

First Reading: July 11, 2019
Second Reading: dispensed

RESOLUTION 2019 - 77

A RESOLUTION APPROVING A CONTRACT FOR THE REPAIR OF A RETAINING WALL ON KENWOOD ROAD AND DISPENSING WITH A SECOND READING

WHEREAS, the Board of Township Trustees wishes to provide for the repair, maintenance, and reconstruction of the retaining wall on Kenwood Road at the southeast corner of the intersection of Kenwood Road and Galbraith Road extending south approximately four hundred (400) feet; and

WHEREAS, Ben Parks dba Parks Development submitted the lowest estimate for such repair, maintenance, and reconstruction; and

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

SECTION 1. The Board of Township Trustees approves a contract with Ben Parks of Parks Development in substantially the same form as the contract attached as Exhibit A. The Township shall pay one hundred percent (100%) of the cost of the project with no assessment for any property owner.

SECTION 2. Subject to additions and deletions contained therein, the contract is hereby accepted and approved in the amount of \$28,000.00 and the Township Administrator or Assistant Township Administrator is hereby authorized and directed to execute the contract on behalf of the Board and the Township.

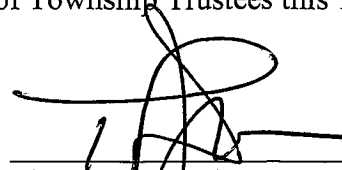
SECTION 3. The Township Trustees of Sycamore Township, upon at least a majority vote, do hereby dispense with any requirement that this resolution be read on two separate days, and hereby authorize the adoption of this resolution upon its first reading.

SECTION 4. This Resolution shall take effect on the earliest date allowed by law.

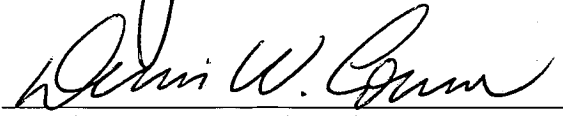
VOTE RECORD:

Mr. Connor Y Mr. LaBarbara Y Mr. Weidman Y

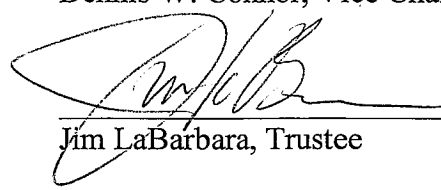
PASSED at a meeting of the Board of Township Trustees this 11th day of July, 2019.



Thomas J. Weidman, Chairman



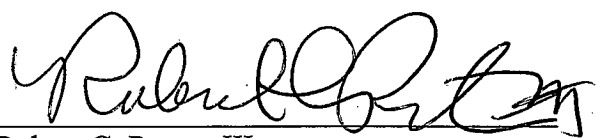
Dennis W. Connor, Vice Chairman



Jim LaBarbara, Trustee

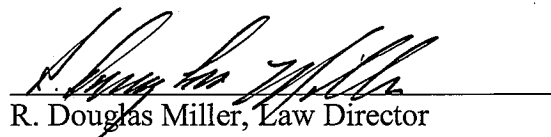
AUTHENTICATION

This is to certify that this Resolution was duly passed and filed with the Sycamore Township Fiscal Officer, this 11th day of July, 2019.



Robert C. Porter, III
Sycamore Township Fiscal Officer

APPROVED AS TO FORM:



R. Douglas Miller, Law Director

CONTRACT

THIS AGREEMENT ("Agreement") made and entered into this _____ day of July, 2019 by and between the Board of Township Trustees of Sycamore Township, Ohio, a township organized under the laws of the State of Ohio (hereinafter "Township") and Ben Parks (hereinafter "Contractor").

WITNESSETH

That said parties for and in consideration of their mutual promises and agreements hereinafter set forth, do hereby agree as follows:

1. **Scope of Work.** Said Contractor agrees to provide all the material, perform all the labor and other work for the removal and reconstruction of stone veneer on the retaining wall located on Kenwood Road at the southeast corner of the intersection of Kenwood Road and Galbraith Road and extending south approximately four hundred (400) feet as detailed on and in strict accordance with the plans and specifications as prepared by Burgess & Niple, Inc. dated February 13, 1992 for the wall which are incorporated into this Contract, and under the direction and to the satisfaction of the Township or its authorized representative. Contractor shall reuse as much of the materials being removed from the wall as possible and the Township shall supply and pay for any additional stone veneer necessary.

2. **Time for Commencement and Completion.** The work shall be commenced upon the execution of this Agreement and shall be completed within sixty (60) days, unless for good cause, extension of time is granted to Contractor.

3. **Termination of Contract for Cause.** If through any cause, the Contractor shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements or stipulations of this Contract, the Township shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five days before the effective date of such termination.

Notwithstanding the above, the Contractor shall not be relieved of liability to the Township for damages sustained by the Township by virtue of any breach of the Contract by the Contractor, and the Township may withhold any payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due the Township from the Contractor is determined.

4. **Compliance with Local Laws.** The Contractor, at all times, agrees to observe and comply with all federal, state and local laws, ordinances and regulations in any manner affecting the conduct of the work. He agrees to indemnify and save harmless said Township and all its Board of Trustees, persons, officers, agents, employees and servants against any claim or liability arising from or based on any breach of this Agreement, negligence, or the violation of any such law, ordinance or regulation, whether by himself, his employees, agents, subcontractors or materialmen.

5. **Prevailing Wage Rates.** If required under Ohio law, the Contractor agrees to pay the prevailing rate of wages on public improvements as provided for in Section 4115.05 through Section 4115.10 of the Revised Code of Ohio and to prepare and file all forms as necessary to assure compliance with such section.

6. **Compliance with Worker's Compensation Act.** The Contractor agrees to comply with the State law known as the Worker's Compensation Act, and shall pay to the State Insurance Fund the necessary premiums required by the act to cover all employees working on this job and under the control of the Contractor and agrees to relieve the Township from any cost due to accidents or other liabilities mentioned in said Act. Contractor also agrees to furnish at the time of delivery of this Contract and at such other times as may be requested, the official Certificate of Receipt showing the payment hereinbefore referred to.

7. **Insurance.** The Contractor agrees to secure and maintain during the life of this Contract, Contractor's Public Liability Insurance in the amount of not less than \$1,000,000.00 for injuries, including accidental death to any one person and subject to the same limit per person in an amount not less than \$3,000,000.00 in the aggregate. Contractor's Liability Insurance shall be in such form as to protect the Township from its contingent liability to others for damages because

of bodily injury including death, and for property damage which may arise from the construction under this contract.

8. **Liens.** The Contractor further agrees that if at any time there shall be evidence of any lien or claim against said Contractor for which it was established said Township might become liable, said Township shall have the right to retain, out of any payment due or thereafter to become due to Contractor, an amount sufficient to completely indemnify said Township against such liens or claims; that if there shall be such lien or claim after all payments have been made to Contractor, said Contractor shall refund to said Township all monies which said Township may be compelled to pay in discharging said lien or claim on said premises.

9. **Performance and Assignability.** Said Contractor further agrees to give its personal attention to the faithful prosecution of said work and to keep the same under its personal control; he shall at all times keep the work area free from accumulation of waste material or rubbish caused by its employees at work, and shall remove said rubbish from and about the work area at frequent intervals; that it will not assign the Contract or any part thereof without the previous written consent of said Township endorsed on said Contract; and will not assign by power of attorney or otherwise any of the money payable under this Contract unless by and with the like consent of said Township to be signified in like manner.

10. **Certificate of Payment.** Said Contractor and said Township further mutually agree that no Certificate given or payment made under this Contract, except the final Certificate of final payment, shall be conclusive evidence of the performance of this Contract, either wholly or in part, and that no payment shall be construed to be an acceptance of defective work or improper materials.

11. **Guarantee of work.** The Contractor shall guarantee all the work for a period of one year from date set forth in Final Certificate of Final Payment "Final Estimate," against defects resulting from the use of inferior materials, equipment or workmanship, unless the bid and specifications call for some other guarantee period. The Contractor further agrees to pass on to Township any Guarantees or Warranties on items incorporated into Contractor's work.

12. **Price.** Said Township further agrees to pay said Contractor for the labor and materials provided for in this Contract the sum of Twenty-Eight Thousand and no/100 Dollars (\$28,000.00), payable upon completion of the project.

13. **Bond.** Contractor, upon the execution of this Agreement, will furnish and deliver to Township a performance bond to secure the performance of this Contract, with surety or sureties thereon, to the approval of the Council of the Sycamore Township and as set out in the Bid Specifications.

14. **Illegal Immigrants.** The Contractor, in addition to any other penalty provided by law, shall pay a penalty to the Township equal to ten percent (10%) of the Contract amount or Five Thousand Dollars (\$5,000.00), whichever amount is greater, if the Contractor or any subcontractor of the Contractor is found to have employed an illegal immigrant in on the project. "Illegal immigrant" means a person who has either entered the United States of America in violation of its immigration laws or has legally entered the United States of America but has overstayed their visa to live or work in the United States of America in violation of its immigration laws.

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IN WITNESS WHEREOF, said Contractor and the Township, by Tracy Kellums, Assistant Township Administrator and Robert C. Porter, III, Fiscal Officer, have hereunto set their several signatures hereto on the day and year first above written.

**TOWNSHIP OF
SYCAMORE, OHIO**

By: _____
Tracy Kellums,
Assistant Township Administrator

By: _____
Robert C. Porter, III, Fiscal Officer

CONTRACTOR

By: _____
Ben Parks