

First Reading: December 9, 2021
Second Reading: dispensed

RESOLUTION 2021- 109

**A RESOLUTION AUTHORIZING A SEPARATION AGREEMENT AND GENERAL
RELEASE AND DISPENSING WITH A SECOND READING**

WHEREAS, the Board of Township Trustees of Sycamore Township desires to approve a Separation Agreement and General Release with Ray Warrick;

NOW THEREFORE, BE IT RESOLVED by the Board of Township Trustees of Sycamore Township, State of Ohio that:

SECTION 1. The attached Separation Agreement and General Release with Ray Warrick is hereby authorized and approved and Thomas C. James, Jr. of the Board of Trustees is authorized and directed to execute the contract on behalf of the Board.

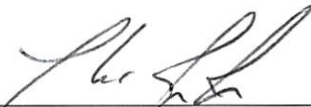
SECTION 2. The Board of Township Trustees of Sycamore Township, by at least two-third vote of all of its members, dispenses with any requirement that this Resolution be read on two separate days and authorizes its passage upon one reading.

SECTION 3. This Resolution shall take effect on the earliest date allowed by law.

VOTE RECORD:

Mr. James Y Mr. LaBarbara Y Mr. Weidman N

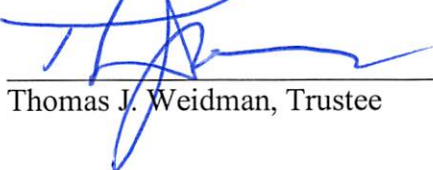
PASSED at the meeting of the Board of Trustees this 9th day of December, 2021.



Thomas C. James, Jr., Chairman



Jim LaBarbara, Vice Chairman



Thomas J. Weidman, Trustee

AUTHENTICATION

This is to certify that this Resolution was duly passed, and filed with the Sycamore Township Fiscal Officer, this 9th day of December, 2021.



Robert C. Porter, III
Sycamore Township Fiscal Officer

APPROVED AS TO FORM:



Deepak K. Desai, Law Director

SEPARATION AGREEMENT AND WAIVER AND RELEASE

This Separation Agreement and Waiver and Release (this "Separation Agreement"), is entered into as of the date set forth on the signature page below, by and between Ray Warrick ("you" or "your") and Sycamore Township, Hamilton County, Ohio (the "Township").

BACKGROUND

WHEREAS, the Township and you entered into that certain Employment agreement dated November 24, 2020 ("Employment Agreement") pursuant to Resolution 2020-088;

WHEREAS, the parties deem it prudent given the results of the general election, and the change in membership of the Board of Township Trustees of Sycamore Township, Ohio ("Board") effective January 2, 2022 to end their employment relationship;

WHEREAS, your separation from employment with the Township will be effective midnight on January 2, 2022 (the "Termination Date");

WHEREAS, it is the intent of the parties that this Separation Agreement supersede the Employment Agreement with respect to the termination and severance pay provisions, including without limitation those found in Section 3 of the Employment Agreement; and

WHEREAS, you may consider for twenty-one (21) days from the date you are presented with this Separation Agreement whether you wish to sign this Separation Agreement and you are advised to review this Separation Agreement with your attorney.

NOW THEREFORE, in consideration of the mutual promises set forth in this Separation Agreement and for other good and valuable consideration, the sufficiency of which you acknowledge, and intending to be legally bound hereby, you and the Township agree as follows:

1. General Terms of Termination. You will receive the following compensation:
 - (a) You will continue to receive all employment benefits presently provided to you, and will be paid your regular salary as called for in the Employment Agreement for all time through the termination Date.
 - (b) Your last day of official employment will be the Termination Date. However, your last day of actual employment (i.e. when you are physically in the office) will be December 10, 2021. You will be on paid administrative leave from December 11, 2021 to 11:59 pm on December 31, 2021 ("Administrative Leave Period"). During the Administrative Leave Period, you will continue to receive all compensation and benefits you are entitled to pursuant to the Employment Agreement.
 - (c) You will be paid for accrued but unused vacation time for 2022 in the amount of 200 hours which equates to \$13,462.00 of gross pay. This amount will be paid to you with applicable tax deductions on the January 12, 2022 Township payroll check issuance date.
 - (d) You are eligible to participate in the Township sponsored health insurance

at the 2022 Employee/Spouse premium rate, including medical, dental, vision, life insurance and prescription drug coverage, through April 30, 2022, as if you had remained a full-time employee of the Township. After that date, you may continue to participate in this insurance, at your own expense, in accordance with the Consolidated Omnibus Budget Reconciliation Act (“COBRA”), subject to COBRA’s terms, conditions, and restrictions.

2. Severance Pay Benefit. If you sign this Separation Agreement and agree to be bound by the mutual general release in Paragraph 3 below, as well as the other terms and conditions of this Separation Agreement, then:

(a) The Township will pay you the pro-rated amount of your 2022 regular salary contained in the Employment Agreement (less withholding of all applicable federal, state, and local taxes) for a period of four (4) months after the Termination Date (the “Severance Pay Benefit”), and the Township will continue to pay for your health insurance coverage (less the Employee/Spouse premium rate for which you are responsible) for a period of four (4) months after the Termination Date (“Health Insurance Benefit”) as if you had remained in your capacity as Administrator. Accordingly, the Severance Pay Benefit and the Health Insurance Benefit will begin on January 1, 2022 and will continue through the Township pay period ending on April 30, 2022. The Severance Pay Benefit will be paid in regular payroll installments of 80 hours of pay per pay period by direct deposit with the last installment paid on the May 4, 2022 Township payroll check issuance date.

(b) You agree to provide consulting services to the Township when requested after the Termination Date at a compensation rate of \$70.00 per hour, billed in quarter-hour increments. During such time as you are acting as a consultant, you will be responsible for all of your expenses, including any self-employment tax due as a result of any payments for the consulting services. Any out-of-pocket expenses to be paid by the Township shall be approved by the Township prior to the incurrence of such expense.

(c) You acknowledge and agree that except for the amounts stated in this Paragraph 2, you are entitled to no other payment or consideration of any kind from the Township in connection with your employment, separation from employment, or otherwise.

3. Mutual General Release.

In exchange for the Township’s above commitments and in exchange for the below release provided by you, the Township (which for purposes of this Paragraph 3 includes its elected officials, officers, employees, appointees, contractors, agents, servants, insurers, and attorneys, in both their official and individual capacities where applicable) and you (each a “Party” and together the “Parties”) mutually agree to release and forever discharge each other, and all of the Parties’ heirs, executors, representatives, administrators, predecessors, successors, affiliated entities and boards (e.g. the Sycamore Township Community Improvement Corporation), and assigns of and from any and all actions, causes of action, claims, or demands of any kind whatsoever (including without limitation claims for general, special or punitive damages, attorney’s fees, expenses, or other compensation and/or equitable remedy), known or unknown, which either Party had or may now have against the other Party by reason of any actual or alleged act, omission, transaction, practice, conduct, statement, occurrence, or any other matter up to and including the Termination Date.

Without limiting the generality of the foregoing, this mutual general release is intended to and shall release each Party from any and all claims, whether known or unknown, which the other Party ever had or may now have, arising out of your employment, the terms and conditions of such employment, and/or the separation from employment, including but not limited to: (i) any claims of discrimination or harassment in employment on the basis of age, religion, gender, sexual orientation, race, national origin, disability or any other legally protected characteristic, and/or retaliation, under, without limitation, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991; the United States Constitution; the Civil Rights Act of 1866 or 1871 (including without limitation 42 U.S.C. § 1981), the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, the Equal Pay Act, the Ohio Civil Rights Act, and all other federal, state and local equal employment opportunity and fair employment practice laws (all as amended); (ii) any claims under the Employee Retirement Income Security Act of 1974 (except as set forth below), the Family and Medical Leave Act, and state and local laws of similar effect, the National Labor Relations Act, Workers Adjustment and Retraining Notification Act, and other state and local laws of similar effect (all as amended); (iii) claims for unemployment benefits or compensation; and (iii) any other claim (whether based on federal, state, or local law, statutory or decisional) relating to or arising out of your employment, the terms and conditions of such employment, and/or the separation from such employment, and/or any of the events and decisions relating directly or indirectly to or surrounding the separation from that employment, including but not limited to claims for breach of contract (express or implied), wrongful discharge, constructive discharge, termination in violation of public policy, detrimental reliance, defamation, whistle blowing, harassment, retaliation, mental distress, emotional distress, physical injury, humiliation or compensatory or punitive damages.

The Parties understand and agree that this is a full, complete and final mutual general release of any and all claims, and the Parties agree that it shall apply to all unknown, unanticipated, unsuspected and undisclosed claims, demands, liabilities, actions or causes of action, in law, equity or otherwise, as well as those which are now known, anticipated, suspected or disclosed based on anything that happened or did not happen prior to the Termination Date. The Parties agree that the release provided herein will remain in effect in perpetuity as a release as specified above of each Parties' claims, notwithstanding any additional or different facts or claims each Party may discover about the matters herein released.

4. Non-Released Claims. The general release in Paragraph 3 above does not apply to:
- (a) Any Claims for vested benefits as of the Termination Date pursuant to the terms of a Township-sponsored benefit plan governed by ERISA;
 - (b) Any Claims for workers compensation benefits;
 - (c) Any Claims to require you or the Township to honor its commitments set forth in this Separation Agreement;
 - (d) Any Claims to interpret or to determine the scope, meaning or effect of this Separation Agreement;
 - (e) Any Claims arising out of any conduct, matter, event or omission existing

or occurring after the termination Date;

(f) Any claim that cannot be waived as a matter of law pursuant to federal, state, or local law.

5. Conduct Not Restricted. Nothing in this Separation Agreement is intended to prohibit or restrict you from: (a) making any disclosure of information required by process of law; (b) providing information to, or testifying or otherwise assisting in any charge, investigation or proceeding brought by, any federal regulatory or law enforcement agency or legislative body, or any self-regulatory organization; (c) filing, testifying, participating, or otherwise assisting in any charge, investigation or proceeding relating to an alleged violation of any federal, state, or municipal law relating to fraud or any rule or regulation of the Securities and Exchange Commission or any self-regulatory organization; or (d) conferring with legal or financial advisors. Provided, however, that with respect to Paragraph 5(b) and (c), you acknowledge and agree that by entering into this Separation Agreement with the Township, you have waived the right to recover monetary damages and any other relief with respect to the claims you are waiving and releasing in this Separation Agreement in connection with any such charge, proceeding, or investigation. You agree that if you engage in any such action in connection with any such charge, proceeding, or investigation, or if you are subpoenaed to provide testimony in connection with any such charge, proceeding, or investigation in which the Township (which for purposes of this Paragraph 5 includes its elected officials, officers, employees, appointees, contractors, agents, servants, insurers, and attorneys, in both their official and individual capacities where applicable), you shall provide immediate notice to the Township in accordance with Paragraph 8, and use your best efforts to afford the Township the opportunity to raise any objection that it may have to the purported requirement.

6. No Actions Pending Against the Township. You expressly acknowledge and represent that: (a) you have suffered no injuries or occupational diseases arising out of or in connection with your employment with the Township; (b) other than wages to be paid under this Separation Agreement, you have received all wages to which you were entitled as an employee of the Township; (c) you have received all leave to which you were entitled under the Family Medical Leave Act (FMLA) or similar state law; (d) you are not currently aware of any facts or circumstances constituting a violation of the FMLA or the Fair Labor Standards Act (FLSA) or similar state law; and (e) you have not filed any employment discrimination, wrongful discharge, termination in violation of public policy, wage and hour, or any other complaints or charges against the Township (which for purposes of this Paragraph 6 includes its elected officials, officers, employees, appointees, contractors, agents, servants, insurers, and attorneys, in both their official and individual capacities where applicable) in any local, state or federal court, tribunal, or administrative agency.

7. No Re-employment. You agree not to apply for or otherwise seek employment or reinstatement with the Township or any affiliated entities or boards (e.g. joint economic development district) at any time in the future, and you further represent and warrant that you have made no application for such employment before the Termination Date. It is agreed that the consideration paid under this Separation Agreement is, in part, intended to support a perpetual separation from your prior employment relationship with the Township or any affiliated entities or boards, and shall be sufficient grounds to deny any future employment with the Township or any affiliated entities or boards. You further agree that any future refusal to hire you by the

Township or any affiliated entities or boards will not form the basis of any claim or complaint of discrimination, retaliation or other unlawful employment practice or conduct.

8. Notice Requirements. Any notice required under this Separation Agreement must comply with the requirements set forth in this Paragraph. Each notice shall be in writing and hand delivered or sent by depositing said notice with a nationally recognized overnight courier service that obtains receipts. Each notice shall be effective upon being hand delivered or deposited with a nationally recognized overnight courier service that obtains receipts, but the time period in which to respond to any notice given or any action taken with respect thereto shall commence to run from the date of the receipt of the notice by the addressee thereof. Notices shall be given for the parties as follows:

For the Township:
Deepak K. Desai, Esq.
9079 Montgomery Road
Cincinnati, Ohio 45242

For you:
Ray Warrick
5466 Grand Legacy Drive
Maineville, Ohio 45039

9. Township Property and Documents, Travel and Expenses. You agree to:

- (a) Return to the Township on or before the Termination Date all Township property, including without limitation keys, ID badge, documents, correspondence, work product, computers, laptops, iPads, mobile phones, and the like; and
- (b) Submit all travel and expense reports to the Township in accordance with the Township's Travel and Expense Policy within two (2) weeks of the Termination Date.

10. Governing Law. This Separation Agreement will be governed by and construed in accordance with the laws of the State of Ohio without giving effect to its conflicts of law principles. Any actions regarding this Separation Agreement shall be brought in the Courts of Hamilton County, Ohio, and you and the Township consent to the personal jurisdiction of said Courts and waive any objection to venue.

11. Statement of Non-Admission. Nothing in this Separation Agreement is intended as or will be construed as an admission or concession of liability or wrongdoing by the Township or you. Rather, this Separation Agreement is being entered into for the sole purpose of settling cooperatively and amicably any and all possible disputes between you and the Township.

12. Recitals. You and the Township acknowledge that the "WHEREAS" clauses contained at the beginning of this Separation Agreement are material parts of this Separation Agreement and hereby incorporate them as part of the Separation Agreement.

13. Severability. In the event any provision contained in this Separation Agreement shall be determined to be invalid, illegal, or unenforceable in any respect for any reason, the

validity, legality, and enforceability of any such provision in every other respect and the remaining provisions of this Separation Agreement shall not be in any way impaired.

14. Interpretation. You and the Township acknowledge that each had input into the terms of this Separation Agreement. Therefore, this Separation Agreement shall be construed to have been drafted by all the parties so that the rule of construing ambiguities against the drafter shall have no force or effect.

15. Binding Nature of Agreement. This Agreement shall be binding upon you and the Township, and upon each other's respective heirs, administrators, representatives, executors, successors, affiliated entities, and assigns, and shall inure to the benefit of you and the Township, and upon each other's respective heirs, administrators, representatives, executors, successors, affiliated entities, and assigns.

16. Selective Enforcement. You and the Township agree that the failure of either to enforce or exercise any right, condition, term or provision of this Separation Agreement shall not be construed or deemed as a relinquishment or waiver thereof and the same shall continue in full force and effect.

17. Violation of Terms. In addition to your release of claims contained in Paragraph 3, there are provisions in this Separation Agreement which are material inducements for the Township to enter into this Separation Agreement. Those provisions are contained in Paragraphs 6 and 7 of this Separation Agreement. You agree that your violation of these provisions would cause immediate and irreparable harm to the Township which would likely be impossible to ascertain with certainty. As a result, you agree that, if a court of competent jurisdiction determines you violated any material provision of those Paragraphs, the Township will be entitled to: (a) a payment of liquidated damages in the amount of \$3,000; (b) immediate injunctive relief; (c) any other remedy available at law or equity; and (d) its reasonable attorney's fees, court costs, and expenses.

18. Entire Agreement. Except as provided herein, this Separation Agreement constitutes the entire agreement between the Parties and supersedes any and all prior representations, agreements, written or oral, expressed or implied, including without limitation the Employment Agreement.

19. Counterparts. This Separation Agreement may be executed in duplicate in order that you and the Township might each retain an executed original. Each duplicate may serve as the original Separation Agreement. A scanned copy of an executed counterpart shall be as binding on you and the Township as the original.

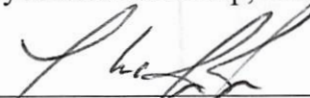
20. Revocation Period. You acknowledge that you have been given an opportunity and encouraged by the Township to have whomever you see fit review this Separation Agreement with you, including appropriate legal counsel, that you have read and understand this Separation Agreement, and you have signed this Separation Agreement freely, knowingly and voluntarily. To give you adequate time to review this Separation Agreement, you will have at least twenty-one (21) days from the date this Separation Agreement is provided to you to review the Separation Agreement before returning it to the Township. You have seven (7) days following signing the Separation Agreement to revoke it and the Separation Agreement will not become effective until

the seven-day revocation period has expired. If you elect to revoke the Separation Agreement, such notice of revocation must be in writing, received prior to the end of the revocation period, and comply with the notice requirements in Paragraph 8 of this Separation Agreement. In such case, all benefits paid to you under this Separation Agreement, if any, shall be immediately refunded to the Township.

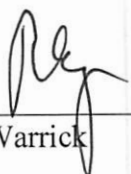
The rest of this page is intentionally left blank – signature page to follow

IN WITNESS WHEREOF, and intending to be legally bound hereby, you and the Township hereby execute the foregoing Separation Agreement and Waiver and Release on the date set forth below.

Sycamore Township, Hamilton County, Ohio

 12/9/2021
Thomas C. James, Jr. Date
Chairman of the Board of Township Trustees

I HAVE READ THIS SEPARATION AGREEMENT. I UNDERSTAND THAT I AM GIVING UP IMPORTANT RIGHTS PER SECTION 3 ABOVE. I HAVE BEEN ADVISED BY THE TOWNSHIP TO CONSULT WITH AN ATTORNEY OF MY OWN CHOOSING DURING THE TWENTY-ONE DAY CONSIDERATION PERIOD, AND I HAVE UNDERTAKEN SUCH CONSULTATION BEFORE SIGNING THIS SEPARATION AGREEMENT. I SIGN THIS SEPARATION AGREEMENT FREELY AND VOLUNTARILY, WITHOUT DURESS OR COERCION.

 12/9/2021
Ray Warrick Date

FISCAL OFFICER'S CERTIFICATE
O.R.C. Section 5705.41(D)(I)

It is hereby certify that the amount required to meet the obligations under this attached contract, agreement, order, statement of work, or expenditure, or in the case of a continuing contract to be performed in whole or in part in an ensuing fiscal year, the amount required to meet the obligation in the year in which the contract is made, has been lawfully appropriated for such purpose and is in the Treasury or is in the process of collection to the credit of an appropriate fund free from any previous encumbrances, and is not appropriated for any other purpose. This certificate is given in compliance with Sections 5705.41 and 5705.44 of the Revised Code.


Robert C. Porter III, Fiscal Officer

Approved As To Form :

 12/9/2021
Law Director