

COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD SEPTEMBER 15, 2022

THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY MET IN REGULAR SESSION ON THIS DATE WITH THE FOLLOWING MEMBERS PRESENT:

Present:
Barb Lewis, President
Jeff Benton, Vice President
Gary Merrell, Commissioner

1
RESOLUTION NO. 22-783

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD SEPTEMBER 12, 2022:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on September 12, 2022; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the electronic record of proceedings at the previous meeting.

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

2
PUBLIC COMMENT
-None.

3
RESOLUTION NO. 22-784

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0914:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0914 and Purchase Orders as listed below:

Table with 5 columns: PR Number, Vendor Name, Line Description, Line Account, Amount. Row 1: R2204342, SILVERBACK SAFETY & TRAINING SOLUTIONS INC, RESCUE TASK FORCE TRAINING, 10011303 - 5305, \$8,848.20

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

4
RESOLUTION NO. 22-785

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Emergency Medical Department is requesting that Julie Webb attend the EMS World Conference in Orlando, Florida from October 10-14, 2022 at the cost of \$1152.50 (fund number 10011303).

The Emergency Medical Department is requesting that Jeff Sparks attend the EMS World Conference in Orlando, Florida from October 10-14, 2022 at the cost of \$1652.50 (fund number 10011303).

The Emergency Medical Department is requesting that Julie Jones attend the EMS World Conference in Orlando, Florida from October 10-14, 2022 at the cost of \$1152.50 (fund number 10011303).

The Emergency Medical Department is requesting that Ben Berger attend the EMS World Conference in Orlando, Florida from October 10-14, 2022 at the cost of \$1152.50 (fund number 10011303).

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

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RESOLUTION NO. 22-786

**IN THE MATTER OF A NEW LIQUOR LICENSE REQUEST FROM KYISHU RAMEN 23 LLC AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:**

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following resolution:

WHEREAS, the Ohio Division of Liquor Control has notified the Delaware County Board of Commissioners of a request for a new D5 liquor license request from Kyishu Ramen 23 LLC, located 6418 Pullman Drive, Lewis Center, Ohio 43035; and

WHEREAS, the Delaware County Board of Commissioners has found no reason to file an objection;

NOW, THEREFORE, BE IT RESOLVED that the Clerk of the Board shall complete the necessary forms and notify the Ohio Division of Liquor Control that no objections are made and no hearing is requested by this Board of County Commissioners.

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

6

RESOLUTION NO. 22-787

**IN THE MATTER OF SETTING DATE, TIME AND PLACE FOR THE FINAL HEARING ON THE PROPOSED VILLAS AT MAPLE CREEK WATERSHED DRAINAGE IMPROVEMENT:**

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

WHEREAS, on August 27, 2020, the Board of Commissioners of Delaware County (the "Board") held a public hearing and determined that the proposed Villas at Maple Creek Watershed Drainage Improvement is necessary and conducive to the public welfare, and that it is reasonably certain that the benefits of the proposed improvement will outweigh its costs; and

WHEREAS, the Board also ordered the Delaware County Engineer to prepare the reports, plans, and schedules for the proposed improvement; and

WHEREAS, the Delaware County Engineer has filed the reports, plans, and schedules for the proposed improvement with the Clerk of the Board;

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of the County of Delaware hereby fixes October 24, 2022 at 10:00 AM at the Office of the Board of County Commissioners, 91 North Sandusky Street Delaware, Ohio, as the time and place of the final hearing on the report of the County Engineer.

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

7

RESOLUTION NO. 22-788

**IN THE MATTER OF APPROVING A TRANSFER OF APPROPRIATION AND SUPPLEMENTAL APPROPRIATIONS FOR ADULT COURT SERVICES:**

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

**Transfer of Appropriation**

<b>From:</b>	<b>To:</b>	
25322312-5345	25322312-5001	500.00
ODRC Subsidy Grant/Safety & Security	ODRC Subsidy Grant/Compensation	
25322312-5345	25322312-5101	7,000.00
ODRC Subsidy Grant/Safety & Security	ODRC Subsidy Grant/Health Insurance	
25322312-5345	25322312-5102	50.00
ODRC Subsidy Grant/Safety & Security	ODRC Subsidy Grant/Workers Comp	
25322312-5345	25322312-5120	850.00
ODRC Subsidy Grant/Safety & Security	ODRC Subsidy Grant/OPERS	
25322312-5345	25322312-5131	100.00
ODRC Subsidy Grant/Safety & Security	ODRC Subsidy Grant/Medicare	

**Supplemental Appropriation**

25422311-5001	Pre-Sentence Investigation/Compensation	2,100.00
25422311-5101	Pre-Sentence Investigation/Health Insurance	4,300.00
25422311-5102	Pre-Sentence Investigation/Workers Comp	50.00

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25422311-5120	Pre-Sentence Investigation/OPERS	1,650.00
25422311-5131	Pre-Sentence Investigation/Medicare	150.00

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

**8  
RESOLUTION NO. 22-789**

**IN THE MATTER OF APPROVING A SUPPLEMENTAL APPROPRIATION FOR THE ESCROW ADMINISTRATION FUND:**

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

**Supplemental Appropriation**

76714903-5001	Escrow Administration/Compensation	\$21,018.91
76714903-5102	Escrow Administration/Workers Comp	\$5,171.43
76714903-5120	Escrow Administration/OPERS	\$2,836.01
76714903-5131	Escrow Administration/Medicare	\$354.50

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

**9  
RESOLUTION NO. 22-790**

**IN THE MATTER OF APPROVING A TRANSFER OF APPROPRIATIONS FOR THE SHERIFF'S OFFICE:**

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

**Transfer of Appropriation**

<b>From:</b>	<b>To:</b>	
10031301-5260	10031301-5450	\$ 14,000
Inv Tool, Equip, Furn \$1000-\$4999	Machinery & Equip > \$5,000	

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

**10  
RESOLUTION NO. 22-791**

**IN THE MATTER OF APPROVING THE PLATS OF SUBDIVISION FOR THE GROVE, CLARKSHAW MOORS SECTION 6 PHASE A, VINMAR VILLAGE SECTION 5, BRENNER CAD, WOODTOWN ESTATES CAD SUBDIVISION, WOODTOWN FARMS CAD; AND NELSON FARMS SECTION 3 PHASE B:**

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

The Grove:

WHEREAS, Romanelli and Hughes Building Company has submitted the plat of subdivision for The Grove, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of subdivision for The Grove:

The Grove:

Situated in the State of Ohio, County of Delaware, Township of Genoa, in Farm Lot 13, Quarter Township 2, Township 3, Range 17, United States Military Lands, containing 19.849 acres of land, more or less, said 19.849 acres being all of the remainder of that tract of land conveyed to Romanelli and Hughes Building Company by deed of record in Official Record 1792, Page 1975. Cost \$90.00 (\$3.00 *per buildable lot*)

Clarkshaw Moors Section 6 Phase A:

WHEREAS, Rockford Homes, Inc., has submitted the plat of subdivision for Clarkshaw Moors Section 6 Phase A, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of subdivision for Clarkshaw Moors Section 6 Phase A:

Clarkshaw Moors Section 6 Phase A:

Situated in the State of Ohio, County of Delaware, Township of Concord, lying in Farm Lot 34, Section 3,

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Township 4, Range 19, United States Military District, containing 8.311 acres, said 8.311 acres being part of the remainder of a 54.649 acre tract as conveyed to Rockford Homes, Inc. in Official Record 1394, Delaware County Recorder's Office. Cost \$57.00 (*\$3.00 per buildable lot*)

Vinmar Village Section 5:

WHEREAS, The Reserve at Vinmar , LLC, has submitted the plat of subdivision for Vinmar Village Section 5, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of subdivision for Vinmar Village Section 5:

Vinmar Village Section 5:

Situated in the State of Ohio, County of Delaware, Township of Genoa, lying in Farm Lots 4 and 5, Section 2, Township 3, Range 17, United States Military District, containing 31.850 acres, said 31.850 acres being the remainder of a 39.239 acre tract and the remainder of 27.054 acre tract as both are conveyed to the Reserve at Vinmar , LLC in Official Record 1613, Page 1467 as Parcels I and III respectively, Delaware County Recorder's Office. Cost \$90.00 (*\$3.00 per buildable lot*)

Brenner CAD:

WHEREAS, Sara Marie Brenner and Andrew Brenner have submitted the plat of subdivision for Brenner CAD, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of subdivision for Brenner CAD:

Brenner CAD:

Situated in the State of Ohio, County of Delaware, Township of Brown, being in Farm Lot 3, Section 2, Township 5, Range 18, and being all of a 17.34 acre tract (PID 518-200-03-002-000) conveyed to Sara Marie Brenner and Andrew Brenner, by Deed of Record in Official Record 1820, Page 570, Recorder's Office, Delaware County, Ohio. Cost: \$6.00 (*\$3.00 per buildable lot*)

Woodtown Estates CAD Subdivision:

WHEREAS, Timothy Dickens (Member of 365 Land, LLC) has submitted the plat of subdivision for Woodtown Estates CAD Subdivision, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of subdivision for Woodtown Estates CAD Subdivision:

Woodtown Estates CAD Subdivision:

Situated in the Township of Harlem, County of Delaware, State of Ohio, Being Lot 6 & Lot 7, Quarter Township 2, Township 3, Range 16, United States Military Lands and 33.1713 acres of a 67.901 acre tract conveyed to 356 Land, LLC in Official Record 1807, Page 2432. Cost: \$9.00 (*\$3.00 per buildable lot*)

Woodtown Farms CAD:

WHEREAS, Timothy Dickens (Member of 365 Land, LLC) has submitted the plat of subdivision for Woodtown Farms CAD, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of subdivision for Woodtown Farms CAD:

Woodtown Farms CAD:

Situated in the Township of Harlem, County of Delaware, State of Ohio, Being Lot 6, Quarter Township 2, Township 3, Range 16, United States Military Lands and 34.188 acres of a 67.901 acre tract conveyed to 356 Land, LLC in Official Record 1807, Page 2442. Cost: \$9.00 (*\$3.00 per buildable lot*)

Nelson Farms Section 3 Phase B:

WHEREAS Pulte Homes of Ohio has submitted the plat of subdivision for Nelson Farms Section 3 Phase B, including related development plans, and requests approval thereof by the Board of Commissioners of Delaware County;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the plat of subdivision for Nelson Farms Section 3 Phase B:

Nelson Farms Section 3 Phase B:

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Situated in the State of Ohio, County of Delaware, Township of Liberty, and in Farm Lot 9, Quarter Township 1, Township 3, Range 19, United States Military Lands, containing 10.960 acres of land, more or less, said 10.960 acres being part of that tract of land conveyed as Parcel 1 to Pulte Homes of Ohio, LLC by deed of record in Official Record 1957, Page 254, Recorder’s Office, Delaware County, Ohio. Cost: \$45.00 (\$3.00 per buildable lot)

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

**11**

**RESOLUTION NO. 22-792**

**IN THE MATTER OF ESTABLISHING A MAINTENANCE BOND FOR VINMAR VILLAGE SECTION 5:**

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

WHEREAS, the roadway construction has been completed for the project known as Vinmar Village Section 5 (the “Project”); and

WHEREAS, as the result of the Engineer’s recent field review of the Project, the Engineer has determined that only minor remedial work remains, which can be accomplished during the subsequent one year maintenance period; and

WHEREAS, the Engineer recommends that, in accordance with the Owner’s Agreement, the maintenance bond be set at \$120,500.00 and that the Project be placed on the required one year maintenance period; and

WHEREAS, Romanelli & Hughes Building Company (the “Principal”) has provided a maintenance bond in the amount of \$120,500.00 as surety to cover the one year maintenance period;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves establishing the maintenance bond for the Project listed and returning the construction bond for the Project to the Principal as outlined herein.

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

**12**

**RESOLUTION NO. 22-793**

**IN THE MATTER OF ESTABLISHING A MAINTENANCE BOND AND RETURNING CONSTRUCTION SURETIES FOR THE COURTYARDS AT CLEAR CREEK SECTION 2 PHASE A AND COURTYARDS AT CLEAR CREEK SECTION 2 PHASE B:**

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

WHEREAS, the roadway construction has been completed for the project known as Courtyards at Clear Creek Section 2 Phase A and the Courtyards at Clear Creek Section 2 Phase B (the “Projects”); and

WHEREAS, as the result of the Engineer’s recent field review of the Projects, the Engineer has determined that only minor remedial work remains, which can be accomplished during the subsequent one year maintenance period; and

WHEREAS, the Engineer recommends that, in accordance with the Owner’s Agreement, the maintenance bond be set at \$52,700.00 for the Courtyards at Clear Creek Section 2 Phase A and at \$56,160.00 for the Courtyards at Clear Creek Section 2 Phase B and that the Projects be placed on the required one year maintenance period; and

WHEREAS, Epcon Clear Creek, LLC (the “Principal”) has provided maintenance bonds in the necessary amounts to cover the one year maintenance period; and

WHEREAS, the Engineer also recommends approval to return the construction performance bonds to the Principal;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves establishing the maintenance bonds for the Projects and returning the construction bonds for the Projects to the respective Principal as outlined herein.

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

**13**

**RESOLUTION NO. 22-794**

**IN THE MATTER OF APPROVING OWNER’S AGREEMENTS FOR BERKSHIRE CROSSING SECTIONS 1 AND 2:**

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

WHEREAS, the Engineer recommends approving the Owner's Agreements for Berkshire Crossing Sections 1 and 2;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Owner's Agreements for Berkshire Crossing Sections 1 and 2:

Berkshire Crossing Section 1:

**OWNER'S AGREEMENT**  
**PROJECT NUMBER: 22088**

**THIS AGREEMENT**, executed on this 15<sup>th</sup> day of September, 2022, between AMH Development LLC , hereinafter called "**OWNER**" and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as Berkshire Crossing Sec 1 further identified as Project Number 22088 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

**OPTIONS:**

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

**OWNER** hereby elects to use **Option 1** for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless Delaware County and all Townships and/or Villages within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

**All public improvement construction** shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** further agrees that any violations of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **COUNTY** shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **Forty Four Thousand Dollars and No Cents (\$44,000.00)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to ten percent (10%) of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

**Upon completion of construction**, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

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**Acceptance of the project** into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

**Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer** during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**.

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless Delaware County and all Townships and/or Villages within and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the County.

Should the **OWNER** become unable to carry out the provisions of this **AGREEMENT**, the **OWNER'S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.

In consideration whereof, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants the **OWNER** or his agent, the right and privilege to make the improvements stipulated herein.

EXHIBIT "A"

CONSTRUCTION COST ESTIMATE	\$1,104,000.00
CONSTRUCTION BOND AMOUNT	\$1,104,000.00
MAINTENANCE BOND AMOUNT	\$110,400.00
INSPECTION FEE DEPOSIT	\$44,000.00

Berkshire Crossing Section 2:

**OWNER'S AGREEMENT**

**PROJECT NUMBER: 22089**

**THIS AGREEMENT**, executed on this 15th day of September 2022, between AMH Development LLC, hereinafter called "**OWNER**" and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as Berkshire Crossing Sec 2 further identified as Project Number 22089 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

**OPTIONS:**

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

**OWNER** hereby elects to use Option 1 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the Delaware County Design, Construction and Surveying Standards and any supplements thereto. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

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The OWNER shall indemnify and save harmless Delaware County and all Townships and/or Villages within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date on which this AGREEMENT is executed by the COUNTY COMMISSIONERS.

The OWNER further agrees that any violations of or noncompliance with any of the provisions and stipulations of this AGREEMENT shall constitute a breach of contract, and the COUNTY shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the AGREEMENT, the OWNER shall deposit Forty Nine Thousand Dollars and No Cents (\$49,000.00 ) estimated to be necessary to pay the cost of inspection by the Delaware County Engineer. When the fund has been depleted to ten percent (10%) of the original amount deposited, the OWNER shall replenish the account upon notice by the Engineer. Upon completion of the maintenance period and acceptance of the improvements by the Delaware County Commissioners, the remaining amount in the fund shall be returned to the OWNER.

Upon completion of construction, the OWNER shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of one year. Said OWNER’S bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in Exhibit “A” for said maintenance. The reduction may be approved only after the County Engineer has been provided evidence that all work has been accomplished according to the approved plan and/or to the County Engineer’s satisfaction. All work is to be done in accordance with the Delaware County Design, Construction and Surveying Standards, and any supplements thereto.

Acceptance of the project into the public system shall be completed only after written notice to the COUNTY COMMISSIONERS from the County Engineer of his approval. The OWNER’S maintenance responsibility as described above shall be completed upon formal acceptance by the COUNTY COMMISSIONERS.

Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance shall be the responsibility of the OWNER. All of the funds set forth in the AGREEMENT shall be made available to the County Engineer to ensure proper safety compliance.

The OWNER shall, within thirty (30) days of completion of construction and prior to final acceptance, to the COUNTY COMMISSIONERS, as required, “as-built” drawings of the improvements, which plans shall become the property of the COUNTY and remain in the office of the Delaware County Engineer.

The OWNER shall, within thirty (30) days of completion of construction, furnish to the COUNTY COMMISSIONERS an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The OWNER shall indemnify and hold harmless Delaware County and all Townships and/or Villages within and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The OWNER shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The OWNER shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the OWNER and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the County.

Should the OWNER become unable to carry out the provisions of this AGREEMENT, the OWNER’S heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this AGREEMENT.

In consideration whereof, the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO hereby grants the OWNER or his agent, the right and privilege to make the improvements stipulated herein.

EXHIBIT "A"

CONSTRUCTION COST ESTIMATE	\$816,700.00
CONSTRUCTION BOND AMOUNT	\$816,700.00
MAINTENANCE BOND AMOUNT	\$81,700.00
INSPECTION FEE DEPOSIT	\$49,000.00

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

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**RESOLUTION NO. 22-795**

**IN THE MATTER OF APPROVING AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT FOR DEL-CR72-01.80 CHESHIRE ROAD GRADE SEPARATION:**

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

WHEREAS, pursuant to Resolution No. 18-1279, adopted on November 19, 2018, this Board declared necessity for the improvements known as DEL-CR72-01.80 Cheshire Road Grade Separation and entered into an agreement with Carpenter Marty Transportation, Inc.; and

WHEREAS, the County Engineer recommends an amendment to the agreement;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby approves the following amendment:

**AMENDMENT NO. 2  
PROFESSIONAL SERVICES AGREEMENT  
DEL-CR 72-01.80**

This Amendment No. 2 to the Agreement dated November 19, 2018, is made and entered into this 15<sup>th</sup> day of September, 2022, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Carpenter Marty Transportation, Inc., 6612 Singletree Drive, Columbus, Ohio 43229 (“Consultant”) (hereinafter collectively referred to as the “Parties”).

**ARTICLE 1 – AMENDMENT**

Pursuant to Section 3.1 of the Agreement, the Parties mutually agree to amend the Agreement as follows:

- A. Section 4.2 of the Prime Agreement shall be modified to increase the maximum total compensation to Eight Hundred Forty-Six Thousand Four Hundred Eight Dollars and Seventy-Eight Cents (\$846,408.78).
  - a. Original Contract (\$462,957.47) plus Mod #1 (\$330,158.92) plus Mod #2 (\$53,292.39)
- B. Section 7.1 of the Prime Agreement shall be modified to extend the date for the completion of Services to July 1, 2023.

**ARTICLE 2 – REMAINING PROVISIONS**

All other terms and conditions of the Prime Agreement not specifically amended herein shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2.

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

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**RESOLUTION NO. 22-796**

**IN THE MATTER OF APPROVING RIGHT-OF-WAY WORK PERMIT SUMMARY SHEET:**

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following work permits:

WHEREAS, the below requests to perform work within the right-of-way have been reviewed and approved by the Delaware County Engineer;

NOW, THEREFORE, BE IT RESOLVED that the following permits are hereby approved by the Board of Delaware County Commissioners:

Permit #	Applicant	Location	Type of Work
UT22-0149	AEP-OHIO	BALE KENYON	REPLACE & INSTALL NEW POLES

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

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**ADMINISTRATOR REPORTS**

Tracie Davies, County Administrator

-Attended the TID meeting yesterday.

-Awarded a grant to Orange Township for the Bale Kenyon road improvement project (\$500,000)

-The Licking County TID is doing a road study for the Intel project. The Engineer’s office would like

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Delaware County to participate as well. There should be an agreement coming to the Board soon.

-Attended a SIM lab yesterday at Medic 4 with Dr. Panchal to observe.

Dawn Huston  
-No reports.

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**COMMISSIONERS' COMMITTEES REPORTS**

Commissioner Benton

- Watched the TID live stream yesterday. It is encouraging for us to collaborate with Licking County about roads.
- The Delaware County Fair starts Saturday.
- We will have session at the Fair on Monday (9:30 AM).
- Attended the DKMM meeting on Tuesday.
- Will be attending the State of the Schools luncheon today.

Commissioner Merrell

- Will be attending the State of the Schools luncheon today.
- Also attended the DKMM meeting Tuesday.
- Will be attending a CCAO Policy meeting today at 1:00 PM
- Will be attending a CCAO board meeting tomorrow.

Commissioner Lewis

- The Fair will start this weekend.

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**RESOLUTION NO. 22-797**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL; FOR PENDING OR IMMINENT LITIGATION:**

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

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

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

Section 1. The Board hereby adjourns into executive session for consideration of compensation of a public employee or public official; for pending or imminent litigation.

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

**RESOLUTION NO. 22-798**

**IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:**

It was moved by Mr. Merrell, seconded by Mr. Benton to adjourn out of Executive Session.

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

There being no further business, the meeting adjourned.

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Gary Merrell

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Barb Lewis

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Jeff Benton

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Jennifer Walraven, Clerk to the Commissioners