

**CITY OF MEDINA
AGENDA FOR COUNCIL MEETING**

May 9, 2022
Medina City Hall – Council Rotunda
7:30 p.m.

Call to Order.

Roll Call.

Reading of minutes. (April 25, 2022)

Reports of standing committees.

Requests for council action.

Reports of municipal officers.

Confirmation of Council's appointment.

Medina City Development Corp. – Roman Paich – Exp. 12/31/22 (remainder of 2 yr. term)

Notices, communications and petitions.

Unfinished business.

Introduction of visitors.

(speakers limited to 5 min.)

Introduction and consideration of ordinances and resolutions.

Motion to suspend the Rules requiring three readings on the following ordinances and resolutions: Res. 92-22, Res. 94-22, Res. 95-22, Ord. 96-22, Ord. 97-22, Ord. 98-22, Ord. 99-22, Ord. 100-22, Ord. 101-22

Res. 92-22

A Resolution congratulating Anna Fletcher on receiving the Girl Scout Gold Award, the highest award in Girl Scouting.

Ord. 93-22

An Ordinance authorizing the Zoning Map Amendment to change the zoning of 881 Lafayette Road from I-1, Industrial to C-3, General Commercial.

(First reading)

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Res. 94-22

A Resolution authorizing the Mayor to accept the Walmart Community Grant Award for the Medina Fire Department.
(emergency clause requested)

Res. 95-22

A Resolution authorizing the Mayor to file an application for grant assistance with the Medina County Drug Advisory Commission (MCDAC) for a grant to fund and support the School Resource Officer Program with Medina City Schools.

Ord. 96-22

An Ordinance amending Ordinance No. 56-17, passed April 24, 2017, relative to Section 1, Rental of Memorial Pool Cabana During Pool Hours.

Ord. 97-22

An Ordinance authorizing the Mayor to accept a Temporary Easement and Right of Entry Contract necessary for the West Smith Reconstruction Project.
(emergency clause requested)

Ord. 98-22

An Ordinance authorizing the Mayor to enter into a Public Limits Crossing Agreement with Wheeling and Lake Erie Railway Company as part of the West Smith Road Reconstruction Project.

Ord. 99-22

An Ordinance authorizing the Mayor to enter into a Letter Agreement with Wheeling and Lake Erie Railway Company as part of the West Smith Road Reconstruction Project.

Ord. 100-22

An Ordinance authorizing the Mayor to advertise for competitive bids and to award a contract to the successful bidder for the Ray Mellert Parking Lot Expansion and Dog Park.
(emergency clause requested)

Ord. 101-22

An Ordinance amending Ordinance No. 201-21, passed December 13, 2021. (Amendments to 2022 Budget)

Council comments.

Adjournment.

MEDINA CITY COUNCIL

Monday, April 25, 2022

Public Hearing

To consider the rezoning of 881 Lafayette Road, parcel numbers 028-19C-08-067 and 028-19C-08-005, from I1 – (Industrial) to C-3 (General Commercial).

Medina Community Development Director, Andrew Dutton stated this is the property located on the north side of Lafayette and is a little over an acre, is currently vacant land and owned by Medina Metropolitan Housing Authority.

Andrew supplied a packet explaining the differences between the districts, obviously industrial allows a lot more manufacturing, warehousing and those types of uses where as C-3 is a little broader with commercial residential. The Planning Commission reviewed this at their March 10th meeting and unanimously recommended for council to approve the application.

FOR the rezoning:

Skip Sipos – MMHA Executive Director

Applicant in this matter.

Three prong approach – 1) Study showed a need for emergency housing shelter. 2) Rapid Rehousing. 3) Permanent Supportive Housing.

Each of these prongs include wrap-around coordinated community services and that is what we do now. Skip stated that this project, in order to assure a cost-effective approach, the Medina County Commissioners donated half of the land that is in question tonight to the Housing Authority. The Housing Authority uses it as its unrestricted reserves to purchase the other parcel. With this we can build 11 units, 10 units to be designated for people with a federally qualifying disability. The most recent census data tells us that there are 2,147 Medina County households with incomes below the poverty level, that's almost 10%.

Steve Hambley - Medina County Commissioner

In favor and supports the rezoning application. Commissioner Hambley stated this is targeted to fit within the overall Comprehensive Plan. Mr. Hambley urges you all to consider the rezoning and would add, from his view point, the county commissioners did not donate the land for it to remain fallow. It should have a public purpose. This would benefit individual families as well as the community, by helping to make sure people have an affordable safe environment, a place to live and thrive.

Tom O'Connell – Executive Director of Habitat for Humanity of Medina County

Mr. O'Connell read a letter that Mayor Hanwell passed on to all the members of Council. (included in minutes for public record)

Mayor Hanwell – Dennis stated he has worked very hard with Skip and the local pastors here and many of the non-profits that for years have been taking care of the homeless and he simply will state on the record that it's our turn to step up and do what is necessary for this supportive housing, this is just one component of a multifaceted approach. This is a chance for us to make a difference. Mayor Hanwell thanked all the non-profits and the churches that for years have been using their own resources to help get us to this point and firmly feels it is time for us as a city to make this happen.

Paul Rose – On behalf of the Planning Commission this was passed unanimously because we all see the need for a facility such as this in the city.

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Jessica Hazeltine – stated the proposed location is in Ward 1 and the reason she is sitting here is that higher public service calling, this is her passion. She wanted a platform where she could help make things like this happen. Jessica is 100% in support of doing the rezoning for our residents.

AGAINST rezoning: No one came to speak against the rezoning.

The Public Hearing was closed at 7:49 p.m.:

Call to Order:

Medina City Council met in regular session on Monday, February 14, 2022 at Medina City Hall. The meeting was called to order at 7:49 p.m. by Council President John Coyne III, who led in the Pledge of Allegiance.

Roll Call:

The roll was called with the following members of Council present R. Haire, J. Hazeltine, B. Lamb, P. Rose, J. Shields, D. Simpson, and J. Coyne.

Also present were the following members of the Administration: Mayor Dennis Hanwell, Keith Dirham, Nino Piccoli, Patrick Patton, Police Chief Kinney, Fire Chief Walters, Kimberly Marshall, Andrew Dutton, Jansen Wehrley and Dan Gladish.

Minutes:

Mr. Shields moved that the minutes from the regular meeting on Monday, April 11, 2022, as prepared and submitted by the Clerk be approved, seconded by Mr. Simpson. The roll was called and the motion passed by the yea votes of J. Hazeltine, B. Lamb, P. Rose, J. Shields, D. Simpson, J. Coyne, and R. Haire.

Reports of Standing Committees:

Finance Committee: Mr. Coyne stated the Finance Committee met prior to this evening's Council meeting and will meet again in two weeks.

Health, Safety & Sanitation Committee: Mr. Simpson had no report.

Public Properties Committee: Mr. Shields had no report.

Special Legislation Committee: Bill Lamb stated last week was the first meeting on feeding wild animals/discussing reducing deer population within city limits. Second meeting is May 18th at 5:30 p.m. in the rotunda at City Hall.

Streets & Sidewalks Committee: Mrs. Haire had no report.

Water & Utilities Committee: Mrs. Hazeltine has a meeting scheduled for tomorrow at 4 p.m. in the rotunda to discuss Medina TV and their budget.

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Emerging Technologies Committee: Mr. Rose had no report.

Requests for Council Action:

Finance

- 22-097-4/25 – Walmart Community Grant – Fire Dept.
- 22-098-4/25 – 2022 SPCA Contribution
- 22-099-4/25 – Increase Finance Dept. Petty Cash from \$125 to \$250
- 22-100-4/25 – MCDAC Grant Application – Police Dept.
- 22-101-4/25 – Real Estate Purchase Agreement – Airport
- 22-102-4/25 – Increase Expenditure – Firestorm Gear – Police Dept.
- 22-103-4/25 – Budget Amendments
- 22-104-4/25 – Memorial Pool Cabana Rental Rates
- 22-105-4/25 – Easement & Right of Entry Contract – W. Smith Reconstruction
- 22-106-4/25 – Wheeling & Lake Erie Water Line Crossing Agreement – W. Smith
- 22-107-4/25 – Wheeling & Lake Erie Letter Agreement – W. Smith
- 22-108-4/25 – Bids, Ray Mellert Parking Lot Expansion and Dog Park
- 22-109-4/25 – Amend Codified Ordinances – Section 941 - Garbage

Reports of Municipal Officers:

Dennis Hanwell, Mayor,

- A. **Memorial Day Parade- May 30-** I am happy to report that the Memorial Day Parade will take place this year as it had in past, prior to COVID. Lineup is from 9 a.m. -10 a.m. Parade steps off at a little after 10 a.m. Starts at Broadway/Washington and goes west on Washington to Court; north on Court to Liberty; east on Liberty to Spring Grove; south on Spring Grove and into Spring Grove Cemetery. Ceremony at monument at Spring Grove will start about 11 a.m. or whenever parade completes. For veteran's groups interested in taking part, please contact Ed Zackery at the Medina County Veterans office.
- B. **Medina City Schools-** are conducting a facilities and redistricting survey this month. Residents are encouraged to go to the MCS website- www.medinabees.org or we have paper copies at Medina City Hall
- C. **Welcome Amy Hopkins-** Government Liaison for First Energy/OH Edison will speak during public comments on customer assistance offerings.
- D. **Prayers-** Respectfully ask all to keep the Ukrainian people in your thoughts and prayers as they experience this conflict and violence, both relatives here and those who reside in Ukraine or fled from same. Hopeful to bring this attack to an end as soon as possible.

Proclamation awarded to Kathy Patton from Mayor Hanwell and President of Council John Coyne in recognition of celebrating the 53rd Anniversary of Professional Municipal Clerk's Week.

Keith Dirham, Finance Director, had no report.

Greg Huber, Law Department, was absent.

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Chief Kinney, Police Department, had no report.

Chief Walters, Fire Department, reported that the Fire Department is continuing to accept applications for the position of part-time firefighter through the end of the month.

Kimberly Marshall, Economic Development Director, the next round of ribbon cuttings is scheduled for Friday, May 6th starting at 1 p.m. Studio A Salon – 1162 N. Court St., 2 p.m. Buckeye Leaf Boutique – 119 Lafayette Rd., 3 p.m. Discount Tire – 1008 N. Court St., 4 p.m. Knot yourself – 238 S. Elmwood Ave.

Jansen Wehrley, Parks and Recreation Director, Last Friday was Earth Day, Jansen wanted to acknowledge Medina Early Childhood PTA as they came out and planted 60 trees at Reagan Park and raised all the funds for that project. This Thursday is Arbor Day in the City of Medina. Kiwanis will be providing seedlings to all the 3rd graders in the district. In addition, this Friday is National Arbor Day and we are doing an event with First Energy as well as Asplundh Tree Service gathering at Kuehn-Todd Conservation Area at 10 a.m. to plant 200+ trees with all their employees. May 1st we will have 9 Girl Scout Troops also planting trees at a different area in Reagan Park. Outdoor pool season passes will go on sale beginning May 1st. and you can purchase those online.

Dan Gladish, Building Official, had no report.

Nino Piccoli, Service Director, thanked Krista from the Health Department, she has been a great help over the last two years. Congratulations to Mrs. Patton for all she does here at City Hall.

Patrick Patton, City Engineer, There's three projects currently in the bid process, the S. Court Water Tower Exterior Recoating, the Gates Mills Culvert Replacement Project, and the 2022 Concrete Street Repair Program.

Andrew Dutton, had no report.

Cindy Lastuka, Municipal Court, had no report.

Confirmation of Mayoral appointment

Brian Harr – CRA Housing Council – Exp. 12/31/24
Mr. Shields moved to approve, seconded by Mr. Simpson. Motion passed by the yeas and nays of B. Lamb, P. Rose, J. Shields, D. Simpson, J. Coyne, R. Haire and J. Hazeltine.

Notices, communications and petitions:

There were none.

Unfinished Business:

There was none.

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Introduction of Visitors:

Krista Wasowski from the Medina County Health Department stated that this Health Department has been serving Medina County for over 100 years. There is a levy on the ballot for May 3rd. The Board of Health is asking for a .7 mil renewal. That levy has been on the books since the 1950's and it is one of the many ways the Health Department has been funded as an agency. We also have a .15 increase attached to that request this time. Technology has changed so much in the last ten years since they've renewed and their servers, lap tops and anti-virus software and all the things that come along with that and we have to update in order to be a modern Health Department. With grants that they receive they have to put the money out first and then be reimbursed and that is a shift in the last ten years. They have over \$1 million dollars a year that they have tied up in that waiting process, these two reasons are why they need the increase and renewal.

Mr. Lamb stated he has learned more about the Health Department in the last two years than he would have ever imagined and has learned to appreciate the services they provide.

Mrs. Hazeltine stated she is a big fan of Krista and all the employees at the Health Department. Jess stated that she has used almost every aspect of the Health Department.

Mr. Simpson stated this organization is such an asset to the County, thank you.

Michelle Mayor is a Brunswick resident and Keri Huff is a City of Medina resident and they represent Medina Meow Fix and came tonight to give some updates on numbers and statistics. City of Medina 357 cats. Working with SPCA, 43% have been adopted out. Starting to network with other people.

Michelle stated they are not just a TNR group they want to be able to educate and help people also. Her main goal this year is to go to the apartment complexes in Medina City to start and roll out an agenda of coupons. Everyone takes a deposit for a cat into an apartment whether it's a rental house or apartment and she wants to approach the apartments and ask them to put another \$70 on top of the deposit already required to have the cat spayed or neutered and microchipped. If they are not spayed or neutered they will then get a coupon to have it done at Mission Possible.

Steve Hambley spoke in favor of the Medina Health Department levy. The county commissioners are the taxing authority and place that issue on the ballot, they are not the budgeting authority. The budgeting authority actually goes to an appointed health department board that is selected by local governments. Steve feels that is an important distinction to remember because that is where the control or enforcement of state codes and other provisions of the law.

Sandra Varndell resides at 1014 Smokerise Dr.

Sandra spoke on the House Bills 454 and 616 brought forth by members of the Ohio State Legislators.

Lori Kotalac resides 317 Stratton Drive in Medina. She and her husband has lived in Medina for nearly 50 years and raised 3 children here. Lori shared her story through the eyes of a parent as one of their children is a trans-male. He was feeling extreme dysphoria and he described it as a

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feeling of discomfort when your gender identity does not match the sex assigned at birth. After seeking more professional assistance and educating themselves on dysphoria and the transgender experience and with the information that was provided by an amazing local support group they began working with a group of four specialists. Her child told her that he wished he had studied harder in High School which he already had excellent grades but he thought he wouldn't still be here. Her son will graduate from The Ohio State University this year and will pursue his Masters Degree in Social Work. Having these medical specialists available to us during his early transgender journey literally saved his life. House Bill 454 will make it impossible for them to access life saving medical care they deserve. Lori is a suicide crisis counselor for the Trevor Project, the worlds largest suicide prevention in crisis intervention organization for LGBTQ young people. Please oppose House Bill 454 and 616.

Gretchen Long resides at 800 Woodhaven Ln. came today to ask to pass a resolution that tells our State we stand against suicide and bullying. Medina should be focused on conditions for all youth to thrive and feel safe regardless of people's opinions or beliefs. Ohio's house of representatives is bullying my child in a way that is very likely to lead to shame, depression and suicide.

Gretchen shared her story of her second-grade child, stating last year at 7.5 years old their child changed from being just a tom boy to living as the boy he feels he is. They immediately affirmed their child because they knew that 82% of transgender individuals considered suicide and 40% have attempted. It was a relief to them that they could advocate for appropriate medical care and sought gender affirming care starting with a psychiatrist and knew they would eventually need to introduce puberty blockers so their child can take this slowly giving his brain to mature before his body. Gretchen urges Council to pass a resolution against House Bill 454 so that her child does not become part of this political experiment that is not backed by science. She would like council to declare that Medina supports the research that providing gender affirming care reduces that suicide attempt, addiction and depression and to declare you want all our children to be happy and focus on learning not fearing that they would be reported by a teacher to the authorities.

HB 616 Books do not teach children to be gender expansive. Her child feels this way because of his brain, because of what is inside of him. Cleveland Clinic has research that supports and demonstrates how the brain works. Books do not teach people to be who they aren't they teach people to be better versions of themselves. This bill isn't just about gender expansiveness it's also about other races and other nationalities.

Jessica Hazeltine stated that she 100% stands behind all that spoke today on the house bills. Jessica stated the idea of looking in the mirror and her outside not matching her inside she can't even imagine as a suicide survivor herself 20 years ago she was in a place of extreme depression and if she would have had that on top of that she doesn't know that she would still be here.

Council recessed at 8:41 p.m.

Jessica spoke of her father's wife that is transgender and she had access to gender affirming care from the age of 14 in a third world country. The idea that a country that is as progressed as we are could deny that is very scary to her and she does want the public to know and she wants everyone here to know that she does stand in support of the LGBTQ community as far as the house bills go,

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Bill 454, the gender affirming one which is the one that really touches her heart, is currently in the Families Aging and Human Services Committee. You can google that phrase quickly and you will find all the people you need to email and she has already emailed all those folks that were mentioned earlier with her thoughts and feelings. Jessica invited everyone to enjoy some of the great things they have here in Medina that support our LGBTQ community and one of those things is an event sponsored by Out-Support, Medina County Health Department, the Pride Program at Hope Recovery, and herself on June 14th on the square. Jess is eternally grateful that for the first week and a half of June for the first time ever all 29 flags on the square will be replaced with pride flags.

Council reconvened at 8:44 p.m.

Introduction and Consideration of Ordinances and Resolutions:

Mr. Shields moved to suspend the rules requiring three readings on the following ordinances and resolutions, seconded by Mr. Simpson. Ord. 077-22, Ord. 078-22, Ord. 079-22, Ord. 080-22, Ord. 81-22, Ord. 082-22, Res. 083-22, Ord. 084-22, Ord. 085-22, Ord. 086-22, Ord. 087-22, Ord. 088-22, Ord. 089-22, Ord. 090-22, Ord. 091-22. The roll was called and the motion passed with the yea votes of P. Rose, J. Shields, D. Simpson, J. Coyne, R. Haire, J. Hazeltine, and B. Lamb.

Ord. 077-22:

An Ordinance authorizing the Mayor to execute an amendment to Lease Agreement (renewal) with Williams Scotsman, Inc. for the lease of a flex portable building for the Medina Municipal Court. Mr. Shields moved for the adoption of Ordinance/Resolution No. 077-22, seconded by Mr. Simpson. Cindy Lastuka stated this is to extend the lease on the building till the end of the year. The roll was called and Ordinance/Resolution No. 077-22 passed by the yea votes of J. Shields, D. Simpson, J. Coyne, R. Haire, J. Hazeltine, B. Lamb, and P. Rose.

Ord. 078-22:

An Ordinance authorizing the payment to Solid Ground Construction for the Private Home Rehabilitation at 420 North Jefferson Street, as part of the PY20 CHIP Grant Program. Mr. Shields moved for the adoption of Ordinance/Resolution No. 078-22, seconded by Mr. Simpson. Mr. Shields moved that the emergency clause be added to Ordinance/Resolution No. 078-22, seconded by Mr. Simpson. Mr. Dutton stated this is a home rehabilitation project at 420 North Jefferson part of the PY20 CHIP grant program and the amount is \$67,000 plus a lot of work that is going into this home including hot water tank, new roof, gutters, downspouts, boiler, and windows. It is one of their larger CHIP program projects. This authorization would allow payment to Solid Ground Construction. Emergency is needed to pay in a timely matter. The roll was called on adding the emergency clause and was approved by the yea votes of D. Simpson, J. Coyne, R. Haire, J. Hazeltine, B. Lamb, P. Rose, and J. Shields. The roll was called and Ordinance/Resolution No. 078-22 passed by the yea votes of J. Coyne, R. Haire, J. Hazeltine, B. Lamb, P. Rose, J. Shields, and D. Simpson.

Ord. 079-22:

An Ordinance authorizing the expenditure of \$15,000.00 to Medina Excavating for the demolition of the building and restoration of the property located at 368 Foundry Street,

Medina. Mr. Shields moved for the adoption of Ordinance/Resolution No. 079-22, seconded by Mr. Simpson. Mr. Wehrley stated this expense is to demolish the house at 368 Foundry Street which is in the process of being transferred to the city, upon completion of the project the parcel will be incorporated as part of the park and they are using ARP funds. The roll was called and Ordinance/Resolution No. 079-22 passed by the yea votes of R. Haire, J. Hazeltine, B. Lamb, P. Rose, J. Shields, D. Simpson, and J. Coyne.

Ord. 080-22:

An Ordinance authorizing the Mayor to enter into a Client Professional Services Agreement with Poggemeyer Design Group for consulting services and to make an application for the PY22 Community Housing Impact and Preservation (CHIP) Grant Program. Mr. Shields moved for the adoption of Ordinance/Resolution No. 080-22, seconded by Mr. Simpson. Mr. Shields moved that the emergency clause be added to Ordinance/Resolution No. 080-22, seconded by Mr. Simpson. Mr. Dutton stated this is to enter into an agreement with Poggemeyer to apply for their program year 2022 CHIP Grant. The roll was called on adding the emergency clause and was approved by the yea votes of J. Hazeltine, B. Lamb, P. Rose, J. Shields, D. Simpson, J. Coyne, and R. Haire. The roll was called and Ordinance/Resolution No. 080-22 passed by the yea votes of B. Lamb, P. Rose, J. Shields, D. Simpson, J. Coyne, R. Haire and J. Hazeltine.

Ord. 081-22:

An Ordinance authorizing the purchase of forty-five (45) P25 Unication Pagers from Mitchell Communications for the Fire Department. Mr. Shields moved for the adoption of Ordinance/Resolution No. 081-22, seconded by Mr. Simpson. Mr. Shields moved that the emergency clause be added to Ordinance/Resolution No. 081-22, seconded by Mr. Simpson. The roll was called on adding the emergency clause and was approved by the yea votes of P. Rose, J. Shields, D. Simpson, J. Coyne, R. Haire, J. Hazeltine, and B. Lamb. The roll was called and Ordinance/Resolution No. 081-22 passed by the yea votes of J. Shields, D. Simpson, J. Coyne, R. Haire, J. Hazeltine, B. Lamb, and P. Rose.

Ord. 082-22:

An Ordinance authorizing the Mayor to advertise for competitive bids and to award a contract to the successful bidder for the South Prospect Street Reconstruction Project. Mr. Shields moved for the adoption of Ordinance/Resolution No. 082-22, seconded by Mr. Simpson. Mr. Patton stated this is a project that will completely rebuild South Prospect Street between West Smith Rd. and Lafayette includes new pavements, new water line and sanitary sewer and new storm sewer. Total cost of project is a little over \$1.6 million. Secured grant is \$493,940 for this project. The County will be responsible for \$350,000 for the sanitary sewer reconstruction. The roll was called and Ordinance/Resolution No. 082-22 passed by the yea votes of D. Simpson, J. Coyne, R. Haire, J. Hazeltine, B. Lamb, P. Rose, and J. Shields.

Res. 083-22:

A Resolution authorizing the Mayor to submit a request for Federal Grant Funds for the State Road Reconstruction Project, and declaring an emergency. Mr. Shields moved for the adoption of Ordinance/Resolution No. 083-22, seconded by Mr. Simpson. Mr. Shields moved that the emergency clause be added to Ordinance/Resolution No. 083-22, seconded by Mr. Simpson.

Mr. Patton stated this is the second year in a row they are applying for federal funds for State Road. The project will extend from the railroad tracks south of West Liberty to Birch Hill and the total grant request is \$4.6 million. Total project cost is \$6.6 million. Emergency is requested due to grant deadline. The roll was called on adding the emergency clause and was approved by the yea votes of J. Coyne, R. Haire, J. Hazeltine, B. Lamb, P. Rose, J. Shields, and D. Simpson. The roll was called and Ordinance/Resolution No. 083-22 passed by the yea votes of R. Haire, J. Hazeltine, B. Lamb, P. Rose, J. Shields, D. Simpson, and J. Coyne.

Ord. 084-22:

An Ordinance authorizing the Mayor to grant a Fiber Equipment Easement for Medina Fiber to locate their facilities on City owned property. Mr. Shields moved for the adoption of Ordinance/Resolution No. 084-22, seconded by Mr. Simpson. Mr. Patton stated that Medina Fiber installed some of their equipment in the city right-of-way due to the conflicts with the waterline. We need to have that equipment moved, so this request will provide an easement so they can locate their equipment in front of the Wadsworth Rd. Fire Station. The roll was called and Ordinance/Resolution No. 084-22 passed by the yea votes of J. Hazeltine, B. Lamb, P. Rose, J. Shields, D. Simpson, J. Coyne, and R. Haire.

Ord. 085-22:

An Ordinance authorizing the Mayor to enter into a contract for sale and purchase of Real Property and a contract for Right of Entry relative to the West Smith Reconstruction Project, and declaring an emergency. Mr. Shields moved for the adoption of Ordinance/Resolution No. 085-22, seconded by Mr. Simpson. Mr. Shields moved that the emergency clause be added to Ordinance/Resolution No. 085-22, seconded by Mr. Simpson. Mr. Patton stated this is one of the properties they needed to acquire to complete the West Smith project. This particular one will allow them to align Baxter Street and Medina Street. This Federally funded project falls under the ODOT protocol with a strict deadline and the emergency clause is needed. The roll was called on adding the emergency clause and was approved by the yea votes of B. Lamb, P. Rose, J. Shields, D. Simpson, J. Coyne, R. Haire and J. Hazeltine. The roll was called and Ordinance/Resolution No. 085-22 passed by the yea votes of P. Rose, J. Shields, D. Simpson, J. Coyne, R. Haire, J. Hazeltine, and B. Lamb.

Ord. 086-22:

An Ordinance accepting a Right-of-Way dedication Plat of Part of Smith Road and Medina Street, and declaring an emergency. Mr. Shields moved for the adoption of Ordinance/Resolution No. 086-22, seconded by Mr. Simpson. Mr. Shields moved that the emergency clause be added to Ordinance/Resolution No. 086-22, seconded by Mr. Simpson. Mr. Patton stated this is for the same intersection with the same project. The City owns a very small triangle parcel and ODOT is requiring us to dedicate that as public right-of-way in order to complete the project. Emergency is needed due to time restrictions. The roll was called on adding the emergency clause and was approved by the yea votes of J. Shields, D. Simpson, J. Coyne, R. Haire, J. Hazeltine, B. Lamb, and P. Rose. The roll was called and Ordinance/Resolution No. 086-22 passed by the yea votes of D. Simpson, J. Coyne, R. Haire, J. Hazeltine, B. Lamb, P. Rose, and J. Shields.

Ord. 087-22:

An Ordinance authorizing the Mayor to accept Easements and a Contract for Right of Entry necessary for the West Smith Reconstruction Project, and declaring an emergency. Mr. Shields moved for the adoption of Ordinance/Resolution No. 087-22, seconded by Mr. Simpson. Mr. Shields moved that the emergency clause be added to Ordinance/Resolution No. 087-22, seconded by Mr. Simpson. Mr. Patton stated these are again for the West Smith Road Reconstruction Project and a total of three easements necessary for the completion of the project. Emergency is needed again for time restraints. The roll was called on adding the emergency clause and was approved by the yea votes of J. Coyne, R. Haire, J. Hazeltine, B. Lamb, P. Rose, J. Shields, and D. Simpson. The roll was called and Ordinance/Resolution No. 087-22 passed by the yea votes of R. Haire, J. Hazeltine, B. Lamb, P. Rose, J. Shields, D. Simpson, and J. Coyne.

Ord. 088-22:

An Ordinance authorizing the purchase of one (1) EnviroSight Rover X System Sewer Camera from Best Equipment Company for the Street Department. Mr. Shields moved for the adoption of Ordinance/Resolution No. 088-22, seconded by Mr. Simpson. Mr. Piccoli stated they currently own a 2005 Camera and it is 17 years old and has served the city well but now is having problems. If passed tonight this will allow for the purchase of the camera with a \$10,000 trade-in. The camera is used to televisive the city storm system, infrastructure and helps with residential / business problem solving. The roll was called and Ordinance/Resolution No. 088-22 passed by the yea votes of J. Hazeltine, B. Lamb, P. Rose, J. Shields, D. Simpson, J. Coyne, and R. Haire.

Ord. 089-22:

An Ordinance amending Ord. 55-17, passed April 24, 2017, relative to membership rates for the Medina Community Recreation Center. Mr. Shields moved for the adoption of Ordinance/Resolution No. 089-22, seconded by Mr. Simpson. Mr. Wehrley stated this will remove the renewal rate option as part of their membership structure at the Medina Rec Center. This is to enable them to transition most of their membership sales online. New membership incentive for part time rec employees is the second half to this request. The roll was called and Ordinance/Resolution No. 089-22 passed by the yea votes of B. Lamb, P. Rose, J. Shields, D. Simpson, J. Coyne, R. Haire and J. Hazeltine.

Ord. 090-22:

An Ordinance Repealing and Replacing Ordinance No. 14-20, passed January 27, 2020 relative to the Sexual Offender Plan of Action Policy for the Medina Community Recreation Center. Mr. Shields moved for the adoption of Ordinance/Resolution No. 090-22, seconded by Mr. Simpson. Mr. Wehrley stated this to update their plan of action to align with actually being done at the facility. The major change is that all new or renewed members will continue to be run against the National Registry, the only exceptions are large mass gatherings such as swim meets, basketball, or special events, and any large rentals we might have. The roll was called and Ordinance/Resolution No. 090-22 passed by the yea votes of P. Rose, J. Shields, D. Simpson, J. Coyne, R. Haire, J. Hazeltine, and B. Lamb.

Medina City Council
April 25, 2022

Ord. 091-22:

An Ordinance amending Ordinance No. 201-21, passed December 13, 2021. (Amendments to 2022 Budget) Mr. Shields moved for the adoption of Ordinance/Resolution No. 091-22, seconded by Mr. Simpson. The roll was called and Ordinance/Resolution No. 091-22 passed by the yeas and nays of J. Shields, D. Simpson, J. Coyne, R. Haire, J. Hazeltine, B. Lamb, and P. Rose.

Council Comments:

Mr. Simpson congratulated Mrs. Kathy Patton for her proclamation tonight and stated none of them could do the job they do without her, thank you!

Mr. Rose stated Tuesday, May 3rd is Primary Day, vote on or before that date:
Paul thanked Kathy Patton. He also thanked Medina Meow Fix for the job they do.
Make Medina Better – Medina Kids Care is doing a horse show on May, 1st at the Medina County Fairgrounds. All proceeds go towards helping residents of Medina County Home.

Jessica Hazeltine also thanked Kathy Patton for all she does and encouraged all residents to please vote and vote for the Health Department levy.

There being no further business, the meeting adjourned at 9.02 p.m.

Kathy Patton, Clerk of Council

John M. Coyne, President of Council

Include w/ 4/25/22
Council Minutes
Public Hearing



233 Lafayette Rd.
Medina, OH 44256
Phone: 330.722.4494
Web: www.medinahabitat.org

April 12, 2022

Mayor Dennis Hanwell
132 North Elmwood Ave
Medina, OH 44256

Rick Dumperth
President

Derek Rance
Vice President

Pat George
Secretary

Tom Kotick
Treasurer

Dear Mayor Hanwell & Medina City Council Representatives,

On behalf of the Habitat for Humanity Board of Directors, I want to thank you for your continued support of Habitat's work here in Medina County.

Habitat is committed to the vision to see a world where everyone has a decent place to live and views the entire housing spectrum from homeless prevention to homeownership as important to our county's success. This perspective led Habitat to participate in the development of the 'Coordinated Plan to Prevent and End Homelessness' through the Medina County Housing Network. One of the key components of the plan's housing crisis response system is the need for more permanent supportive housing (PSH) units here in Medina County.

Habitat for Humanity is aware of Medina Metropolitan Housing Authority's (MMHA) zoning change request for 881 Lafayette Rd. The approval of this change will allow MMHA to develop this site with 11-units of PSH. The Habitat for Humanity Board of Directors are in full support of this development and sees this as a vital part of the plan to prevent and end homelessness here in Medina County.

Thank you for your continued support of Habitat and all the organizations that work to provide safe, decent, and affordable housing for residents of Medina County.

Sincerely;

A handwritten signature in black ink that reads "Tom O'Connell". The signature is written in a cursive style and is positioned above the printed name of the signatory.

Tom O'Connell
Executive Director

Dan Calvin
Chuck Hollingsworth
William Hutson
Bill Laux
Pat McNeill
Pat Neal
Jaclyn Ringstmeier
Joan Rundle
Tracey Ruffin
Ashley Sorgen
Gindy Steeb
Jinny Widowski



A world where everyone has a decent place to live

4-25-22
Public Comment

Mayor Hanwell, Members of Council,

My name is Sandy Varndell, 1014 Smokerise Dr. Medina. I use she/her pronouns.

Thank you for giving me the opportunity to speak this evening.

I am here tonight to talk about bills that have been brought forth by members of the Ohio State Legislators targeting the LGBTQ and African American communities. I am here to urge you to consider a Resolution condemning these bills, or if a Resolution is not an option, to draft a letter from Medina City Council opposing such Legislation to be sent to Speaker of the House Robert Cupp, Representative Sharon Ray, and Governor Mike Dewine.

There are 2 pieces of Legislation that I will speak about tonight, HB 454 and 616.

HB 454 would make it illegal for physicians, psychologists, or any healthcare providers to administer gender affirming care to transgender youth. Not only is this a major overreach of government that would interfere with the relationship between healthcare providers, parents and their children, taking medical decisions out of the realm of medical professionals and parents, but would put the health and well-being of hundreds of transgender children at risk, many of whom live in Medina. This is not experimental medicine, but is scientifically and time proven medical care.

In our area of Ohio, every major healthcare system offers medical care to transgender children. Akron Children's Hospital has a special department called The Center for Gender Affirming Medicine. That specialized department has so many youth seeking care that there is currently a 7 month wait time to see a specialist there. Similar wait times are at other hospitals for families seeking gender affirming care for their beloved children. The wait times wouldn't be if there were no children desperately needing the Life-affirming care.

HB 616 would take control of decisions about curriculum away from local school boards and severely limit what teachers can and cannot teach in the classroom. It is exceedingly vague but has the potential to censor any mention of race, sexual orientation, or gender identity.

Our children go to school to learn how the world around them is, so that they will be well prepared to face the world as it is, not by how some would like it to be. Our public school teachers in Medina and all of Ohio work hard at teaching our children what they need to know about the world...that people that they will come into contact with include people of color, with vital histories that need to be taught in history classes. That they will come into contact with LGBTQ+ people, who have a rich history that should be taught in history classes. That their histories and experiences are part of America's history. These lessons should not be censored by politicians. Free speech would be greatly impacted if a child who has 2 mommies or 2 daddies could not talk about their families. A child who wants to read the book "I am Jazz" from the school library because it reflected who they see themselves to be, would be prohibited from having those types of books available. It's not hard to see that this bill aims to erase a child's life experience, and pretend that they do not exist.

A 2020 Gallup poll found that 5.6 % of Americans identify as LGBTQ+. If those polls are accurate, and Medina City's population is 25,671, that means that 1,437 Medina residents are potentially LGBTQ+, of all ages, 0-100. As Coordinator of OutSupport, Medina's LGBTQ Support, Information and Advocacy group, I have been given the chance to visit our local school's Gender and Sexuality Alliances at nearly every high school in Medina County, including Medina High School GSA, Highland High School, and Buckeye High School, as well as Wadsworth and Brunswick.

Each school that has a GSA confirms a minimum of 50 students active in that school's GSA. There are 3 Middle School GSA type groups as well, with numbers equalling the high school groups. On Friday, I was fortunate to visit the Highland HS GSA. Students there said that they are upset that adults don't understand what they experience and that they want to live as their authentic selves. With bills like this floating around the Ohio Statehouse, they are angry and

confused as to why the legislators are doing this to them. Parents that I talk to with younger students here in the county tell me that their children are crying themselves to sleep at night, wondering if they will be able to continue the medical care that they have been receiving for months or years.

These bills are unacceptable in a state that prides itself on its educational colleges and universities. I would like to think that both doctors and educators know what they are doing in a medical setting and teaching students in public schools, many training in Ohio higher education. Why would we not let them do what they do best already?

I ask that you do what ever you can to oppose these bills. Ohio children can't be traumatized and erased like these bills aim to do.
Thank you.

RESOLUTION NO. 92-22

A RESOLUTION CONGRATULATING ANNA FLETCHER
ON RECEIVING THE GIRL SCOUT GOLD AWARD, THE
HIGHEST AWARD IN GIRL SCOUTING.

WHEREAS: *Anna Fletcher* is currently a member of Girl Scouts of North East Ohio; and

WHEREAS: *Anna Fletcher* has recently earned the Girl Scout Gold Award, the highest award in Girl Scouting; and

WHEREAS: The Girl Scout Gold Award is a national award with national standards that represents a Girl Scout's time, leadership, creativity and contribution to making the world a better place, which establishes a strong foundation for a lifetime of active citizenship.

**NOW, THEREFORE, BE IT RESOLVED BY THE
COUNCIL OF THE CITY OF MEDINA, OHIO:**

SEC. 1: That Medina City Council hereby commend and congratulate *Anna Fletcher* on her outstanding contribution to the community and Girl Scouts of North East Ohio in attaining the prestigious Girl Scout Gold Award.

SEC. 2: That a signed copy of this Resolution shall be presented to *Anna Fletcher* in recognition of her hard work and dedication in obtaining this award.

SEC. 3: That this Resolution shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

ORDINANCE NO. 93-22

AN ORDINANCE AUTHORIZING THE ZONING MAP AMENDMENT TO CHANGE THE ZONING OF 881 LAFAYETTE ROAD FROM I-1, INDUSTRIAL TO C-3, GENERAL COMMERCIAL.

WHEREAS: On February 16, 2022, the applicant requested rezoning 881 Lafayette Road from I-1, Industrial to C-3, General Commercial; and

WHEREAS: The Planning Commission recommended approval of the requested rezoning to Medina City Council at their March 01, 2022 meeting; and

WHEREAS: The notice of public hearing by Medina City Council was duly published and the hearing was duly held April 25, 2022.

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

SEC. 1: That 881 Lafayette Road be rezoned from I-1, Industrial to C-3, General Commercial.

SEC. 2: That the City Engineer is hereby directed to amend the zoning map as necessary to correctly reflect this change in zoning.

SEC. 3: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 4: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

RESOLUTION NO. 94-22

A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT THE WALMART COMMUNITY GRANT AWARD FOR THE MEDINA FIRE DEPARTMENT, AND DECLARING AN EMERGENCY.

WHEREAS: The Medina Fire Department was awarded a Walmart Community Grant in the amount of \$1,500.00 on April 15, 2022.

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

SEC. 1: That the Mayor is authorized to accept the Walmart Community Grant award in the amount of \$1,500.00 for the Medina Fire Department.

SEC. 2: That the grant award in the amount of \$1,500.00 for the Medina Fire Department is hereby accepted and will be deposited in Account No. 107-0110-53315.

SEC. 3: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 4: That this Resolution shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason the award was given on April 15, 2022; wherefore, this Resolution shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

RESOLUTION NO. 95-22

A RESOLUTION AUTHORIZING THE MAYOR TO FILE AN APPLICATION FOR GRANT ASSISTANCE WITH THE MEDINA COUNTY DRUG ADVISORY COMMISSION (MCDAC) FOR A GRANT TO FUND AND SUPPORT THE SCHOOL RESOURCE OFFICER PROGRAM WITH THE MEDINA CITY SCHOOLS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1:** That the Mayor is hereby authorized and directed to file an application for grant assistance with the Medina County Drug Advisory Commission (MCDAC) for a grant to fund and support the School Resource Officer Program with the Medina City Schools.
- SEC. 2:** That if the Grant is awarded to the City, the Mayor is authorized to accept the grant and complete all documentation necessary for the implementation and administration of the grant.
- SEC. 3:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 4:** That this Resolution shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

ORDINANCE NO. 96-22

AN ORDINANCE AMENDING ORDINANCE NO. 56-17, PASSED APRIL 24, 2017, RELATIVE TO SECTION 1, RENTAL OF MEMORIAL POOL CABANA DURING POOL HOURS.

WHEREAS: Ordinance No. 56-17, passed April 24, 2017, established Program Rates and Pool Rental Rates for the newly renovated Memorial Park Pool; and

WHEREAS: Section 1 of Ordinance No. 56-17, passed April 24, 2017, currently reads as follows:

Memorial Pool Rental Rates

1. Rental of Cabana during pool hours:

- * Rent fenced area including shade structure
- * Daily admission rates apply for all attendees.
- * Shared use of the pool with other patrons
- * Flat rate for one 3-hour block of time:

11:30a-2:30p
3:30p-6:30p

Flat rate for 3-hour Cabana Rental			
Weekday		Weekend	
Resident	Non-Resident	Resident	Non-Resident
\$25	\$35	\$35	\$45

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

SEC. 1: That Section 1 of Ordinance No. 56-17, passed April 24, 2017, shall be amended to read as follows:

Memorial Pool Rental Rates

1. Rental of Cabana during pool hours:

- * Rent fenced area including shade structure
- * Daily admission rates apply for all attendees.
- * Shared use of the pool with other patrons
- * Flat rate for one 3-hour block of time:

11:30a-2:30p
3:30p-6:30p

Flat rate for 3-hour Cabana Rental			
Weekday		Weekend	
Resident	Non-Resident	Resident	Non-Resident
\$25	\$35	\$35	\$45

*** Cabana Party Package Rate**

\$150 for three-hour block

***Times will vary based on scheduling and availability.**

All Packages Include:

- **3 Hours of Cabana Rental**
- **Use of picnic tables in area**
- **Accommodates up to 24 guests**

SEC. 2: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 3: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____

President of Council

ATTEST: _____

APPROVED: _____

Clerk of Council

SIGNED: _____

Mayor

ORDINANCE NO. 97-22

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT A TEMPORARY EASEMENT AND RIGHT OF ENTRY CONTRACT NECESSARY FOR THE WEST SMITH RECONSTRUCTION PROJECT, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That the Mayor is hereby authorized to accept a Temporary Easement and Contract for Right of Entry necessary for the West Smith Reconstruction Project.

SEC. 2: That the Easement and Contract for Right of Entry are marked Exhibit A, attached hereto and incorporated herein, and are located on Permanent Parcel No. 028-19A-21-246, owned by the Kotecki Family Memorials, LLC.

SEC. 3: That the funds to cover the easements, in the amount of \$300.00 are available in Account No. 108-0610-54411.

SEC. 4: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 5: That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason failure to meet the deadline can delay the project; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

ORD. 97-22
Ex. A

LPA RE 807
Rev. 10/2017

TE
LPA

TEMPORARY EASEMENT

Kotecki Family Memorials, LLC, an Ohio limited liability corporation, the Grantor(s), in consideration of the sum of \$300.00, to be paid by City of Medina, Ohio, the Grantee, does grant to Grantee the temporary easement(s) to exclusively occupy and use for the purposes mentioned in Exhibit A the following described real estate:

PARCEL(S): 82-T
MED-CR 0004-15.47

SEE EXHIBIT A ATTACHED

Medina County Current Tax Parcel No. 028-19A-21-246
Prior Instrument Reference: Instrument No. 2008OR023124, Medina County Recorder's Office.

To have and to hold the temporary easement(s), for the aforesaid purposes and for the anticipated period of time described below, unto the Grantee, its successors and assigns.

The duration of the temporary easement(s) granted to the Grantee is 24 months immediately following the date on which the work described above is first commenced by the Grantee, or its duly authorized employees, agents, and contractors.

The temporary easement(s) interest granted is being acquired by Grantee for a public purpose, namely the establishment, construction, reconstruction, widening, repair or maintenance of a public road.

IN WITNESS WHEREOF Kotecki Family Memorials, LLC, an Ohio limited liability corporation has caused its name to be subscribed by Edward E. Kotecki, IV, its duly authorized President, and its duly authorized agent on the 17th day of April, 2022.

Kotecki Family Memorials, LLC, an Ohio limited liability corporation

By: [Signature]
Edward E. Kotecki, President

STATE OF OHIO, COUNTY OF CUYAHOGA ss:

BE IT REMEMBERED, that on the 17th day of April, 2022, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Edward E. Kotecki, IV who acknowledged being the President and duly authorized agent of Kotecki Family Memorials, LLC, an Ohio limited liability corporation and who acknowledged the foregoing instrument to be the voluntary act and deed of said entity. No oath or affirmation was administered to Edward E. Kotecki, IV with regard to the notarial act.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.



JOSEPH E ALMADY
Notary Public
in and for the State of Ohio
My Commission Expires
August 22, 2023

[Signature]
NOTARY PUBLIC
My Commission expires:

8/22/2023

This document was prepared by or for the City of Medina on forms approved by the Ohio Attorney General's Office.

EXHIBIT A

Page 1 of 2

Rev. 07/09

LPA RX 887 T

QWS

Ver. Date 06/22/2021

PID 112540

**PARCEL 82-T
MED-CR 0004-15,47
TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY TO
RECONNECT DRAIN
FOR 24 MONTHS FROM DATE OF ENTRY BY THE
CITY OF MEDINA, MEDINA COUNTY, OHIO**

[Surveyor's description of the premises follows]

Situated in the State of Ohio, County of Medina, City of Medina, being in Original Lot 81 of Medina Township, Township 3 North, Range 14 West of the Connecticut Western Reserve, and being a tract of land lying in Medina City Lot 363 as shown in M. H. Peak's Plat Part of Medina Town as recorded in Deed Book K, page 271 (all document references are to the records of Medina County, Ohio Recorder's office, unless otherwise stated), as conveyed to Kotecki Family Memorials, LLC, an Ohio limited liability company by the instrument filed as Document Numbers 2008OR023124.

Being a parcel of land lying on the left side of the centerline of right-of-way of Smith Road (60' R/W - Public) and being more particularly described as follows:

BEGINNING FOR REFERENCE at a point on the existing northerly right-of-way line of Smith Road, on the southerly line of the said Medina City Lot 363, being the southwest corner of the said Kotecki Family Memorials, LLC, an Ohio limited liability company tract, and being the southeast corner of that tract conveyed to Christopher A. Talbert and Barbara A. Talbert by the instruments filed as Document Numbers 2019OR002510 and 2005OR031228, said point being 30.00 feet left of the centerline of right-of-way of Smith Road station 101+52.00 and being the **TRUE POINT OF BEGINNING** of the parcel herein described;

Thence along the westerly line of the said Kotecki Family Memorials, LLC, an Ohio limited liability company tract and the easterly line of the said Christopher A. Talbert and Barbara A. Talbert tract, and crossing through the said Medina City Lot 363, **North 00 degrees 18 minutes 26 seconds West for a distance of 15.00 feet** to a point being 45 feet left of the centerline of right-of-way of Smith Road station 101+52.01;

Thence crossing through the said Kotecki Family Memorials, LLC, an Ohio limited liability company tract and continuing through the said Medina City Lot 363, **North 89 degrees 38 minutes 34 seconds East for a distance of 6.25 feet** to a point being 45.00 feet left of the centerline of right-of-way of Smith Road station 101+58.27;

EXHIBIT A

LPA.RX 887 T

Rev. 07/09

Thence continuing through the said Kotecki Family Memorials, LLC, an Ohio limited liability company tract and the said Medina City Lot 363, South 00 degrees 21 minutes 29 seconds East for a distance of 15.00 feet to a point on the said existing northerly right-of-way line of Smith Road, the said southerly line of Medina City Lot 363, and on the southerly line of the said Kotecki Family Memorials, LLC, an Ohio limited liability company tract, said point being 30.00 feet left of the centerline of right-of-way of Smith Road station 101+58.27;

Thence along the said existing northerly right-of-way line of Smith Road, the southerly line of the said Medina City Lot 363, and the southerly line of the said Kotecki Family Memorials, LLC, an Ohio limited liability company tract, South 89 degrees 38 minutes 34 seconds West for a distance 6.27 feet to the TRUE POINT OF BEGINNING of the parcel herein described.

The above description contains a total area of 0.0022 acres, (0.0000 acres are located within the Present Road Occupied resulting in a net take of 0.0022 acres), all of which are located within Medina County Auditor's Parcel number 028-19A-21-246.

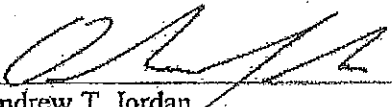
The current source of title to the boundary herein described as of this writing recorded in Document Number 2008OR023124 in the records of Medina County.

This description was prepared by Andrew T. Jordan, Ohio Registered Professional Surveyor number 8759, and is based on an actual field survey conducted by American Structurepoint Inc. in October of 2020, and is true and correct to the best of my knowledge and belief.

The bearings for this description are based on Grid North, reference North 89 degrees 12 minutes 02 seconds East for the existing centerline of right-of-way for W. Smith Road, as referenced to The Ohio State Plane Coordinate system (North Zone) and the North American Datum of 1983 (2011 Adjustment) as established utilizing a GPS survey and NGS OPUS solution.

The stations referenced herein are from the plans known as MED - CR 0004 - 15.47 (W SMITH ROAD) on file with the City of Medina, Ohio.

American Structurepoint, Inc.


Andrew T. Jordan
Registered Professional Surveyor No. 8759



6-22-2021
Date

CONTRACT FOR RIGHT OF ENTRY

PARCEL(S): 82-T
MED-CR 0004-15.47/112540

The purpose of this Agreement is to allow the City of Medina, Ohio to enter upon, occupy and have exclusive possession of the real property described in Exhibit A for the purposes of constructing a highway or facility incidental to the highway while the Parties attempt to negotiate further the sale and purchase of the property described in Exhibit A.

This Agreement is by and between the City of Medina, Ohio ["LPA"] and Kotecki Family Memorials, LLC, an Ohio limited liability corporation ["Owner"; "Owner" includes all of the foregoing named persons or entities]. LPA and Owner are referred to collectively in this Agreement as "Parties."

In consideration of the mutual promises, agreements and covenants herein contained, the Parties contract as follows:

1. LPA shall pay to Owner the sum of \$300.00, which sum shall constitute the entire amount of consideration due to the Owner for granting to LPA the rights, interests and privileges described immediately below in Section 2.

Except as specified in this Agreement, in no event shall Owner be entitled to receive from LPA any interest, rent or other consideration of any kind for the period of time during which LPA occupies, possesses and uses the real property described in Exhibit A attached to this Agreement.

2. On and after _____, LPA, its employees, agents, consulting engineers, contractors, subcontractors, utility companies and any other representatives of LPA shall have the irrevocable right to enter upon, occupy and have exclusive possession of the real property

described in Exhibit A for the purposes of constructing a highway or a facility incidental to the highway.

For consideration of the aforementioned sum to Owner, LPA shall have the right to physical possession of any land, and all buildings, houses, garages, sheds or any other types of structures, fixtures and other property, if any, located within or upon the real property described in Exhibit A.

If structures are within this described area, the terms and conditions of occupancy or non-occupancy and access are set forth in the attached Exhibit B.

3. Owner affirms that Owner is the true and lawful owner of the fee simple of the real property described in Exhibit A and/or Owner has the right and full power to grant to LPA the rights, interests and privileges described in Exhibit A.

4. Owner shall notify LPA of any prospective transfer of any of Owner's rights, titles or interests in the property. This notification shall be in writing not less than 14 days prior to the date on which the transfer is to be closed or otherwise consummated. If the transfer will be closed or otherwise consummated less than 14 days after Owner agrees to such transfer, then Owner shall provide to LPA such notification in writing immediately.

5. Owner acknowledges that LPA has the right to commence an action to appropriate the property described in Exhibit A and Exhibit B (if used) at any time it appears to the LPA that further negotiations with Owner are not warranted.

State agrees to commence promptly an action to appropriate the property described in Exhibit A and Exhibit B (if used) upon LPA's receipt from Owner of a written notice to commence an action to appropriate.

6. The Parties agree that the above mentioned \$300.00 shall be credited to and applied against the total purchase price the Parties may negotiate for the sale and purchase of the property described in Exhibit A, and the conveyance and transfer by the Owner to LPA.

7. The Parties agree that if LPA acquires the property described in Exhibit A and Exhibit B (if used) by way of an action to appropriate, then the abovementioned \$300.00 shall be credited to and applied against any amount awarded to the Owner in such appropriation action. If the \$300.00 is greater than the amount awarded to Owner in such appropriation action, then Owner expressly agrees to refund promptly the difference to LPA.

8. Owner acknowledges that LPA has explained to Owner that no owner of property can be required to surrender possession of the same to LPA prior to:

- (i) the payment of the total, agreed upon purchase price by LPA; or
- (ii) in the case of an appropriation, the deposit by LPA with the court, for the benefit of the owner, an amount not less than LPA's approved appraisal of the fair market value of the property; or
- (iii) the court award of compensation in the appropriation proceeding for the property.

Notwithstanding the rights described above, Owner in executing this Agreement waives such rights and permits LPA to occupy, possess and use the property described in Exhibit A and Exhibit B (if used).

9. Except and unless otherwise specifically modified by the terms and conditions of this Agreement, any and all rights, privileges, titles and interests in or to the property described in Exhibit A are preserved and retained by Owner.

10. Any and all of the terms, conditions and provisions of this Agreement shall be binding upon and shall pass to the benefit of LPA and Owner and their respective heirs, executors, administrators, successors and assigns.

11. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute but one and the same instrument.

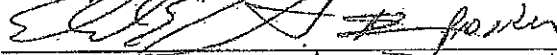
12. This instrument contains the entire agreement between the Parties, and it is expressly understood and agreed that no promises, provisions, terms, warranties, conditions or obligations whatever, express or implied, other than herein set forth, shall be binding upon either State or Owner.

13. No amendment or modification of this Agreement shall be valid or binding upon the Parties unless it is made in writing, cites this Agreement and is signed by LPA and Owner.

REST OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the City of Medina, Ohio, and Kotecki Family Memorials, LLC, an Ohio limited liability corporation have executed this Agreement on the date(s) indicated immediately below their respective signatures.

KOTECKI FAMILY MEMORIALS, LLC, AN OHIO LIMITED LIABILITY CORPORATION



By Edward E. Kotecki, Jr. President

Date: April 12, 2022

CITY OF MEDINA, OHIO

Dennis Hanwell
Mayor

Date: _____

STATE OF OHIO, COUNTY OF Medina ss:

BE IT REMEMBERED, that on the ____ day of _____, 2022, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Dennis Hanwell, Mayor, the duly authorized representative of the City of Medina, Ohio, who acknowledged the foregoing instrument to be the voluntary act and deed of the City of Medina, Ohio.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

NOTARY PUBLIC
My Commission expires: _____

This document was prepared by or for the City of Medina, Ohio on forms approved by the Ohio Attorney General's Office.

EXHIBIT A

Page 1 of 2

LPA RX 887 T

Rev. 07/09

GWS

Ver. Date 06/22/2021

PID 112540

**PARCEL 82-T
MED-CR 0004-15.47
TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY TO
RECONNECT DRAIN
FOR 24 MONTHS FROM DATE OF ENTRY BY THE
CITY OF MEDINA, MEDINA COUNTY, OHIO**

[Surveyor's description of the premises follows]

Situated in the State of Ohio, County of Medina, City of Medina, being in Original Lot 81 of Medina Township, Township 3 North, Range 14 West of the Connecticut Western Reserve, and being a tract of land lying in Medina City Lot 363 as shown in M. H. Peak's Plat Part of Medina Town as recorded in Deed Book K, page 271 (all document references are to the records of Medina County, Ohio Recorder's office, unless otherwise stated), as conveyed to Kotecki Family Memorials, LLC, an Ohio limited liability company by the instrument filed as Document Numbers 2008OR023124.

Being a parcel of land lying on the left side of the centerline of right-of-way of Smith Road (60' R/W - Public) and being more particularly described as follows:

BEGINNING FOR REFERENCE at a point on the existing northerly right-of-way line of Smith Road, on the southerly line of the said Medina City Lot 363, being the southwest corner of the said Kotecki Family Memorials, LLC, an Ohio limited liability company tract, and being the southeast corner of that tract conveyed to Christopher A. Talbert and Barbara A. Talbert by the instruments filed as Document Numbers 2019OR002510 and 2005OR031228, said point being 30.00 feet left of the centerline of right-of-way of Smith Road station 101+52.00 and being the **TRUE POINT OF BEGINNING** of the parcel herein described;

Thence along the westerly line of the said Kotecki Family Memorials, LLC, an Ohio limited liability company tract and the easterly line of the said Christopher A. Talbert and Barbara A. Talbert tract, and crossing through the said Medina City Lot 363, **North 00 degrees 18 minutes 26 seconds West for a distance of 15.00 feet** to a point being 45 feet left of the centerline of right-of-way of Smith Road station 101+52.01;

Thence crossing through the said Kotecki Family Memorials, LLC, an Ohio limited liability company tract and continuing through the said Medina City Lot 363, **North 89 degrees 38 minutes 34 seconds East for a distance of 6.25 feet** to a point being 45.00 feet left of the centerline of right-of-way of Smith Road station 101+58.27;

EXHIBIT A

LPA RX 887 T

Thence continuing through the said Kotecki Family Memorials, LLC, an Ohio limited liability company tract and the said Medina City Lot 363, South 00 degrees 21 minutes 29 seconds East for a distance of 15.00 feet to a point on the said existing northerly right-of-way line of Smith Road, the said southerly line of Medina City Lot 363, and on the southerly line of the said Kotecki Family Memorials, LLC, an Ohio limited liability company tract, said point being 30.00 feet left of the centerline of right-of-way of Smith Road station 101+58.27;

Thence along the said existing northerly right-of-way line of Smith Road, the southerly line of the said Medina City Lot 363, and the southerly line of the said Kotecki Family Memorials, LLC, an Ohio limited liability company tract, South 89 degrees 38 minutes 34 seconds West for a distance 6.27 feet to the TRUE POINT OF BEGINNING of the parcel herein described.

The above description contains a total area of 0.0022 acres, (0.0000 acres are located within the Present Road Occupied resulting in a net take of 0.0022 acres), all of which are located within Medina County Auditor's Parcel number 028-19A-21-246.

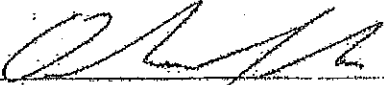
The current source of title to the boundary herein described as of this writing recorded in Document Number 2008OR023124 in the records of Medina County.

This description was prepared by Andrew T. Jordan, Ohio Registered Professional Surveyor number 8759, and is based on an actual field survey conducted by American Structurepoint Inc. in October of 2020, and is true and correct to the best of my knowledge and belief.

The bearings for this description are based on Grid North, reference North 89 degrees 12 minutes 02 seconds East for the existing centerline of right-of-way for W. Smith Road, as referenced to The Ohio State Plane Coordinate system (North Zone) and the North American Datum of 1983 (2011 Adjustment) as established utilizing a GPS survey and NGS OPUS solution.

The stations referenced herein are from the plans known as MED -- CR 0004 -- 15.47 (W SMITH ROAD) on file with the City of Medina, Ohio.

American Structurepoint, Inc.


Andrew T. Jordan
Registered Professional Surveyor No. 8759



6-22-2021
Date

EXHIBIT B
To
CONTRACT FOR RIGHT OF ENTRY

PARCEL(S): 82-T
MED-CR 0004-15.47 / 112540

If structures are within the area described in Exhibit A, the terms and conditions of occupancy or non-occupancy and access are set forth in this Exhibit.

N/A

ORDINANCE NO. 98-22

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PUBLIC LIMITS CROSSING AGREEMENT WITH WHEELING AND LAKE ERIE RAILWAY COMPANY AS PART OF THE WEST SMITH ROAD RECONSTRUCTION PROJECT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That the Mayor is hereby authorized and directed to enter into a Public Limits Crossing Agreement (No. 094125) with Wheeling and Lake Erie Railway Company as part of the West Smith Road Reconstruction Project.

SEC. 2: That the funds to cover this agreement, in the estimated amount of \$450.00 are available in Account No. 108-0610-54411.

SEC. 3: That a copy of the Public Limits Crossing Agreement is marked Exhibit A, attached hereto and incorporated herein, and is subject to final approval of the Law Director.

SEC. 4: That in accordance with Ohio Revised Code §5705.41(D), at the time that the contract or order was made and at the time of execution of the Finance Director's certificate, sufficient funds were available or in the process of collection, to the credit of a proper fund, properly appropriated and free from any previous encumbrance.

SEC. 5: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 6: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

ORD. 98-22

PUBLIC LIMITS CROSSING AGREEMENT

No. 094125

Between

CITY OF MEDINA

AND

WHEELING & LAKE ERIE RAILWAY COMPANY

Located in the
City of Medina
County of Medina
State of Ohio

Akron Subdivision
Mile Pbst 140.12

(Lat.: 41.13625538958503, Long.: -81.86695267241093)



PUBLIC LIMITS CROSSING AGREEMENT
No. 094125

THIS PUBLIC LIMITS CROSSING AGREEMENT, made as of the 7th day of April, 2022, between the CITY OF MEDINA an Ohio municipality, having an address of 132 N Elmwood Ave., Medina, OH 44256, hereinafter called "UTILITY" and WHEELING & LAKE ERIE RAILWAY COMPANY, a Delaware corporation, having an address of 100 East First Street Brewster, OH 44613, hereinafter called "RAILWAY" or "W&LE" (the "Agreement")

I. PREMISES

RAILWAY (which when used herein shall include any successor or assignee of or operator over its RAILWAY) insofar as it has the legal right and its present title permits, and in consideration of the covenants and conditions hereinafter stated on the part of UTILITY, to be kept and performed, hereby permits UTILITY to construct, maintain, repair, alter, renew, and ultimately remove from over or under RAILWAY's track:

[A water pipeline crossing under the track of RAILWAY at a minimum depth of eight feet (8') below the base of the rails, at Mile Post 140.12 of the Akron Subdivision (Lat. 40.58848, Long. -81.08228), within the public street limits of W Smith Road, in the City of Medina, County of Medina, and State of Ohio, attached hereto and made a part hereof;]

and in accordance with the drawings attached entitled "MED-SMITH ROAD (2 sheets)", "Pipe Crossing Data Sheet (1 sheet)", and "GENERAL SHORING REQUIREMENTS (1 sheet)", and approved by the Vice President of Engineering of RAILWAY, or his duly authorized representative, incorporated herein by reference; all and any part thereof being hereafter referred to as the "FACILITIES" shall be under and subject to the following terms, covenants, and conditions as hereinafter recited..

II. TERMS AND CONDITIONS

In consideration of the covenants and agreements herein contained and other good and valuable consideration, and intending to be legally bound, it is agreed as follows:

1. RENT/CONSIDERATION.

UTILITY will pay the sum of \$450.00 to RAILWAY for the preparation of this agreement.

2. CONSTRUCTION.

2.1 The FACILITIES shall be located, constructed and maintained in accordance with the construction plans attached hereto and for the purpose as outlined above. No departure shall be made at any time therefrom except upon permission in writing granted by the Vice President of Engineering of RAILWAY, or his duly authorized representative; provided, however, that if any commission or other regulatory body duly constituted and appointed in compliance with the laws of the State of Ohio, has by lawful ruling or other general order determined and fixed the manner and means of construction, maintenance, repair, alteration, renewal, relocation or removal thereof, then said ruling or general order shall prevail for the crossing or occupancy herein mentioned, provided said ruling or general order does not interfere with or adversely impact the safe use or operation of the property of RAILWAY.

2.2 The work of constructing, maintaining, repairing, altering, renewing, or removing the FACILITIES shall be done under such general conditions as will be satisfactory to and approved by the Vice President of Engineering of RAILWAY, or his duly authorized representative, and will not interfere with the proper and safe use, operation and enjoyment of the property of RAILWAY. UTILITY, at its own cost and expense, shall, when performing any work in connection with the FACILITIES, arrange with RAILWAY to furnish any necessary inspectors, flagmen or watchmen to see that men, equipment and

materials are kept a safe distance away from the tracks of RAILWAY. In any event, UTILITY shall not enter RAILWAY's right-of-way without first notifying and obtaining permission to enter from RAILWAY.

2.3 In addition to, but not in limitation of any of the foregoing provisions, if at any time RAILWAY should deem inspectors, flagmen or watchmen desirable or necessary to protect its operations or property, or its employees, patrons, permittees, or UTILITY during the work of construction, maintenance, repair, alteration, renewal, relocation or removal of the FACILITIES of UTILITY, RAILWAY shall have the right to place such inspectors, flagmen or watchmen at the sole risk, cost and expense of UTILITY, which covenants and agrees to bear the full cost and expense thereof. The furnishing or failure to furnish inspectors, flagmen or watchmen by RAILWAY, however, shall not release UTILITY from any and all other liabilities assumed by UTILITY under the terms of this Agreement.

3. ADDITIONS.

If UTILITY desires or is required, as herein provided, to revise, renew, or alter in any manner whatsoever the FACILITIES, it shall submit plans to RAILWAY and obtain the written approval of the Vice President of Engineering of RAILWAY, or his duly authorized representative, before any work or alteration of the structure is performed and the terms and conditions of this Agreement with respect to the original construction shall apply thereto.

4. MAINTENANCE.

4.1 UTILITY shall at all times be obligated to promptly maintain and repair the FACILITIES; and shall, upon notice in writing from RAILWAY and requiring it so to do, promptly make such repairs thereto as may be required by RAILWAY. However, in no event shall UTILITY enter RAILWAY's right-of-way without first notifying and obtaining permission to enter from RAILWAY.

4.2 In the event of an emergency, UTILITY will take immediate steps to perform any necessary repairs, subject to first immediately notifying and obtaining permission to enter from RAILWAY.

5. GOVERNMENT COMPLIANCE.

UTILITY shall comply with all federal, state and local laws, and assume all cost and expense and responsibility in connection with the FACILITIES, without any liability whatsoever on the part of RAILWAY.

6. INDEMNIFICATION.

6.1 IT IS UNDERSTOOD BETWEEN THE PARTIES HERETO THAT THE OPERATION OF RAILWAY AT OR NEAR SAID FACILITIES INVOLVE SOME RISK, AND UTILITY AS PART OF THE CONSIDERATION FOR THIS AGREEMENT HEREBY RELEASES AND WAIVES ANY RIGHT TO ASK FOR OR DEMAND DAMAGES FOR OR ON ACCOUNT OF LOSS OF OR INJURY TO THE FACILITIES (AND CONTENTS THEREOF) OF UTILITY THAT ARE OVER, UNDER, UPON OR IN THE PROPERTY, TRACK, OR FACILITIES OF RAILWAY INCLUDING THE LOSS OF OR INTERFERENCE WITH SERVICE OR USE THEREOF AND WITHOUT REGARD TO WHETHER ATTRIBUTABLE (IN WHOLE OR IN PART) TO THE FAULT, FAILURE OR NEGLIGENCE OF RAILWAY OR OTHERWISE.

6.2 AND UTILITY ALSO COVENANTS AND AGREES TO AND SHALL AT ALL TIMES INDEMNIFY, PROTECT AND SAVE HARMLESS RAILWAY FROM AND AGAINST ALL COST OR EXPENSE RESULTING FROM ANY AND ALL LOSSES, DAMAGES, DETRIMENTS, SUITS, CLAIMS, DEMANDS, COSTS AND CHARGES WHICH RAILWAY MAY DIRECTLY OR INDIRECTLY SUFFER, SUSTAIN OR BE SUBJECTED TO BY REASON OF OR ON ACCOUNT OF THE CONSTRUCTION, PLACEMENT, ATTACHMENT, PRESENCE, USE, MAINTENANCE, REPAIR, ALTERATION, RENEWAL, OR REMOVAL OF THE FACILITIES IN, ON, ABOUT OR FROM THE

PREMISES, TRACK, OR FACILITIES OF RAILWAY WHETHER SUCH LOSSES AND DAMAGES BE SUFFERED OR SUSTAINED BY RAILWAY DIRECTLY OR BY ITS EMPLOYEES, PATRONS, OR LICENSEES, OR BE SUFFERED OR SUSTAINED BY OTHER PERSONS OR CORPORATIONS, INCLUDING UTILITY, ITS EMPLOYEES AND AGENTS WHO MAY SEEK TO HOLD RAILWAY LIABLE THEREFOR, AND WITHOUT REGARD TO WHETHER ATTRIBUTABLE (IN WHOLE OR IN PART) TO THE FAULT, FAILURE OR NEGLIGENCE OF RAILWAY OR OTHERWISE.

6.3 IF A CLAIM OR ACTION IS MADE OR BROUGHT AGAINST EITHER PARTY AND FOR WHICH THE OTHER PARTY MAY BE RESPONSIBLE HEREUNDER IN WHOLE OR IN PART, SUCH OTHER PARTY SHALL BE NOTIFIED AND PERMITTED TO PARTICIPATE IN THE HANDLING OR DEFENSE OF SUCH MATTER.

6.4 To protect, in whole or in part, its primary obligations under the indemnification provisions of this Agreement, UTILITY shall obtain and carry at its own cost contractual insurance in such form as shall be approved by RAILWAY covering the liability assumed by UTILITY herein, in the following amounts: Bodily Injury \$5,000,000 for each person and \$5,000,000 for each incident; Property Damage \$5,000,000 for each incident. UTILITY shall furnish RAILWAY an appropriate certificate or certificates of insurance executed by an authorized representative of the insurer, evidencing the maintenance of the insurance coverage required herein and containing a provision to the effect that the insured will give RAILWAY at least ten (10) days' prior written notice of any cancellation or modification of any such insurance policy. The aforesaid insurance requirement shall not be deemed to limit or relieve the primary liability of UTILITY under the indemnification provisions hereof, but shall be deemed additional security therefor.

6.5 If UTILITY contracts for new construction or structural alterations to the premises, UTILITY shall provide or shall cause its contractor to provide, at no cost to RAILWAY, Protective Liability Insurance designating RAILWAY as a named insured, with a limit of not less than Five Million Dollars (\$5,000,000.00) per occurrence subject to a Ten Million Dollars (\$10,000,000.00) aggregate limit for all bodily injury and property damage occurrences during each annual policy period. If the construction or alterations involve an exposure to train operations on tracks of RAILWAY, the protective liability insurance shall be on the AAR-AASHTO Form of RAILWAY Protective Insurance. The original protective liability policy shall be submitted to and approved by RAILWAY's Director Real Estate at 100 East First Street, Brewster, Ohio 44613, prior to commencement of the construction or alterations. Said address shall be the name insured's address for the purpose of all notices from the insurer.

7. UTILITY'S COST.

All cost and expenses in connection with the construction, maintenance, repair, alteration, renewal, and removal of the FACILITIES shall be borne by UTILITY.

8. CROSSING OR GRADE RELOCATION.

UTILITY shall at its sole cost and expense, upon request in writing of RAILWAY, promptly change the location of said FACILITIES covered by this Agreement, where located over, upon or in the property or facilities of RAILWAY, to another location, to permit and accommodate changes of grade or alignment and improvements in or additions to the facilities of RAILWAY upon land now or hereafter owned or used by RAILWAY to the extent that said construction shall at all times comply with the terms and conditions of this Agreement with respect to the original construction.

9. REMOVAL.

Upon the removal or abandonment of the FACILITIES covered hereby, all the rights of UTILITY hereunder shall cease, and this instrument shall become null and void.

10. SUBSIDENCE.

In the event the FACILITIES consist of an underground occupation, UTILITY will be responsible for any settlement caused to the roadbed, right of way and/or tracks, facilities, and appurtenances of RAILWAY arising from or as a result of the installation of the FACILITIES for the term of this Agreement and UTILITY agrees to pay to RAILWAY on demand the full cost and expense therefor.

11. ELECTRICAL INTERFERENCE.

In the event the FACILITIES consist of electrical power or communication wires and/or appurtenances, UTILITY shall at all times be obligated promptly to remedy any inductive interference growing out of or resulting from the presence of the FACILITIES; and if UTILITY should fail to do so, then RAILWAY may do so, and UTILITY agrees to pay to RAILWAY on demand the full cost and expense therefor.

12. TAX ASSESSMENTS.

As part of the consideration of this Agreement, UTILITY covenants and agrees that no assessments, taxes or charges of any kind shall be made against RAILWAY or its property by reason of construction of the FACILITIES of UTILITY, and UTILITY further covenants and agrees to pay to RAILWAY promptly the full amount of any assessments, taxes or charges of any kind which may be levied, charged, assessed or imposed against RAILWAY or its property by reason of the construction and maintenance of the FACILITIES of UTILITY.

13. EXCLUSIVE LICENSE.

The rights conferred hereby shall be the privilege of UTILITY only, and no assignment or transfer hereof shall be made without the consent and agreement in writing of RAILWAY being first had and obtained.

14. TERMINATION.

In the event of a breach of any of the covenants, terms and conditions hereof by UTILITY, RAILWAY shall have the right to terminate this Agreement.

15. EFFECTIVE DATE.

This Agreement shall take effect as of the day RAILWAY executes it, subject to the provisions of Paragraph 16.

16. APPROVAL.

This Agreement will not become valid until the method of installation and all related matters have been approved by the Vice President of Engineering of RAILWAY, or his duly designated representative.

17. SPECIFICATION.

In the design, construction, arrangement and maintenance of the FACILITIES, the Rules and Specifications of the Public Utilities Commission of Ohio covering the construction at crossings of underground line of public utilities, shall govern, if applicable; if not applicable, the decision of the Vice President of Engineering of RAILWAY, or his duly authorized representative, shall govern and control.

18. ENTRY NOTICE.

UTILITY agrees to contact the Vice President of Engineering of RAILWAY, or his duly authorized representative, in advance, and receive his approval before entering upon the right-of-way of RAILWAY for any reason. And at the discretion of the Vice President of Engineering of RAILWAY, or his duly authorized representative, UTILITY must schedule flag protection before entering upon the right-of-way of RAILWAY, which is provided by RAILWAY at the expense of UTILITY.

19. FIBER CABLE and SIGNAL CABLES LOCATION.

It is the responsibility of UTILITY to have knowledge of, locate, and protect against damage to fiber optic cables along, across or under the right-of-way of RAILWAY. Any damage to or disruption of any fiber optic cable will be the sole responsibility of UTILITY which will indemnify and hold harmless RAILWAY for any expense resulting there from. Before any construction may commence, Ohio Utilities Protection Services (OUPS) must be contacted, where applicable, at the following number: 1-800-362-2764. Calling such number or numbers shall not release or otherwise diminish the remaining obligations of UTILITY hereunder. UTILITY shall contact the Signals and Communications Supervisor of RAILWAY, or his duly authorized representative, to have all signal cables marked and located. RAILWAY is NOT registered with any underground utility notification service and must be contacted directly to ensure all RAILWAY facilities are accounted for, i.e. signal cables, electric services, culverts, conduits, data lines, communication cables, fiber, water lines, gas lines, sewage, storm drains, bridge footers, and pilings, etc. All expenses incurred by RAILWAY for such services will be invoiced to, and paid by, UTILITY.

20. GENERAL PROVISIONS.

20.1 A determination that any part of this Agreement is invalid shall not affect the validity or enforceability of any part of this Agreement.

20.2 This Agreement shall be governed by the laws of the State of Ohio.

20.3 As used in this Agreement, the words, "RAILWAY" and "UTILITY" shall include the respective subsidiaries, directors, officers, agents, and employees of RAILWAY and UTILITY.

20.4 This Agreement is for the exclusive benefit of the parties and not for the benefit of any other party. Nothing herein contained shall be taken as creating or increasing any right in any third party to recover by way of damages or otherwise against RAILWAY and UTILITY.

20.5 Section headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement.

20.6 This Agreement contains the entire agreement of the parties and supersedes any prior written or oral understanding, agreements or representations.

20.7 This Agreement may not be amended, waived or discharged except by an instrument in writing signed by the parties.

20.8 All words, terms, and phrases used in this Agreement shall be construed in accordance with their generally applicable meaning in the railroad industry.

20.9 Except as otherwise provided in this Agreement, all notices to be sent from one party to the other shall be in writing and mailed by United States certified mail, postage prepaid. Notices directed to RAILWAY shall be addressed to Wheeling & Lake Erie Railway Company, 100 East First Street, Brewster, OH 44613. Notices directed to UTILITY shall be sent to the address first listed above for UTILITY.

III. EXECUTION

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered, in duplicate, as of the day and year first above written.

CITY OF MEDINA

WHEELING & LAKE ERIE RAILWAY COMPANY

Print Name

JONTHAN CHASTEK

Print Name

Signature

Signature

Title

PRESIDENT

Title

Date

Date

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2022, by _____, as _____ of the City of Medina, an Ohio municipality.

(SEAL)

Notary Public

My Commission Expires: _____
Commission No.: _____

STATE OF OHIO §
COUNTY OF STARK §

This instrument was acknowledged before me on the _____ day of _____, 2022, by Jonathan Chastek, as President of Wheeling & Lake Erie Railway Company, a Delaware corporation.

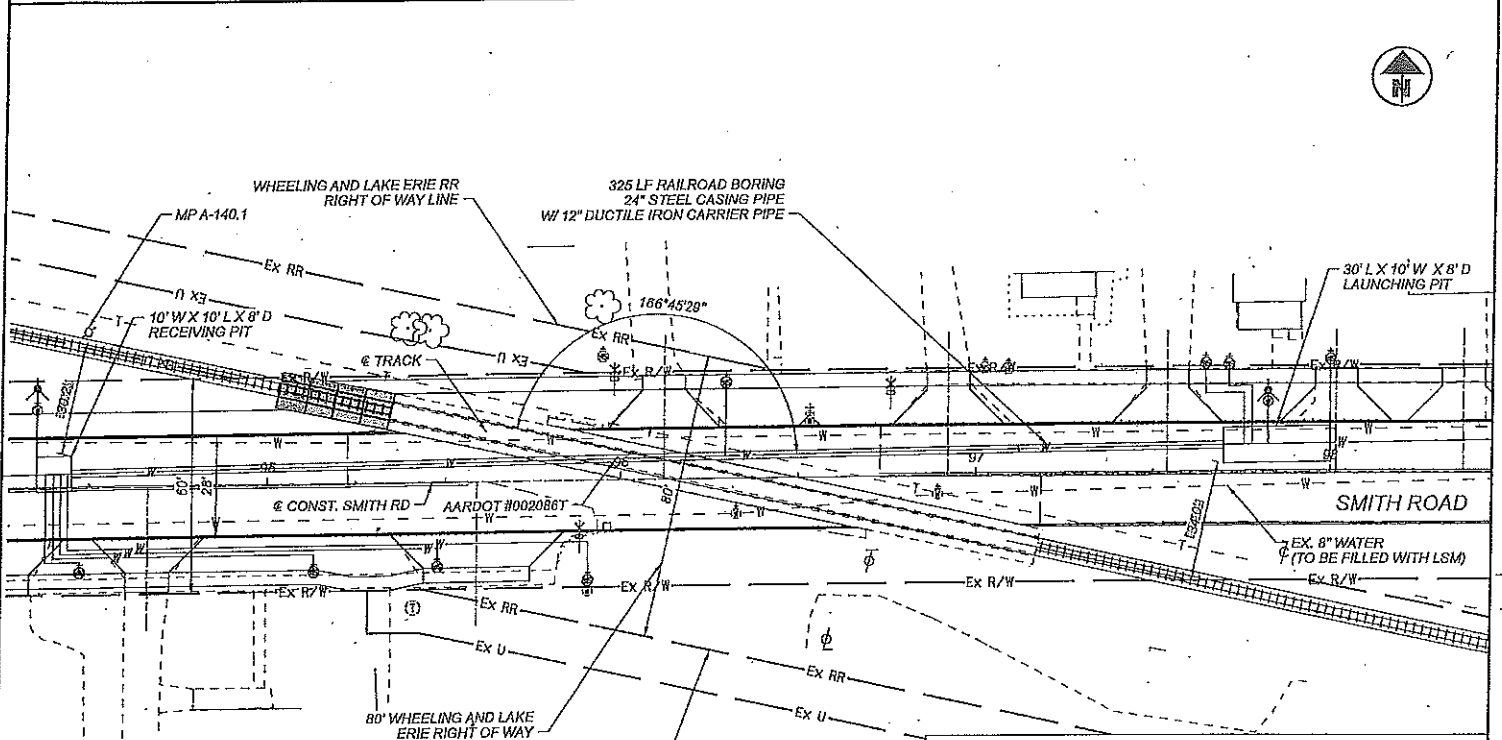
(SEAL)

Notary Public

My Commission Expires: _____
Commission No.: _____

MED-SMITH ROAD

MODEL: Design PAPERSIZE: 11x8.5 (in) DATE: 3/18/2022 TIME: 2:41:44 PM USER: rchappelle
 C:\001910154810_Design\112540_Smith\100-Eng\rdwg\WV\WLE Per\112540_SmCh_BU002.dgn



STATE OF OHIO
 * REGISTERED PROFESSIONAL ENGINEER *
 ROBERT DEAN CHARPELLE
 E-72685
Robert D. Charpelle

SCALE: 1" = 40' HORIZ
 1" = 10' VERT

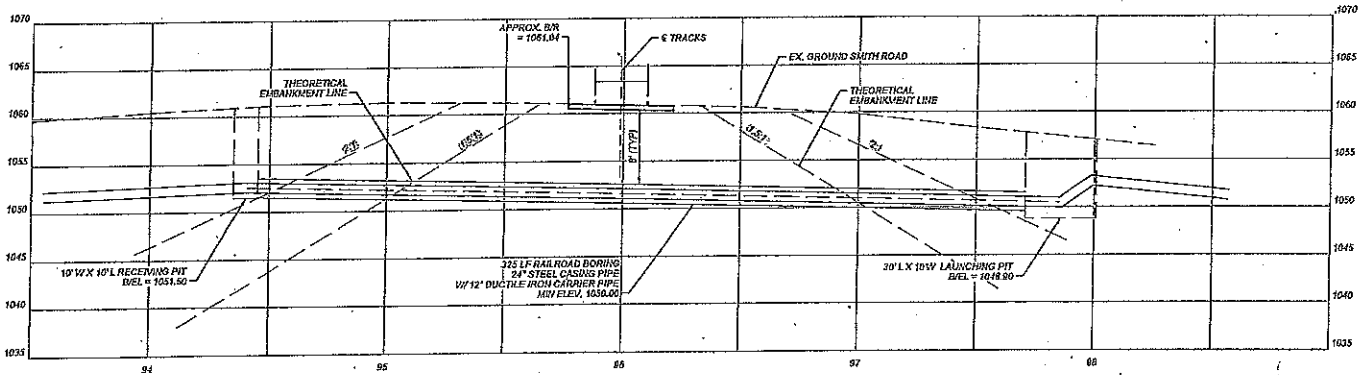
PROJECT: WEST SMITH ROAD
 FOR: CITY OF MEDINA WATER DEPARTMENT
 LOCATION: CITY OF MEDINA, MEDINA COUNTY, OHIO
 RAIL CROSSING: AARDOT #002086T
 DIVISION: AKRON SUBDIVISION
 SCALE: AS NOTED
 DATE: Revised - 3.21.22
 DRAWING NO. 1

AMERICAN
 STRUCTUREPOINT
 INC.

PLATE 1 - PLAN

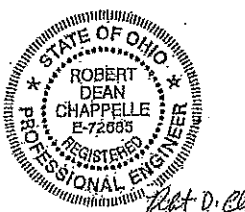
MED-SMITH ROAD

MODEL: Design PAPER(SIZE: 11x8.5 (in.) DATE: 3/18/2022 TIME: 2:42:04 PM USER: rchappelle
 O:\2015\015480_C\Design\112440_Smith\00-Engineering\RR\W&LE Permit\112540_Smith_BU002.dgn



Influence zones revised per "General Shoring Requirements - UP Railroad" provided by the W&LE (3.15.2022). A PDF of this document is included with the revision for reference.

SCALE: 1" = 60' HORIZ
 1" = 15' VERT



Robert D. Chappelle

PROJECT: WEST SMITH ROAD
 FOR: CITY OF MEDINA WATER DEPARTMENT
 LOCATION: CITY OF MEDINA, MEDINA COUNTY, OHIO
 RAIL CROSSING: AARDOT #002086T
 DIVISION: AKRON SUBDIVISION
 SCALE: AS NOTED
 DATE: Revised - 3.21.22
 DRAWING NO. 2

AMERICAN STRUCTUREPOINT
 MEMBER

PLATE 2 - SECTION

Pipe Crossing Data Sheet

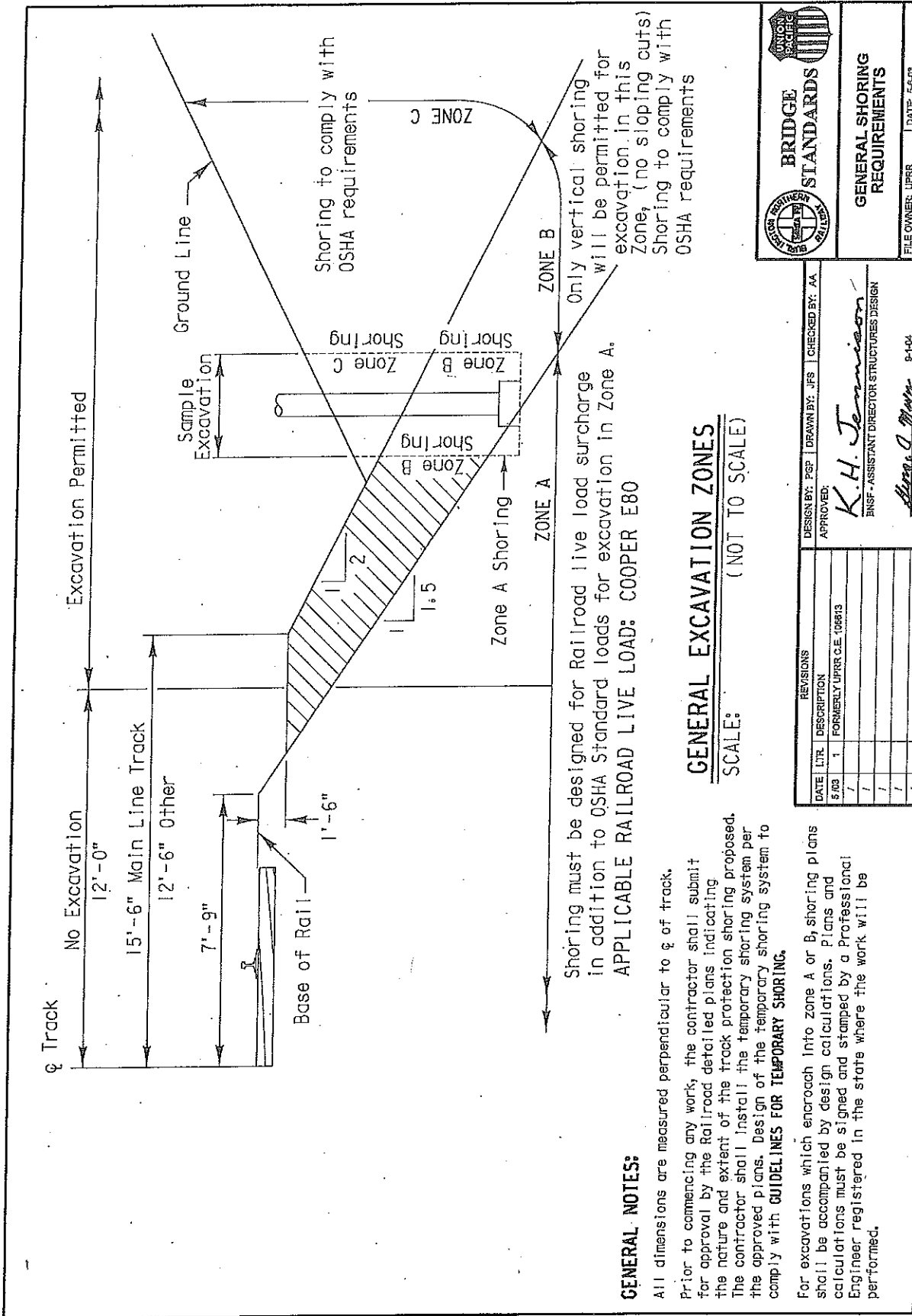
	Carrier Pipe	Casing Pipe
Contents to be handled	water	carrier pipe
Outside Diameter	13.2"	25"
Pipe Material, minimum yield strength	Ductile Iron Class 52 42,000 psi	Steel, 35000 psi
Specification and grade	Class 52, ANSI spec A21.51, Class 6	ASTM A53, GRADE B
Wall thickness	0.6"	0.5"
Actual Working pressure	150 psi min	N/A
Type of Joint, butt welded, fusion welded, interlocking, coupling or band, bolted, stab joint, glued or chemically bonded	Interlocking	Butt Welded
Coating	bituminous asphalt	N/A
Method of installation	N/A	Boring
Seals: Both ends: <input checked="" type="checkbox"/> One end: <input type="checkbox"/> Type: mortar or concrete bulkhead		
Bury: Base of rail to top of casing 8 feet 0 inches (meters)		
Bury: (Not beneath tracks) 8 feet 0 inches (meters)		
Bury: (Roadway ditches) N/A feet inches (meters)		
Type, size and spacing of insulators or supports hardwood blocks, spacing 7' or 3 sets of 3 per pipe length		
Distance C.L. track to face of jacking/receiving pits see note A Revised - 3.21.22		
Bury: Base of rail to bottom jacking/receiving pits 9' feet inches (meters)		
Cathodic protection? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		

Note A:

Jacking pit = 34 feet 0 inches
 Receiving pit = 30 feet 3 inches

PLATE IV

Information to be shown on plan section of
 drawings.



GENERAL NOTES:

All dimensions are measured perpendicular to q of track. Prior to commencing any work, the contractor shall submit for approval by the Railroad detailed plans indicating the nature and extent of the track protection shoring proposed. The contractor shall install the temporary shoring system per the approved plans. Design of the temporary shoring system to comply with **GUIDELINES FOR TEMPORARY SHORING.**

For excavations which encroach into zone A or B, shoring plans shall be accompanied by design calculations. Plans and calculations must be signed and stamped by a Professional Engineer registered in the state where the work will be performed.

Shoring must be designed for Railroad live load surcharge in addition to OSHA Standard loads for excavation in Zone A. APPLICABLE RAILROAD LIVE LOAD: COOPER E80


GENERAL EXCAVATION ZONES

SCALE: (NOT TO SCALE)

DATE	REV. LTR.	DESCRIPTION	DESIGN BY: PSF	DRAWN BY: JFS	CHECKED BY: AA
5/03	1	FORMERLY UPRR C.E. 108813			
/	/				
/	/				
/	/				

APPROVED: *K.H. Jernison*
 BNSF - ASSISTANT DIRECTOR STRUCTURES DESIGN

Steve J. Miller 9-0-04
 UPRR - MAR SPECIAL PROJECTS STRUCTURES DESIGN



BRIDGE STANDARDS

GENERAL SHORING REQUIREMENTS

FILE OWNER: UPRR

PLAN NO.: 710000

DATE: 5-03

SHEET: 1 OF 1

Figure 1

ORDINANCE NO. 99-22

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A LETTER AGREEMENT WITH WHEELING AND LAKE ERIE RAILWAY COMPANY AS PART OF THE WEST SMITH ROAD RECONSTRUCTION PROJECT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That the Mayor is hereby authorized and directed to enter into a Letter Agreement with Wheeling and Lake Erie Railway Company in order to allow the City to enter onto and make improvements within Wheeling's right of way on West Smith Road, as part of the West Smith Road Reconstruction Project.

SEC. 2: That a copy of the Letter Agreement is marked Exhibit A, attached hereto and incorporated herein, and is subject to final approval of the Law Director.

SEC. 3: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 4: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

April 12, 2022

ORD. 99-22

Mr. Jeffery A. Davis, Jr.
Wheeling & Lake Erie Railway
100 E. First Street
Brewster, OH. 44613

Agreement No. _____

**SUBJECT: West Smith Road Construction
Wheeling & Lake Erie Railway Company
City of Medina, Medina County, OH.**

**Agency Reference: MED CR 0004 15.47 (West Smith Road)
PID No. 112540**

AARDOT No. 002086T

WLE Reference: Akron Subdivision Subdivision Mile Post MP A-140.1

Dear Jeff:

The proposed work is for the **CR 0004 15.47 (West Smith Road)** improvements adjacent to the existing at-grade crossing of WLE track in the **City of Medina, Ohio** at Subdivision Mile Post **MP A-140.1** includes full depth pavement replacement, concrete curb, sidewalk, waterline installation, and associated infrastructure improvements. Additional work to be coordinated with the W&LE railroad separate from PID 112540 includes the installation of additional concrete grade crossing panels to the north side of the curb line, to facilitate a smooth transition for the new sidewalk. Limits of the concrete panels as coordinated with the WLE railroad are included in the final plans for PID 112540. The proposed work for the road reconstruction and the separate grade crossing panel improvements are at the referenced location in the **City of Medina in Medina County**. The proposed work does not impact, affect, or alter any of the existing grade crossing signal equipment or detection. All work is independent of any railroad owned, operated, or managed signal and/or communication systems.

- 1) No work will commence until the Railway has approved the City's final plans for the project. All work will be performed in accordance with the approved plans, specifications and the attached Special Clauses in the Proposal.
- 2) During the performance of the work, temporary construction clearances of 22'-0" vertically above the top of rail and 13'-0" horizontally from the centerline of a track shall be maintained to any form work, false work or other temporary obstruction.
- 3) The City's Contractor will not be allowed to commence work on, over or alongside Railway property until the following conditions have been met:
 - a) The City has received notice from the Railway that the required insurance is satisfactory.
 - b) The City has received written authorization from the Railway to begin work on Railway property. The written authorization will include the name and telephone number of the local representative who must be contacted to arrange for flag protection.

- c) All obligations of the City provided for in this agreement which require the expenditure of funds by the City shall terminate at the end of the future biennium, being June 30, 2025. If construction covered under said agreement is not completed by June 30, 2025, it is the expressed intention of the parties to renew said obligations for one successive biennium period; with the renewal period beginning July 1, 2025 and ending no later than June 30, 2026; until such time as construction covered under said agreement is complete. Said renewal is conditioned upon the City determining future appropriations will permit the City to renew said obligations.
 - d) Contingent upon meeting requirements indicated above, the company shall permit the City and/or its contractor to enter upon lands owned or operated by the company to permit the construction and/or maintenance referenced herein.
- 4) Upon receipt of a Letter of Authorization received from the City, the Railway shall proceed with, and the City shall reimburse for all necessary force account work to accommodate the project, including but not limited to flagging and construction engineering. The City shall reimburse the railroad for applicable construction and engineering costs, based upon project billings rendered from the railroad in accordance with 23 CFR 140. The railroad shall render its billings to the City within 90 days in accordance with said rules and regulations, and further agrees to provide and furnish such itemized records and substantiating data for such costs as may be necessary.

If you agree with the terms of this letter, please indicate your concurrence by signing in the space below and return one copy of this letter to me.

Sincerely,

Dennis Hanwell
 Mayor, City of Medina

Accepted by Wheeling & Lake Erie Railway

By: _____

Title: _____

Date: _____

ORDINANCE NO. 100-22

AN ORDINANCE AUTHORIZING THE MAYOR TO ADVERTISE FOR COMPETITIVE BIDS AND TO AWARD A CONTRACT TO THE SUCCESSFUL BIDDER FOR THE RAY MELLERT PARKING LOT EXPANSION AND DOG PARK, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That the Mayor is hereby authorized and directed to advertise for competitive bids and to award a contract to the successful bidder for the Ray Mellert Parking Lot Expansion and Dog Park project, in accordance with plans and specifications on file in the office of the Mayor.

SEC. 2: That the estimated cost of the project, in the amount of \$266,025.00, is available as follows: \$34,300.00 in Account No. 110-0314-54411, \$69,580.00 in Account No. 110-0315-54411, \$101,996.80 in Account No. 301-0301-54411, \$33,151.41 in Account No. 130-0310-54411, and \$26,996.79 in Account No. 104-0301-54411.

SEC. 3: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 4: That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason the state grant requires us to be under contract by June 30, 2022; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

ORDINANCE NO. 101-22

AN ORDINANCE AMENDING ORDINANCE NO. 201-21, PASSED DECEMBER 13, 2021. (Amendments to 2022 Budget)

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That Ordinance No. 201-21, passed December 13, 2021, shall be amended by the following additions:

<u>Account No./Line Item</u>	<u>Additions</u>
301-0301-54411 (Ray Mellert)	101,996.80 *
130-0310-54411 (Ray Mellert)	33,151.41 *
104-0301-54411 (Ray Mellert)	20,000.00
109-0757-50111	25,000.00 *
109-0757-51121	5,000.00 *
109-0757-51126	500.00 *
109-0757-52226	225,000.00 *
109-0757-53315	19,500.00 *
171-0301-54411 (Park-Bldg. Demo)	15,000.00
171-0351-53322 (MCRC-Fitness Room)	32,101.18

SEC. 1: That Ordinance No. 201-21, passed December 13, 2021, shall be amended by the following reductions:

<u>Account No./Line Item</u>	<u>Reductions</u>
104-0301-54412 (Ray Mellert)	20,000.00
171-0743-53315 (Park Bldg. Demo)	15,000.00
171-0743-53315 (MCRC-Fitness Room)	32,101.18

SEC. 2: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 3: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

* - new appropriation

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor