program. Ms. Sprague advised the original application will need to be updated because it included a request for radio equipment and that has been applied for by Gallia County EMS thru FEMA grant. The email notes USDA will only fund a maximum of 55% of the total project costs or $30,000 and the local match would then be $25,000. USDA needs an answer on the local match no later than 3/30/12. The Commission advised they would consider it, but will need updated grant information to see what is being applied for, noting the CDBG funds are very limited requesting the project be scaled down to only the items that are needed at this time. Ms. Sprague advised she would share the Commissioners position with USDA and Greenfield Township Fire Rep. Mark Johnson and work with them to get the information requested by the Commissioners as soon as possible. No action taken.

STATUS REPORT
FY 2009 ARRA CDBG WATER/SEWER GRANT (B-R-09-1AY-1)

The County Administrator presented the Commission with the Status Report for the period January 1, 2012 thru March 3, 2012 for the County's FY 2009 ARRA CDBG Water/Sewer Grant (B-R-09-1AY-1), which must be submitted to the Ohio Department of Development. The President entertained a motion that the Status Report be approved and signed as presented. Lois Snyder made and Joe Foster seconded that motion. Upon roll call votes were as follows: Harold Montgomery, yea; Joe Foster, yea; Lois Snyder, yea. The form is on file in the County's CDBG grant files.

OEPA VIOLATION LETTER – MEADOWLOOK WWTP

The County Administrator advised the Commission of a violation letter from OEPA for the Meadowlook WWTP noting the problems are due to plant washouts from wet weather and the county sewer staff is working to clean the filters.

911 – AGENCY UPDATE

911 Director Sherry Daines advised that everything at 911 is going well even through the recent tornado threat. Commissioners commended Daines having communications in place with her staff at various locations throughout the county during the event; Ohio EMA was also kept informed.

EXECUTIVE SESSION

At 10:00 a.m. the President entertained a motion to enter into executive session with Sherry Daines to discuss a personnel issue regarding the appointment, promotion or compensation of a public employee. Joe Foster made and Lois Snyder seconded the motion; Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea. Returned to regular session at 10:08 a.m.; no action taken.

DJFS

DJFS Director Dana Glassburn provided time and attendance for signature, but had no other business for the Commission.

EXECUTIVE SESSION

At 10:14 a.m. the President entertained a motion to enter into executive session to discuss contracts. Joe Foster made and Lois Snyder seconded the motion; Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea. Returned to regular session at 10:22 a.m.; no action taken.

RECORDS COMMISSION MEETING

President Montgomery chaired the Record's Commission Meeting held in the Commissioner's office. The following were present: County Commissioners, Prosecutor Jeff Adkins, Deputy Auditor Jim Clark and Recorder Roger Walker. Also present, Lana Lane, Engineer's Office and Sherry Daines, 911 Director.

Recorder Roger Walker reviewed the submitted applications to the records commission; all were approved. Minutes are on file in the Commissioners office.

PORT SECURITY GRANT

Chief Deputy Richard Grau and Administrative Assistant Heather Casto met with the Commissioners and presented the following grant agreement for signature:

PORT OF HUNTINGTON TRI-STATE
AREA MARITIME SECURITY COMMITTEE
AGREEMENT PORT SECURITY GRANTS

Chief Grau submitted the following grant agreement for review and approval:

THIS AGREEMENT, executed in duplicate, made and entered into this 13 day of February,2012, by and between the Area Maritime Security Committee, 1900 Kanawha Boulevard East, Building Five, Room 125-A, Charleston, West Virginia 25305-0430 hereinafter called "Department," and the Gallia County Board of Commissioners, on behalf of the Gallia County Sheriff's Office , 18 Locust Street, Gallipolis, Ohio 45631, hereinafter called "Sub-awardee,"

WITNESSETH that,

WHEREAS, Sub-awardee desires the participation of Department in the funding of activities in attachment one associated with Sub-awardee; and

WHEREAS, Department's financial participation in this project will be limited exclusively to federal Port Security Program, 2009 funding, as available; and

WHEREAS, Department considers it to be in the public interest to participate in this project, which provides a safe, efficient and Maritime Port Security project to ensure port security; and

NOW, THEREFORE, in consideration of the above premises and in further consideration of the agreement herein set forth by and between the parties hereto, it is mutually agreed as follows:

A. *Sub-awardee shall be responsible, at no cost to Department, for the fully project implementation listed in attachment one (investment justification) collectively are referred to as the "Plans"*

B. *The work to be performed under this Agreement is hereinafter called "Project" and is to include, but not necessarily be limited to the following activities listed in attachment one.*

The Plans shall be developed in accordance with appropriate standards and criteria and shall be subject to the review of Department. If requested by Department, Sub-awardee shall provide Department with reproducible copies of the Project Plans, as well as reproducible copies of the "as-built" Plans, as appropriate.

I. *Project shall begin on February 13, 2012 and end May 31, 2012. No expenses incurred prior to start listed in here shall be reimbursed by federal funds.*

II. *Sub-awardee shall comply with all applicable Federal, State, and local environmental regulations including, but not limited to, the National Environmental Policy Act, Council of Environmental Quality Regulations, Federal Emergency Management Administration guidance, Section 404 of the Clean Water Act, Section 106 of the National Historic Preservation Act, Endangered Species Act, and other environmental and cultural resource concerns, and hazardous waste requirements. Additionally, Sub-awardee shall comply with all terms and conditions of prime award, attachment two. Further, upon request of Department, Sub-awardee shall furnish Department with acceptable documentation of such compliance.*

III. *For Project, Sub-awardee shall secure the approvals and/or permits, if any, required by other governmental agencies.*

IV. *Sub-awardee shall advertise a construction contract, with appropriate provisions regarding the payment of prevailing wage rates, accept bids, award the construction contract, construct and inspect Project, and provide materials acceptance and traffic control, in accordance with the approved Project Plans. Department's authorization to reimburse Sub-awardee is contingent upon receipt of any Federal Highway Administration approval and authorization that may be required and upon Sub-awardee's compliance with the other stipulations and requirements set forth herein. Sub-awardee shall ensure compliance with the requirements of the Buy America Act, as well as any other required contract provisions pertaining to federal-aid/FEMA construction contracts.*

V. *Program reports are due on a quarterly basis. Reports are to be submitted to Grants Coordinator via email by the 15th calendar day following each quarter:*
   A. *January 1st to March 31th = due April 15th*
   B. *April 1st to June 30th = due July 15th*
   C. *July 1st to September 30th = due October 15th*
   D. *October 1st to December 30th = due January 15th*
   E. *Final report due 15 days after end date of project*

VI. *Funding for Project shall be as follows:*
   A. *With respect to Project, Department shall have no financial responsibility for the cost associated with:*
      i. *right-of-way and/or easements necessary;*
      ii. *design and engineering, as design of Project was undertaken and completed by Sub-awardee prior to execution of this Agreement;*
      iii. *any construction activities that are performed by any entity not procured through appropriate competitive bidding.*
   B. *Sub-awardee initially shall bear the cost of design/engineering and construction of Project. Upon submission by Sub-awardee to Department of proper invoices that clearly identify the actual cost incurred by Sub-awardee for design/engineering and construction of Project, which invoices shall include copies of payments made by Sub-awardee to its Project consultant and contractor, Department then shall reimburse Sub-awardee for the actual eligible design/engineering and construction costs of Project. Sub-awardee may submit invoices for reimbursement at any time during Project implementation, after payment to consultant and/or contractor*
   C. *Department's maximum financial responsibility toward Project shall be $155,292 (one-hundred-fifty-five thousand, two-hundred-ninety-two dollars). Such amount is the maximum amount payable by Department under this Agreement without a supplemental Agreement. This project has an applicant match of $51,764 (fifty-one thousand, seven-hundred-sixty-four dollars) for a project total of $207,056.00.*

D. Sub-awardee will submit detailed invoices, including match information, (using invoice template provided – Form 5100-61S) to Department no more frequently than monthly with appropriate match documentation. If match documentation is not included, invoice may not be payable. Final invoice is due by 30th day after end date stated in section one.

E. Should match requirements listed in attachment one not be met, Sub-awardee will promptly refund all prior payments made from federal funds.

VII. Any construction Change Order that will increase the cost of Project must be approved by both parties to this Agreement prior to the performance of any work associated with such Change Order.

VIII. Project will not be accepted by Department as part of the State System and Department shall assume no maintenance responsibility for such project or appurtenances.

IX. In connection with Project, Sub-awardee shall indemnify and hold Department harmless from and against any and all loss, damage, and liability, and from all claims for damages on account of or by reason of bodily injury, including death, which may be sustained, or claimed to be sustained, by any person or persons including employees of Department, and from and against any and all damages to property arising out of the Project, except if any such claim or liability results from

A. the sole negligence of Department; or

B. the willful or intentional unlawful acts of Department.

X. Department may terminate this Agreement upon thirty (30) days' written notice to Sub-awardee. Upon termination, Department shall be liable only for payment in accordance with the terms of this Agreement for work performed prior to the effective date of termination.

XI. Any disputes regarding this agreement shall be settled in courts of the state of West Virginia.

XII. This Agreement shall be binding upon the successors and assigns of each party hereto.

IN WITNESS WHEREOF, the parties hereto have caused their respective names to be signed by their duly authorized officers.

ATTEST:

Title:

Port of Huntington Tri-State Area Maritime Security Committee,

By:

ATTEST:
s/ Terry Hamby, Clerk to the Board

SUB-AWARDEE
Gallia County Commissioners
By: s/ Harold G. Montgomery, President
s/ Howard J. Foster, Vice President
s/ Lois M. Snyder, Commissioner

President Montgomery reiterated that this is a 2009 grant with an in-kind that had already been satisfied, with no further obligation to the county at this point; Grau confirmed. Joe Foster made and Lois Snyder seconded the motion; Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea.

ADDENDUM
COMMUNITY BASED CORRECTIONS PROGRAM
SUBSIDY GRANT AGREEMENT

Chief Deputy Grau submitted an addendum to the Community based Corrections Program 408 Subsidy Grant Agreement between the State of Ohio, Department of Rehabilitation and Correction, and Gallia County. It modifies the fiscal year 2012 agreement in the amount of $70,100. The grant award shall be increased by $10,000 from $70,100 to $80,100 effective on the date approved by the Deputy Director of the Division of Parole and Community Services in Ohio Department of Rehabilitation and Correction. Total expenditures for Fiscal Year 2012 (July 1, 2011 to June 30, 2012) will not in any case exceed $80,100.

Alicia Handwerk, Chief
Bureau of Community Sanctions

s/ Harold G. Montgomery, President
s/ Howard J. Foster, Vice President
s/ Lois M. Snyder, Commissioner

Sara Andrews, Deputy Director
Division of Parole and Community Services

Lois Snyder made and Joe Foster seconded the motion to approve the addendum as recommended; Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea.

DEVELOPMENTAL DISABILITIES AWARENESS MONTH

Developmental Disability Superintendent Rosalie Durbin was present for March DD Awareness month. The theme this year is "Our Community is Better Together"; the President proclaimed the following:

Proclamation

Whereas: Individuals with developmental disabilities, their families, friends, neighbors and co-workers encourage everyone to focus on the abilities of all people; and,
Whereas: the most effective way to increase this awareness is through everyone's active participation in community activities and the openness to learn and acknowledge each individual's contribution; and,
Whereas: opportunities for citizens with developmental disabilities to function as independently and productively as possible must be fostered in our community; and,
Whereas: we encourage all citizens to support opportunities for individuals with developmental disabilities in our community that include full access to education, housing, employment, and recreational activities; and,
Now, therefore, we, the Gallia County Commissioners, do hereby proclaim March, 2012 as Developmental Disabilities Awareness Month and recognize that Our Community is Better -- Together. Take time to get to know someone with a disability and what he or she has to offer.

Harold G. Montgomery, President Howard J. Foster, Vice President Lois M. Snyder, Commissioner

Lois Snyder made and Joe Foster seconded the motion to approve the proclamation; Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea. Ms. Durbin also advised that both the adult and children programs are now located in the city which has increased our collaboration efforts as well. We recently began working with GKN and they have offered our adult clients work and they now earn a paycheck. Our adult clients have also assisted with the County's NEG program, which was very beneficial to both entities.

Commissioners thanked Ms. Durbin for working progressively through the county and expressed appreciation to her board for continued support of the WRC and effort they made to move that project along as well.

TAKEOVER AGREEMENT APPROVED

Joe Foster moved and Lois Snyder seconded the motion to approve the takeover agreement with the surety Zurich American Insurance Company for the Kanauga-Addison sewer project as presented by Bricker & Eckler and recommended by the County Prosecutor. Included with Mr. Foster's motion was permission to authorize the President to sign on behalf of the county upon receiving the approval of the surety in order to expedite this process. Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea.

As further explanation, we have added language to the agreement which has been approved by the surety company; with all in agreement this will be sent for signatures of all involved. The approval will allow our attorney to present this to the surety company. The approved agreement is as follows:

Takeover Agreement

This Takeover Agreement (the "Agreement") is made and entered into this 8TH day of March, 2012, by and between Fidelity and Deposit Company of Maryland (the "Surety") and Gallia County Commissioners (the "Owner").

RECITALS:

WHEREAS, Trimat Construction, Inc. (the "Former Contractor") and the Owner entered into a contract (the "Original Contract") for the Former Contractor to furnish all labor and material and perform all work for Kanauga/ Addison Sanitary Sewer Improvements (the "Project") in accordance with the terms and provisions of the Original Contract, including all contract documents forming a part of the Original Contract; and

WHEREAS, under the terms of the Original Contract, Former Contractor and the Surety made, executed and delivered to the Owner a Performance Bond, Bond No. 8978435, and a Payment Bond, Bond No. 8978435 (collectively, the "Bonds"), both in the penal sum of $3,500,000.00; and

WHEREAS, by letter dated January 20, 2012, Owner issued a notice of termination of the Original Contract and made demand upon Surety that Surety complete the contract pursuant to the Performance Bond; and WHEREAS, Former Contractor contends that Owner improperly terminated the Original Contract; and

WHEREAS, Former Contractor has submitted claims and/or change order requests for extra work and time extensions, which, as of this date, have not yet been resolved and agreed upon by Former Contractor and Owner. Attached as Exhibit A are some, but not all, of the claims and/or change order requests for extra work and time extensions submitted by Fo1mer Contractor. Subsequent to execution of this Agreement, Surety and Owner will work to resolve the claims and/or change order requests submitted by Former Contractor. Owner agrees to toll the implementation of any formal dispute resolution procedures associated with such claims and/or change order requests until either party, with 30 days notice, rescinds its consent to toll; and

WHEREAS, the Surety, under, and without limitation, a full reservation of rights, is willing to undertake the completion of the Original Contract in accordance with the terms of the Performance Bond and this Agreement provided that in doing so it will receive the Contract Balance pursuant to the terms of the original Contract hereinafter defined as set forth below; and

WHEREAS, Owner is willing to allow Surety to undertake completion of the Original Contract in accordance with the terms and conditions of the Performance Bond and this Agreement, while reserving all of its rights as Owner.

NOW, THEREFORE, in consideration of the agreements and undertakings hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy therefore being hereby acknowledged, the Owner and the Surety agree as follows:

AGREEMENTS:

1. The Surety hereby undertakes to cause the performance of each and every one of the terms, covenants and conditions of the Original Contract, including all modifications thereto, and agrees to be bound by the Original Contract. The Owner acknowledges that the Surety, by its execution of this Agreement, is acting in its capacity as the surety for the Former Contractor in making arrangements for the performance and completion of the Original Contract, and not as a completing contractor, and that the Surety is not assuming any obligations or liabilities beyond those set forth in the Bonds. As to the completion of the Original Contract, except as otherwise provided in this Agreement, the Surety is entitled to all rights, title and interest of the Former Contractor in and to the Original Contract in all respects as if the Surety were the original party to the Original Contract. The term "Contractor" as used in the Original Contract shall be deemed, after the effective date of this Agreement, to refer to the Surety rather than to the Former Contractor.
2. The Owner acknowledges that the Surety will subcontract the performance of the work under the Original Contract to several completion contractors (the "Completion Contractors"), but under no circumstances shall the Surety use the Former Contractor or any successor entity to the Former Contractor for performance of the work. Neither shall the surety use any contractor identified on the Excluded Parties List System (EPLS) maintained by the U.S. General Services Administration for performance of the work, nor use any contractor under control or ownership of an individual in the EPLS. The Surety may satisfy the required insurance obligations under the Original Contract by providing evidence of adequate insurance coverage carried by the Completion Contractors, with the Owner and Surety being named as an additional insureds under the policy or policies.
3. The Owner and the Surety agree that as of the date of this Agreement:
   (a) The adjusted Contract Price of the Original Contract, including all approved change orders, is the sum of$4,427,079.38;
   (b) The Former Contractor and/or the Surety have been paid the sum of $4,110,131.77;
   (c) The Owner is holding the sum of $216,322.72 as retainage pursuant to the terms of the Original Contract;
   (d) The "Contract Balance," including retainage, shall be hereinafter defined as the sum of $316,947.61 [subsection (a) minus subsection (b)]. The Contract Balance shall be increased or decreased, as appropriate, as a result of certain pending change orders to the Original Contract submitted by the Former Contractor, and as a result of any change orders submitted in the future by the Surety for extra work (work that is different from, in excess of, or beyond the scope of the work required by the Original Contract), whether performed by the Former Contractor or by Completion Contractors; and
   (e) As of the date of the execution of this Agreement, the Owner agrees that, according to the records available to it, the Contract Balance as defined herein is as stated. The Surety reserves the right to verify the accuracy of the Contract Balance. The Surety's sole remedy against the Owner in the event that the Contract Balance is different than stated above is reformation of the Contract Balance, by increase or decrease, to the proper amount.
4. The Owner agrees that the Contract Balance is dedicated to and will be applied to the completion of the Original Contract pursuant to this Agreement and the Original Contract. The Owner shall pay in accordance with the terms of the Original Contract directly to the Surety the Contract Balance, plus or minus any additional amounts of money on account of any change orders, as the work progresses. The payment of the Contract Balance to the Surety shall be made in accordance with the terms of the Original Contract as to the time, amount and method of payment, and no payment shall be delayed by reason of any slow down or cessation of work in connection with the takeover of the Original Contract by the Surety. The Surety agrees to spend its own funds as may be necessary from time to time to pay for the performance of the Original Contract by the Completion Contractors in the event that the Contract Balance is insufficient, with any such payments being credited against the penal sum of the Performance Bond. Notwithstanding any other provision in this Agreement to the contrary, the Surety

acknowledges and agrees that Owner may set off against any monies due Surety under this Agreement monies paid by Owner to utility companies supplying utility service, such as electrical service, to any part of the Project.
5. Insofar as the Owner has any right, title or interest therein, the Owner agrees that the Surety and its Completion Contractors shall have the right to use, without charge, any of the equipment, materials and appurtenances furnished or supplied by the Former Contractor which may be stored on or about the premises of the Project site or materials which may have been fabricated for use in connection with the Original Contract, whether or not presently upon the Project site.
6. The Surety shall be represented at the Project by Stephen L. Koch of Koch Surety Services LLC (the "Authorized Individual") solely for the purposes set forth in this paragraph. The Authorized Individual will represent the Surety in dealing with the Owner on day to day construction issues with respect to the Project. The Surety hereby designates the Authorized Individual to prepare and process pay requisitions on the Original Contract. However, the Surety will sign all pay requisitions submitted to the Owner. Payments from the Owner shall be made payable to the Surety and transmitted to the Surety at the following address, unless and until the Owner is notified in writing of any different addresses:

Zurich American Insurance Company
Surety and Financial Claims
Attn: Curte Ferguson
P.0. Box 968037
Schaumburg, Illinois 60196

The Authorized Individual shall have, on behalf of the Surety, the authority to negotiate change order requests submitted by Former Contractor and submitted in the future by the Surety for extra work (work that is different from, in excess of, or beyond the scope of the work required by the Original Contract), whether performed by the Former Contractor or by Completion Contractors. Change orders must be signed by the Surety; and
7. The total liability of the Surety under this Agreement and the Performance Bond for the performance of the work, after the expenditure of the Contract Balance, is limited to and shall not exceed the penal sum of the Performance Bond as defined in the Original Contract. All payments properly made by the Surety for the performance of the Original Contract shall be credited against the penal sum of the Performance Bond. Nothing in this Agreement constitutes a waiver of such penal sum or an increase in the liability of the Surety under the Performance
Bond.
8. Except as required by law, in no event shall the Owner withhold any of the Contract Balance from the Surety because of or on account of any claims, liens, suits or demands by any persons or entities furnishing or alleging to have furnished labor and/or materials to the Project. The Payment Bond shall remain in full force and effect in accordance with its terms and provisions. The total liability of the Surety under the Payment Bond is limited to and shall not exceed the penal sum of the Payment Bond as defined in the Original Contract. All Payment
Bond payments properly made by the Surety shall be credited against the penal sum of the Payment Bond. Nothing in this Agreement constitutes a waiver of such penal sum or an increase in the liability of the Surety under the Payment Bond.
9. This Agreement is solely for the benefit of the Owner and the Surety. The Owner and the Surety do not intend by any provision of this Agreement to create any rights in or increase the rights of any third-party beneficiaries, nor to confer any benefit upon or enforceable rights under this Agreement or otherwise upon anyone other than the Owner and the Surety. Specifically, the Owner and the Surety acknowledge that nothing in this Agreement shall extend or increase the rights of any third-party claimants or the liabilities or obligations of the Surety under the Bonds.
10. This Agreement constitutes the whole of the understanding, discussions, and agreements by and between the Owner and the Surety. The terms and provisions of this Agreement are contractual and not mere recitals. The Owner and the Surety acknowledge that there have been no oral, written or other agreements of any kind as a condition precedent to or to induce the execution and delivery of this Agreement. Any written or oral discussions conducted prior to the effective date of this Agreement shall not in any way vary or alter the terms of this Agreement.
11. This Agreement shall not be changed, amended or altered in any way except in writing and executed by both the Owner and Surety.
12. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original.
13. This Agreement shall be governed by and controlled by the laws of the State of Ohio.
14. Any notices which are required to be given by the terms of this Agreement or the Bonds shall be made as follows:

As to the Owner:
Via certified mail, return receipt requested, postage prepaid to:
Gallia County Board of Commissioners
18 Locust Street, Suite 1292
Gallipolis, Ohio 45631

With a copy to:
Doug Shevelow
Bricker & Eckler LLP
100 South Third Street
Columbus, OJ 43215

As to the Surety:
Via certified mail, return receipt requested, postage prepaid to:
Zurich American Insurance Company
Surety and Financial Claims
Attn: Curte Ferguson
P.O. Box 968037
Schaumburg, Illinois 60196

With a copy to:
William **H.** Woods
McNamara and McNamara, L.L.P.
88 East Broad Street, Suite 1250
Columbus, OH 43215

15. This Agreement is effective as of the date first written above.
16. This Agreement shall be binding upon the parties and their respective successors and assigns.
17. In the event that one or more provisions of this Agreement shall be declared to be invalid, illegal or unenforceable in any respect, unless such invalidity, illegal or unenforceable in any respect, unless such invalidity, illegality or unenforceability shall be tantamount to a failure of consideration, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby.
18. It is understood and agreed by the Owner and the Surety that this Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date indicated above, and each of the undersigned personally represent and warrant that they have the full right, power and authority to execute this Agreement on behalf of the respective parties.

Agency Conccurrence:

OWNER – GALLIA COUNTY COMMISSIONERS

By: s/ *Harold G. Montgomery*, President

SURETY FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By: ______________________

Title: ______________________

As lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, the Agency hereby concurs in the form, content, and execution of this Agreement.

Agency: ___________ By: ___________

Date: _____________ Title ___________

EXECUTIVE SESSION

At 1:58 pm the President entertained a motion to enter into executive session to discuss a personnel issue regarding the appointment, promotion or compensation of a public employee. Lois Snyder made and Joe Foster seconded the motion; Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea. Returned to regular session at 2:40 p.m.; no action taken.

POP SITE AGREEMENT

Mike Thompson with Horizon presented the final pop site agreement for review and signing. Thompson explained that the warrant will be forth coming next week. The Prosecutor reviewed the document and signed "approved as to form". Commissioners advised they will review the agreement and Thompson was put on next week's agenda.

PUBLIC ASSISTANCE GRANT DESIGNATION
CHILDREN SERVICES – SLIP REPAIR PROJECT

The County Administrator Karen Sprague presented the Commission with a letter to designate County Engineer Brett Boothe as the Authorized Agent to manage the slip repair project funded by a FEMA grant for the Children Services facility access road. Ms. Sprague noted the County would need to provide the 12.5% local match for the project, estimated to be around $23,000. Also the County would have to front the entire cost of the repair and then request reimbursement from FEMA/OEMA. Ms. Sprague noted the appropriations for the project could be made in the FEMA fund that is already established and the Commissioners could transfer the local match into that fund from the general fund. Then when the grant dollars are paid to the county to reimburse for the project they will be paid into the FEMA fund to cover the project funds that were spent. The President entertained a motion to appoint County Engineer Brett Boothe as the Authorized Agent for this project and sign the letter. Lois Snyder made and Joe Foster seconded the motion. Upon roll call votes were as follows: Harold Montgomery, yea; Joe Foster, yea; Lois Snyder, yea.

OVRDC APPOINTMENT

ED Director Melissa Clark advised that she had contacted Brian Long and he expressed an interest in serving on the OVRDC Full Committee. Joe Foster made and Lois Snyder seconded the motion to submit Brian Long for the private sector representative, for appointment at the next OVRDC Full Committee meeting in April. Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea.

EXECUTIVE SESSION

At 4:00 p.m. the President entertained a motion to enter into executive session to discuss a personnel issue regarding the appointment, promotion or compensation of a public employee. Joe Foster made and Lois Snyder seconded the motion; Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea. Returned to regular session at 4:15 p.m.; no action taken.

ADJOURN

At 4:16 p.m. President Montgomery entertained a motion for adjournment. Lois Snyder made and Joe Foster seconded the motion; Roll call: Mr. Montgomery, yea; Mr. Foster, yea; Ms. Snyder, yea.

Harold G. Montgomery
Harold G. Montgomery, President

Terry Hemby
Terry Hemby, Clerk

Howard J. Foster
Howard J. Foster, Vice President

Lois M. Snyder
Lois M. Snyder, Commissioner