

COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023

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

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

**1**  
**RESOLUTION NO. 23-257**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD MARCH 27, 2023:**

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on March 27, 2023; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.11 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. 23-258**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0331:**

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0331 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO' Increase</b> (P2301002) Delaware Transit	Transportation Services	22411601-5355	\$50,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Line Account</u>	<u>Amount</u>
R2302771	COMMISSIONERS	2023 COST ALLOCATION	22411605 - 5380	\$385,240.00

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

**4**  
**RESOLUTION NO. 23-259**

**IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:**

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

The Veteran Services Office is requesting that Rey Cordero attend a National Service Officer Training in Madison, Wisconsin June 3-9, 2023 at the cost of \$3,234.00.

The Veteran Services Office is requesting that Scott Leonard attend a National Service Officer Training in Madison, Wisconsin June 3-9, 2023 at the cost of \$3,495.00.

The Records Center is requesting that Chris Shaw attend a 2023 NAGARA Annual Conference in Cincinnati, Ohio from July 18-21, 2023 at the cost of \$1,142.54 (fund number 10011103).

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

**5**  
**RESOLUTION NO. 23-260**

**IN THE MATTER OF RECOGNIZING APRIL AS NATIONAL COUNTY GOVERNMENT**

COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023

MONTH:

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

WHEREAS, the nation's 3,069 counties serving more than 330 million Americans provide essential services to create healthy, safe and vibrant communities; and

WHEREAS, counties fulfill a vast range of responsibilities and deliver services that touch nearly every aspect of our residents' lives; and

WHEREAS, Delaware County and all counties take pride in our responsibility to protect and enhance the health, wellbeing and safety of our residents in efficient and cost-effective ways; and

WHEREAS, Delaware County and the County Commissioners Association of Ohio encourages our fellow citizens to become engaged and aware in services provided by county governments throughout Ohio; and

WHEREAS, we appreciate the dedication and hard work of the county workforce, who deliver critical services to the people of Delaware County;

NOW, THEREFORE, BE IT RESOLVED THAT THE DELAWARE COUNTY BOARD OF COMMISSIONERS, do hereby proclaim April 2023 as National County Government Month.

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

**6**  
**PETER MARBACH, CENTRAL OHIO DISTRICT REPRESENTATIVE**  
**OFFICE OF SENATOR JD VANCE**  
**INTRODUCTION/REMARKS**

**7**  
**RESOLUTION NO. 23-261**

**IN THE MATTER OF PROCLAIMING APRIL 3-9 AS PUBLIC HEALTH WEEK**  
**IN DELAWARE COUNTY:**

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

WHEREAS, the week of April 3-9, 2023, is National Public Health Week; and

WHEREAS, the Delaware Public Health District recognizes this week as a way to raise awareness about the critical role that public health plays in keeping our communities safe and healthy; and

WHEREAS, everyone can make their communities healthier, safer and stronger when we support and stay engaged with one another; and

WHEREAS, the focus is not just on what we can do as individuals, but what we can do as communities to protect, prioritize and influence the future of public health; and

WHEREAS, public health must be a priority in designing our communities, from healthy housing to accessible playgrounds to tobacco-free parks; and

WHEREAS, we celebrate the power of prevention, advocate for healthy and fair policies, share strategies for successful partnerships, and champion the role of a strong public health system; and

WHEREAS, we encourage everyone to step in and do what they can to make Delaware County a more safe, healthy and just place;

NOW, THEREFORE, WE, the Delaware County Board of Commissioners, do hereby proclaim the week of April 3-9, 2023, as National Public Health Week, and call upon the people of Delaware County to observe this week by helping our families, friends, neighbors and co-workers celebrate their health.

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

**8**  
**RESOLUTION NO. 23-262**

**IN THE MATTER OF DECLARING COUNTY PERSONAL PROPERTY OBSOLETE, UNFIT, OR**  
**NOT NEEDED FOR PUBLIC USE AND AUTHORIZING THE DISPOSAL THEREOF:**

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

WHEREAS, pursuant to section 307.12(I) of the Revised Code, the Delaware County Board of

**COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023**

Commissioners (the “Board”) may determine that county personal property is not needed for public use, or is obsolete or unfit for the use for which it was acquired, and if the property has no value, the Board may discard that property; and

WHEREAS, Delaware County has various hard drives, data tapes, and telephones (hereinafter collectively referred to as the “Property”) that are no longer needed for public use, are obsolete, or are unfit for the use for which they were acquired; and

WHEREAS, the Property may contain sensitive information that must be securely destroyed, rendering the Property ineligible for sale and of no value; and

WHEREAS, Ohio Mobile Shredding service is NAID Certified and guarantees complete data security and disk destruction in accordance with applicable privacy laws; and

WHEREAS, after secure destruction of the Property, Ohio Mobile Shredding will provide a Certificate of Destruction;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby declares that the Property is not needed for public use, is obsolete, or is unfit for the use for which it was acquired, determines that the Property has no value, and authorizes the secure destruction of the Property through Ohio Mobile Shredding.

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

**TIFFANY MAAG,  
DIRECTOR OF ENVIRONMENTAL SERVICES AND REGIONAL SEWER DISTRICT**

**9  
RETIREMENT TRIBUTE  
CATHLEEN RIDER IN RECOGNITION OF 18 YEARS OF PUBLIC SERVICE**

**10  
MONTHLY SANITARY APPROVAL UPDATE TO BOARD OF COMMISSIONERS**

**11  
RESOLUTION NO. 23-263**

**IN THE MATTER OF APPROVING A SERVICES AGREEMENT BY AND BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND MIDWEST FLOOR RESTORE, LLC FOR THE INSTALLATION OF EPOXY FLOORING AT THE COUNTY’S EMS STATION 4, LOCATED AT 4095 STATE ROUTE 203, RADNOR, OHIO:**

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

WHEREAS, the Director of Facilities recommends approval of the Services Agreement by and between the Delaware County Board of Commissioners and Midwest Floor Restore, LLC for the Installation of Epoxy Flooring at the County’s EMS Station 4, Located at 4095 State Route 203, Radnor, Ohio;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the following Services Agreement by and between the Delaware County Board of Commissioners and Midwest Floor Restore, LLC for the Installation of Epoxy Flooring at the County’s EMS Station 4, Located at 4095 State Route 203, Radnor, Ohio:

**SERVICES AGREEMENT**

This Agreement is made and entered into on April 3, 2023, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Midwest Floor Restore, LLC, 414 Morrison Road, Columbus, Ohio 43215 (“Contractor”), hereinafter collectively referred to as the “Parties.”

**1 SERVICES PROVIDED BY CONTRACTOR**

- 1.1 The Contractor will provide labor, materials, tools, and equipment necessary for the installation of epoxy flooring at the County’s EMS Station 4, located at 4095 State Route 203, Radnor, Ohio (the “Services”).
- 1.2 The Services shall be further defined in and rendered by the Contractor in accordance with the Contractor’s Proposal dated September 14, 2022 (the “Proposal”), which is attached hereto and, by this reference, incorporated herein.
- 1.3 In the event of a conflict between the terms and conditions stated in this Agreement, consisting of

**COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023**

---

pages 1 through 5, and any of the documents incorporated by reference herein, the terms and conditions stated herein shall take precedence.

**2 SUPERVISION OF SERVICES**

- 2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Director of Facilities (the "Director") as the agent of the County for this Agreement.
- 2.2 The Director shall have authority to review changes, commencement, and suspension of the Services performed under this Agreement.

**3 AGREEMENT AND MODIFICATIONS**

- 3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Contractor, shall supersede all prior understandings and agreements relating to the Services, and may only be modified or amended in writing with the mutual consent and agreement of the Parties.

**4 FEES AND REIMBURSABLE EXPENSES**

- 4.1 Compensation for Services provided under this Agreement shall be in accordance with "Option 1" in the Proposal.
- 4.2 For all Services, the lump sum fee shall be \$25,992.00.
- 4.3 Total compensation under this Agreement shall not exceed \$25,992.00 without subsequent modification.
- 4.4 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the Services.

**5 PAYMENT**

- 5.1 Compensation shall be paid in accordance with the Proposal, based on invoices submitted by the Contractor and approved by the Director.
- 5.2 Invoices shall be submitted to the Director by the Contractor on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Contractor shall promptly submit documentation as needed to substantiate said invoices.
- 5.3 The County shall pay invoices within thirty (30) days of receipt.

**6 NOTICE TO PROCEED, COMPLETION, DELAYS AND EXTENSIONS**

- 6.1 The Contractor shall commence Services upon written order from the Director and shall complete the Services promptly in accordance with the Proposal.
- 6.2 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Contractor may make a written request for time extension, and the Director may grant such an extension provided that all other terms of the Agreement are adhered to.

**7 SUSPENSION OR TERMINATION OF AGREEMENT**

- 7.1 The County, upon written notice, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Contractor shall immediately suspend or terminate Services, as ordered by the County.
- 7.2 In the case of termination, the Contractor shall submit a final invoice within sixty (60) days of receiving notice of termination for Services completed up to the date of termination. The County is not liable for payment for Services performed after the date of termination.

**8 INDEMNIFICATION**

- 8.1 The Contractor shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

**COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023**

---

**9 INSURANCE**

- 9.1 General Liability Coverage: Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 9.1 and 9.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 9.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Agreement.

**10 MISCELLANEOUS TERMS AND CONDITIONS**

- 10.1 Prohibited Interests: Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 10.2 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 10.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 10.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 10.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 10.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 10.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 10.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.

**COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023**

- 10.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 10.10 Drug-Free Workplace: The Contractor agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 10.11 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

Contractor further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

Contractor certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.

Contractor certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.

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

**12**

**RESOLUTION NO. 23-264**

**IN THE MATTER OF APPROVING A SERVICES AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND ENVIRONMENTAL TRENCHING, INC. FOR REMOVAL AND REPLACEMENT OF CURB AND SIDEWALK AT SYCAMORE TRAIL:**

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

WHEREAS, the Delaware County Engineer recommends approval of an agreement with Environmental Trenching, Inc., for the removal and replacement of curb and sidewalk at Sycamore Trail;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio, hereby approves the following agreement with Environmental Trenching, Inc.:

**SERVICES AGREEMENT**

This Agreement is made and entered into on April 3, 2023, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Environmental Trenching, Inc., 10934 Worthington Road NW, Patalaska, OH 43062 (“Contractor”), hereinafter collectively referred to as the “Parties.”

**1 SERVICES PROVIDED BY CONTRACTOR**

- 1.1 The Contractor will provide labor, materials, tools, and equipment necessary for the removal and replacement of damaged curb, 286 linear feet, at Sycamore Trail and the installation of 979 linear feet of sidewalk (the “Services”).
- 1.2 The Services shall be performed in accordance with plans approved by the Delaware County Engineer (the “Engineer”) and the Delaware County Engineer’s Design, Construction & Surveying Standards, which are incorporated by reference herein.

**2 SUPERVISION OF SERVICES**

**COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023**

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2.1 The Delaware County Board of Commissioners hereby designates the Engineer as the agent of the County for this Agreement.

2.2 The Engineer shall have authority to review changes to, and order commencement or suspension of, the Services performed under this Agreement.

### **3 AGREEMENT AND MODIFICATIONS**

3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Contractor, shall supersede all prior understandings and agreements relating to the Services, and may only be modified or amended in writing with the mutual consent and agreement of the Parties.

### **4 COMPENSATION**

4.1 Compensation for Services provided under this Agreement shall be in accordance with the Contractor's submitted estimate.

4.2 For all Services, the lump sum fee shall be \$44,663.00.

4.3 Total compensation under this Agreement shall not exceed \$44,663.00 without subsequent modification.

4.4 The fees specified above shall constitute full compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the Services.

### **5 PAYMENT**

5.1 Compensation shall be paid based on invoices submitted by the Contractor and approved by the Engineer.

5.2 Invoices shall be submitted to the Engineer by the Contractor on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The Engineer may require additional documentation to substantiate said invoices, and the Contractor shall promptly submit documentation as requested to substantiate said invoices.

5.3 The County shall pay invoices within thirty (30) days of receipt.

### **6 COMMENCEMENT, COMPLETION, DELAYS AND EXTENSIONS**

6.1 The Contractor shall commence Services upon written order from the Engineer and shall complete the Services promptly and in a workmanlike manner.

6.2 In the event that unforeseen and unavoidable delays prevent the timely completion of this Agreement, the Contractor may make a written request for time extension, and the Director may grant such an extension provided that all other terms of the Agreement are adhered to.

### **7 SUSPENSION OR TERMINATION OF AGREEMENT**

7.1 The County, upon written notice, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Contractor shall immediately suspend or terminate Services, as ordered by the County.

7.2 In the case of termination, the Contractor shall submit a final invoice within sixty (60) days of receiving notice of termination for Services completed up to the date of termination. The County is not liable for payment for Services performed after the date of termination.

### **8 INDEMNIFICATION**

8.1 The Contractor shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

### **9 INSURANCE**

**COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023**

---

- 9.1 General Liability Coverage: Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 9.1 and 9.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 9.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Agreement.

## 10 MISCELLANEOUS TERMS AND CONDITIONS

- 10.1 Prohibited Interests: Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 10.2 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 10.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 10.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 10.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 10.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 10.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 10.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.



COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023

- 10.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 10.10 Drug-Free Workplace: The Contractor agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 10.11 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

Contractor further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

Contractor certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.

Contractor certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.

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

**13**

**RESOLUTION NO. 23- 265**

**IN THE MATTER OF APPROVING THE PARTIAL VACATION AND RELEASE OF A DRAINAGE EASEMENT ON LOT 2583 IN THE MAPLE GLEN SUBDIVISION:**

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

WHEREAS, as a part of the development of the Maple Glen Subdivision, drainage easements were established across said property; and

WHEREAS, the Delaware County Engineer (the "Engineer") has received a request to vacate the part of a drainage easement that crosses Lot 2583 in the Maple Glen Subdivision; and

WHEREAS, the Engineer recommends that this part of the drainage easement be vacated, having determined that this part of the easement is not needed and that the remaining easement is sufficient to provide Delaware County the ability to properly maintain the existing drainage facilities;

NOW, THEREFORE, BE IT RESOLVED, that the Delaware County Board of Commissioners approves the following Partial Vacation and Release of Drainage Easement and authorizes the President of the Board to execute the same on behalf of the Board:

**PARTIAL VACATION AND RELEASE OF DRAINAGE EASEMENT**

KNOW ALL PERSONS BY THESE PRESENTS THAT the undersigned BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO, hereby permanently surrenders, vacates, and releases a portion of that certain Drainage Easement granted to it in the plat of subdivision for Maple Glen recorded in Official Record Book 1709, Page 807, Recorder's Office, Delaware County, Ohio, such surrendered, vacated, and released portion of the easement being described and depicted on Exhibit A attached hereto.

Further, the undersigned hereby authorizes and directs the Delaware County Recorder to record this Partial Vacation and Release of Drainage Easement in the County Records and to make appropriate notations on the plat of subdivision for Maple Glen recorded in Official Record Book 1709, Page 807.

IN WITNESS WHEREOF, the undersigned has caused this Partial Vacation and Release of Drainage Easement

COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023

to be executed effective as of the date below.

**BOARD OF COUNTY COMMISSIONERS OF  
DELAWARE COUNTY, OHIO:**

(Signature)

(Acknowledgment)

**EXHIBIT A**

**DESCRIPTION OF THE VACATION OF A PORTION  
OF A 20 FOOT WIDE DRAINAGE EASEMENT  
EAST OF AFRICA ROAD (C.R.21)  
NORTH OF PLUMB ROAD (TWP. RD. 105)  
BERLIN TOWNSHIP, DELAWARE COUNTY, OHIO**

Situated in the State of Ohio, County of Delaware, Berlin Township, Farm Lot 1, Section 4, Township 4, Range 18, United States Military Lands, being situated in Lot 2583 as show and delineated on the plat entitled "Maple Glen", being a subdivision of record in Official Record 1709, page 807, all references herein being to the records located in the Recorder's Office, Delaware County, Ohio and being more particularly described as follows;

Beginning **FOR REFERENCE** at the northeasterly corner of said Lot 2583; Thence South 3° 10' 46" West, along the westerly line of said Lot, a distance of 50.00 feet to a point on the northerly line of an existing 20 foot wide drainage easement as shown on said subdivision plat and the **TRUE PLACE OF BEGINNING**.

Thence **South 86° 34' 34" East**, through said lot 2583 and along the northerly line of said existing drainage easement, a distance of **188.60 feet** to a point on the easterly line of said Lot 2583;

Thence **South 3° 18' 46" West**, through said existing 20' wide drainage easement along the easterly line drainage easement and along the easterly line of said Lot 2583, a distance of **20.0 feet** to a point on the southerly line of said existing drainage easement;

Thence **North 86° 34' 34" West**, through said Lot 2583 and along the southerly line of said existing 20 foot wide drainage easement, a distance of **188.60 feet** to a point on the westerly line of said Lot 2583;

Thence **North 3° 18' 46" East**, through said 20 foot wide drainage easement and along the westerly line of said Lot 2683, a distance of **20.00 feet** to the **TRUE PLACE OF BEGINNING** and containing 0.087 acre of land.

Bearings herein are based on GPS observations, being the Ohio State Plane Coordinate System, North Zone, North American Datum of 1983.

This description was prepared by American Land Surveyors, LLC, by Jon B. Adcock, Ohio, P.S. No. 8461

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

**14**

**RESOLUTION NO. 23- 266**

**IN THE MATTER OF APPROVING THE PARTIAL VACATION AND RELEASE OF A  
DRAINAGE EASEMENT ON PROPERTY OWNED BY THE VILLAS AT SCIOTO MEADOWS,  
LLC:**

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

WHEREAS, as a part of the development of property currently owned by the Villas at Scioto Meadows, LLC, drainage easements were established across said property; and

WHEREAS, the Delaware County Engineer (the "Engineer") has received notice that a portion of the drainage easement was included in error; and

WHEREAS, the Engineer recommends that this portion of the drainage easement be vacated, having determined that the remaining easement is of sufficient width to provide Delaware County the ability to properly maintain the existing drainage facilities; and

NOW, THEREFORE, BE IT RESOLVED, that the Delaware County Board of Commissioners approves the following Partial Vacation and Release of Drainage Easement and authorizes the President of the Board to execute the same on behalf of the Board:

**PARTIAL VACATION AND RELEASE OF DRAINAGE EASEMENT**

COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023

KNOW ALL PERSONS BY THESE PRESENTS THAT the undersigned BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO, hereby permanently surrenders, vacates, and releases a portion of that certain Drainage Easement granted to it by instrument recorded in Official Record Book 1696, Page 261, Recorder’s Office, Delaware County, Ohio, such surrendered, vacated, and released portion of the easement being described and depicted on Exhibit A attached hereto.

Further, the undersigned hereby authorizes and directs the Delaware County Recorder to record this Partial Vacation and Release of Drainage Easement in the County Records and to make appropriate marginal notations on the instrument recorded in Official Record Book 1696, Page 261.

IN WITNESS WHEREOF, the undersigned has caused this Partial Vacation and Release of Drainage Easement to be executed effective as of the date below.

**BOARD OF COUNTY COMMISSIONERS OF  
DELAWARE COUNTY, OHIO:**

*(Signature)*

*(Acknowledgment)*

**EXHIBIT A**

**DESCRIPTION OF THE VACATION OF A PORTION  
OF A DRAINAGE SEWER EASEMENT  
SOUTH OF HOME ROAD  
EAST OF GLENMORE DRIVE,  
NORTH OF GOLF VILLAGE DRIVE  
WEST OF TIMBER RIDGE DRIVE  
CONCORD TOWNSHIP, DELAWARE COUNTY**

Situated in the State of Ohio, County of Delaware, Township of Concord, in Farm Lots 13 and 14, Section 2, Township 3, Range 19, United States Military Lands, being located in that 9.696 acre tract of land as described in a deed to the Villas at Scioto Meadow, LLC, of record in Official Record 1983, Page 784, all references herein being to the records located in the Recorder’s Office, Delaware County, Ohio and being more particularly described as follows;

Beginning **FOR REFERENCE** at the southeasterly corner of said 9.626 acre tract; Thence South 87° 06’ 36” West, along the southerly line of said 9.626 acre tract, a distance of 662.09 feet to a point at the southwesterly corner of said 9.626 acre tract; Thence North 3° 31’ 24” East, along the westerly line of said 9.626 acre tract, a distance of 146.04 feet to a point and the **TRUE PLACE OF BEGINNING**;

Thence continuing along westerly lines of said 9.626 acre tract the following courses;

1. **North 3° 31’ 24” East**, a distance of **173.96 feet** to a point at a westerly corner of said 9.626 acre tract;
2. **South 86° 55’ 36” East**, a distance of **104.20 feet** to a point at a westerly corner of said 9.626 acre tract;
3. **North 32° 39’ 24” East**, a distance of **58.28 feet** to a point;

Thence through said 9.626 acre tract the following courses:

1. **South 3° 03’ 02” West**, a distance of **180.91 feet** to a point;
2. **South 36° 39’ 34” West**, a distance of **53.47 feet** to a point;
3. **North 86° 28’ 36” West**, a distance of **104.83 feet** to the **TRUE PLACE OF BEGINNING**.

Bearings herein are based on GPS observations, being the Ohio State Plane Coordinate System, NorthZone, NAD 1983. This description was prepared by American Land Surveyors, LLC, by Jon B. Adcock, Ohio P.S. No. 8461

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

**15**  
**RESOLUTION NO. 23-267**

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

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

**COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023**

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
UT2023-0059	COLUMBIA GAS	SHADOW FAIR LANE	GAS MAIN
UT2023-0060	COLUMBIA GAS	S GALENA ROAD	DIRECTIONAL BORE
UT2023-0061	TEAM FISHEL	GREEN MEADOWS DR	FIBER OPTIC
UT2023-0062	THAYER POWER & COMMUNICATIONS	CARRIAGE ROAD	DIRECTIONAL BORE
UT2023-0063	COLUMBIA GAS	MOORS EDGE LANE	GAS MAIN
UT2023-0064	AEP	CHESHIRE ROAD	REPLACE POLES
UT2023-0065	AEP	BUNTY STATION ROAD	REPLACE POLES
UT2023-0066	OBAYASHI CORPORATION	SMOTHERS ROAD	TUNNEL INSTALLATION
UT2023-0067	SPECTRUM	WILSHIRE BLVD	BURY CABLE

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

**16**

**RESOLUTION NO. 23-268**

**IN THE MATTER OF RELEASING AND RETURNING THE FINANCIAL WARRANTY FOR THE VILLAS AT OLD HARBOR EAST/ S. OLD STATE ROAD FAIR SHARE CONTRIBUTION:**

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

WHEREAS, on October 26, 2020, the Board of County Commissioners (the "Board") entered into a Developer's Agreement with Romanelli and Hughes Building Company (the "Owner") for The Villas at Old Harbor East/ S. Old State Road Fair Share Contribution; and

WHEREAS, the Owner has complied with its obligations under the Developer's Agreement; and

WHEREAS, the County Engineer recommends the Board release and return the financial warranty securing the Owner's fair share contribution;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio hereby approves releasing and returning the financial warranty for The Villas at Old Harbor East/ S. Old State Road Fair Share Contribution to the Owner.

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

**17**

**RESOLUTION NO. 23-269**

**IN THE MATTER OF APPROVING OWNER'S AGREEMENTS FOR BERLIN FARM WEST SECTION 1 AND OLENTANGY FALLS EAST SECTION 4:**

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

WHEREAS, the Engineer recommends approving the Owner's Agreements for Berlin Farm West Section 1 and Olentangy Falls East Section 4;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Owner's Agreements for Berlin Farm West Section 1 and Olentangy Falls East Section 4:

Berlin Farm West Section 1:

**OWNER'S AGREEMENT**

**PROJECT NUMBER: 23019**

**THIS AGREEMENT**, executed on this 3<sup>rd</sup> day of April, 2023, between M/I HOMES OF CENTRAL OHIO, LLC, hereinafter called "**OWNER**" and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as Berlin Farm West Sec 1 further identified as Project Number 23019\_\_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

**COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023**

---

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 Fifty **Six Thousand Dollars and No Cents (\$56,000.00)** 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 **C O U N T Y C O M M I S S I O N E R S** 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.

COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023

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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.

<b>EXHIBIT "A"</b>	
CONSTRUCTION COST ESTIMATE	\$2,844,400.00
CONSTRUCTION BOND AMOUNT	\$2,844,400.00
MAINTENANCE BOND AMOUNT	\$284,500.00
INSPECTION FEE DEPOSIT	\$56,000.00

**Olentangy Falls East Section 4:**

**OWNER'S AGREEMENT**

**PROJECT NUMBER: 23024**

THIS AGREEMENT, executed on this 3<sup>rd</sup> day of April 2023, between Rockford Homes, LLC, hereinafter called "OWNER" and the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS), for the project described as Olentangy Falls East Sec 4 further identified as Project Number 23024 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

COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023

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 Fifty Four Thousand Dollars and No Cents (\$54,000.00) 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 C O U N T Y 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	\$1,824,700.00
CONSTRUCTION BOND AMOUNT	\$1,824,700.00
MAINTENANCE BOND AMOUNT	\$182,500.00
INSPECTION FEE DEPOSIT	\$54,000.00

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

**18**

**RESOLUTION NO. 23-270**

**IN THE MATTER OF APPROVING TRANSFER OF FUNDS:**

**COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023**

---

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

**Transfer of Funds**

<b>From:</b>	<b>To:</b>	
10011102-5801	50111117-4601	2,763,229.00
Commissioners General/Interfund	Bond Retirement Debt/Interfund	
Cash Transfers	Revenues	
10011102-5801	50811125-4601	17,021.21
Commissioners General/Interfund	BR Sawmill Pkwy Ext TIF/Interfund	
Cash Transfers	Revenues	
10040421-5801	58011181-4601	2,293,875.00
Road & Bridge Projects/Interfund	2007 CO Sales Tax Sawmill	
Cash Transfers	Bond/Interfund Revenues	
66211900-5801	66311901-4601	3,608,437.50
SRF Operations &	Bond Service Fund/Interfund	
Maintenance/Interfund Cash Transfers	Revenues	

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

**19**

**RESOLUTION NO. 23-271**

**IN THE MATTER OF APPROVING THE NATIONAL OPIOID SETTLEMENTS WITH TEVA, ALLERGAN, CVS, WALGREENS, AND WALMART AND AUTHORIZING THE DEPUTY COUNTY ADMINISTRATOR TO EXECUTE THE SUBDIVISION AND SPECIAL DISTRICT SETTLEMENT PARTICIPATION FORMS:**

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

WHEREAS, the County of Delaware, Ohio (the “County”) is a county formed and organized pursuant to the Constitution and laws of the State of Ohio; and

WHEREAS, the people of the State of Ohio and its communities, including the County, have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Opioid Pharmaceutical Supply Chain; and

WHEREAS, the State of Ohio, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold Opioid Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance and malfeasance; and

WHEREAS, the State of Ohio, through its Governor and Attorney General, and its Local Governments share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State of Ohio; and

WHEREAS, the County has adopted, and hereby reaffirms its adoption of, the OneOhio Memorandum of Understanding (“MOU”) relating to the allocation and the use of the proceeds of any potential settlements described; and

WHEREAS, the County’s Board of Commissioners (the “Board”) understands that an additional purpose of the MOU is to create an effective means of distributing any potential settlement funds obtained under the MOU between the State of Ohio and Local Governments in a manner and means that would promote an effective and meaningful use of the funds in abating the opioid epidemic throughout Ohio; and

WHEREAS, nothing in the MOU binds any party to a specific outcome, but rather, any resolution under the MOU requires acceptance by the State of Ohio and the Local Governments; and

WHEREAS, the State of Ohio has agreed to settlements with Teva, Allergan, CVS, Walgreens, and Walmart to resolve governmental entity claims in the State of Ohio using the structure of the OneOhio MOU and consistent with the material terms of each respective Settlement Agreement; and

WHEREAS, the Board wishes, on behalf of the County, to agree to the material terms of the proposed National Opioid Settlement Agreements with Teva, Allergan, CVS, Walgreens, and Walmart (the “Settlements”) and formally authorize the County’s participation therein;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DELAWARE, STATE OF OHIO:

Section 1. That the Board hereby approves the Settlements on behalf of the County, pursuant to the terms of the OneOhio MOU and each respective Settlement Agreement.

Section 2. That the Board hereby approves the Subdivision and Special District Settlement Participation Form



COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023

---

for each of the Settlements and hereby authorizes the Deputy County Administrator to execute each Participation Form on behalf of the Board and the County.

Section 3. That it is found and determined that all formal actions of the Board relating to the adoption of this Resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

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

**20**

**ADMINISTRATOR REPORTS**

Tracie Davies, County Administrator

-The Court Street house will be coming down this week.

Dawn Huston, Deputy Administrator

-No reports.

Aric Hochstettler, Deputy Administrator

-No reports.

**21**

**COMMISSIONERS' COMMITTEES REPORTS**

Commissioner Lewis

-Attended the Regional Planning meeting last Thursday.

Commissioner Merrell

-Attended the Vietnam Veterans Ceremony last Wednesday held on the front plaza.

Commissioner Benton

-Attended the CEBCO meeting last Friday morning. Was re-elected as a board member.

-The Ohio Budget has some increases to it that will be felt locally. The Indigent Defense budget and Force Account will have increases.

**22**

**RESOLUTION NO. 23-272**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR TO CONSIDER THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSES; TO CONSIDER THE SALE OF PROPERTY AT COMPETITIVE BIDDING; FOR PENDING OR IMMINENT LITIGATION; FOR MATTER REQUIRED TO BE KEPT CONFIDENTIAL BY FEDERAL LAW OR REGULATIONS OR STATE STATUTES:**

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

WHEREAS, pursuant to section 121.23(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 121.23(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 purchase of property for public purposes; to consider the sale of property at competitive bidding; for pending or imminent litigation; for matter required to be kept confidential by federal law or regulations or state statutes.

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

**RESOLUTION NO. 23-273**

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

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

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

There being no further business, the meeting adjourned.

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**COMMISSIONERS JOURNAL NO. 78 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD APRIL 3, 2023**

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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