

ORIGINAL

DELAWARE COUNTY COMMISSIONER'S MEETING

MONDAY, APRIL 17, 2023 @ 9:02 A.M.

COMMISSIONERS' COURTROOM

100 W. MAIN ST. ROOM 309A

CALL TO ORDER

MOMENT OF SILENCE FOR MS. JANE LASATER

PLEDGE TO FLAG

WELCOME

Comments may be made to the Commissioners via their email at commissioners@co.delaware.in.us

ROLL CALL

Mr. Shannon Henry

Mr. James King

Ms. Sherry Riffin

Mr. John Brooke, County Attorney

Mr. Ed Carroll, Auditor

Ms. Denise Smith, Recording Secretary

PUBLIC HEARING FOR RAIL SPUR

Mr. John Brooke, County Attorney, presented the Smyrna Ready Mix Concrete, LLC. long-term lease agreement with the purchase option at the end of the term.

Mr. Brooke said that Mr. Brad Bookout, Economic Development, has been working hard to get a business interested in using the rail spur. The money was granted by the Economic Development Administration of the United States Department of Commerce so the property must stay in Delaware County's possession/control for 15 years, expiring in 2029. Delaware County's contribution was \$1.8 for construction of the rail spur. This will net the county out at \$3,500,000, doubling the money that the county put into the project.

Mr. Rick Yencer, Muncie, Indiana, asked what is the benefit for the taxpayers, Mr. Yencer said he does not understand why the Delaware County Industria Park has not been a go when Anderson, Indiana's Flagship Enterprise Center has been a hit. Mr. Yencer asked why the Commissioners would bring in a national company to compete with local companies such as IMI.

MOTION: Commissioner King made a motion to close the public hearing for the Smyrna Ready Mix Concrete, LLC.

SECOND: Commissioner Riffin

YEAS: Commissioner King, Commissioner Riffin, President Henry



Courtney Clark <cclark@bslawgroup.com>

Fwd: 5647415 Notice of Public Hearing-To be Published 3/31/2023

1 message

Courtney Clark <cclark@bslawgroup.com>
 To: John Brooke <jbrooke@bslawgroup.com>

Tue, Mar 28, 2023 at 11:17 AM

FYI...

----- Forwarded message -----

From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
 Date: Tue, Mar 28, 2023 at 11:12 AM
 Subject: RE: 5647415 Notice of Public Hearing-To be Published 3/31/2023
 To: Courtney Clark <cclark@bslawgroup.com>

Hello,

Please read this email completely to ensure your notice/newspaper/run dates are accurate.

Your notice is scheduled to publish March 31 in the Star Press. The total cost of your ad is \$31.15, which includes a publisher affidavit that will be mailed to you after the last date of publication. **Please review your proof carefully and advise of any corrections (or cancellation) needed – APPROVAL IS NOT REQUIRED – YOUR ACCT IS INVOICEABLE.**

NOTICE OF PUBLIC HEARING	
Notice is hereby given that the Board of Commissioners of Delaware County, Indiana, will hold a public hearing on Monday, April 17, 2023 at 9:00 A.M., in the Commissioners' Courtroom, Room 309A of the County Building, located at 100 West Main Street, Muncie, Indiana 47305. The purpose of the public hearing is to receive public input on the lease and sale of county owned property located in Mt. Pleasant Township with parcel numbers:	
(a)	Parcel No. 18-10-06-200-012.000-014;
(b)	Parcel No. 18-10-06-200-013.000-014;
(c)	Parcel No. 18-10-06-200-011.000-014;
(d)	Parcel No. 18-10-06-300-014.000-014;
(e)	Parcel No. 18-10-05-100-015.000-014;
(f)	Parcel No. 18-10-05-100-016.000-014;
(g)	Parcel No. 18-10-05-100-017.000-014;
(h)	Parcel No. 18-06-32-300-023.600-008;
(i)	Parcel No. 18-06-32-300-024.000-008; and
(j)	Parcel No. 18-06-32-400-016.000-008.
Commonly referred to as the "rail spur" in Delaware County, Indiana to SRM, Inc. Public comments may be provided during the public hearing and written comments may be submitted to the above-referenced address during, or prior to, the public hearing. Following the public hearing, the Board of Commissioners will make a final determination concerning the transfer of the identified property.	
Dated: March 27, 2023	
MNI - 3/31/23 - 0005647415	
hspaxlp	

Thank you,

Commissioners meeting April 17, 2023

APPOINTMENTS

MOTION: Commissioner Riggin made a motion to appoint Ms. Sally Piper to the Convention and Tourism Board.

SECOND: Commissioner King

YEAS: Commissioner King, Commissioner Riggin, President Henry

APPROVAL OF MINUTES

MOTION: Commissioner King made a motion to approve April 3, 2023 Commissioner minutes.

SECOND: Commissioner Riggin

YEAS: Commissioner King, Commissioner Riggin, President Henry

PRESENTATIONS

DELAWARE COUNTY FAIRGROUNDS

Mr. Dan White, President of Delaware County Fair Board, presented details of an offer from Direct Structures, a local company in Muncie, Indiana. Mr. White said Direct Structures would donate a 24 X26 building to the local Delaware County fairgrounds. The building would be used for storage for 4-H and in return Direct Structures would receive sponsorship benefits.

Mr. Pablo Garcia and Mr. Daniel Garcia, Direct Structures, said they would provide an enclosed building with an overhead and side door matching the fairgrounds building. The Garcia's are wanting to become more involved with the community.

MOTION: Commissioner Riggin made a motion to approve the donation of the building by the Garcia's to the fairgrounds.

SECOND: Commissioner King

YEAS: Commissioner King, Commissioner Riggin, President Henry

JUVENILE PROBATION ELECTRONIC MONITORING COSTS

Mr. Jeff Hansard, Chief Probation Officer, said he will be presenting Juvenile Probation electronic monitoring costs before the Commissioner's but first wanted to introduce Ms. Emily Stults, JUMP Coordinator.

Ms. Stults, provided an update to the JUMP program, see below.

Mr. Hansard, presented the Juvenile Probation monitoring request, see below. Based off of recent numbers, \$20,000 is needed. Due to the loss of the emergency shelter, there is an increase in the electronic monitoring program.

Commissioner Riggin asked that this be tabled until the EDIT money can be reviewed.

President Henry said he did not see anywhere that the money could be taken from but would look into it.

Commissioner King asked that they consider adding this \$20,000 to their 2024 budget. County Council is the finance of the county not the Commissioners. Commissioner King said they are given a budget to stay within just as all departments and they have a lot of departments coming to them asking for money.

Mr. Hansard said right now they are looking into options; the grant cycle starts in July but Mr. Hansard said there is a safety element that falls under the executive body, in terms of oversight. Currently they are working on a strategic plan for the Justice Juvenile Justice system. This is going to require everyone becoming involved. The issues are complex due to the mental health issues.

Delaware County Justice and Rehabilitation Center
3100 S. Tillotson Ave. Muncie, IN, 47302



JUMP STATUS REPORT

PROJECT SUMMARY:

ORIGINAL

REPORT DATE	PROJECT NAME	PREPARED BY
03/17/2023	JUMP Program Summary March 2023	Emily Stults

STATUS SUMMARY

This summary covers the current status of monitored clients and their demographics. A Detailed list of the names of participants will be shared with respective stakeholders for requested updates. The data is always changing, and significant changes will be communicated.

REFERRAL OVERVIEW

CATEGORY	TOTAL NUMBER OF CASES	TOTAL PARTICIPATING	TOTAL WORKING	NOTES
JUMP Participants	One Hundred and Thirty-One (131)	One Hundred and Seven (107)	Twenty-Three (23)	<ul style="list-style-type: none"> 11 clients are Intake, 23 clients are in Green, 44 are in the Referral stage, 15 are in Yellow, 1 is in Red, 25 have been Discharged, and 7 have Graduated.
Employers Participating	Magna Powertrain, Mursix, Arrowhead, North American Stamping Group, Hitachi-Astemo, Pizza King	Six (6)		

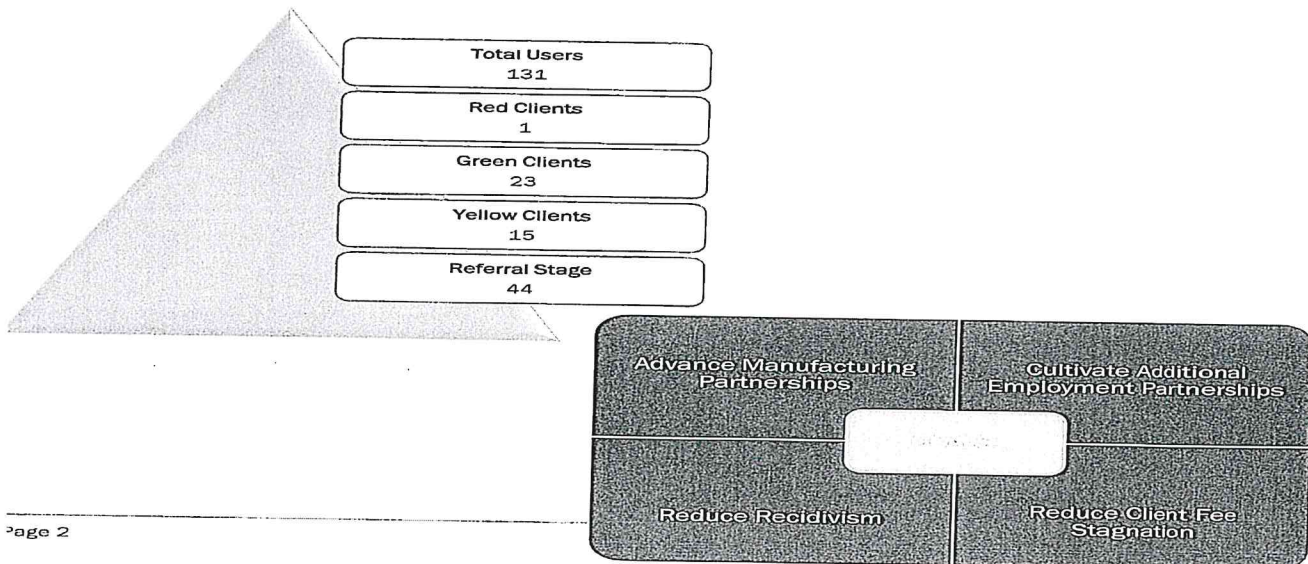
COHORT DEMOGRAPHICS

MALE TO FEMALE RATIO	AGE RATIO	RACE MAKEUP	RISK LEVELS
99 Males	Age 19 Youngest Age 55 Oldest	White = 75% Black = 25%	Low Risk = 68 Moderate Risk = 43 High Risk = 20
32 Females	Age 19 to Age 41	White = 75% Black = 25%	

CONCLUSIONS/RECOMMENDATIONS

This is a status report of the first three months after the full launch of the program. These numbers will change daily due to the process in which the clients go through the stages of the program. Future adjustments are forthcoming. Things are going well and we are continually looking forward.

HIGHLIGHT: Of 131 Total Users, we have 44 in referral stage awaiting placement. That means the overall sample size remaining for active tracking is 85. Of that sample size, we are seeing discharge status for 25 participants. What this means is that they were flagged as not eligible, or they withdrew themselves, or for some other reason they left the program. This could be for various reasons such as being released by the Courts, or moving out of State, etc. This places our active tracking sample at 60 clients in the active tracking status. Of the 60 that are actively tracked, we have 23 that are actually working and doing well. Additionally, we have 15 in the yellow category that are either still working, or placed on temporary status and are undergoing intervention as part of their "yellow" status. That brings a total of 38 active participants benefiting from the program out of 60. This puts a success rate at a 63%.





ORIGINAL

DELAWARE COUNTY UNIFIED PROBATION DEPARTMENT

Jeffrey Hansard, Chief Probation Officer
3100 S Tillotson Ave., Ste. 210 Muncie, IN 47302
Phone: (765) 747-7701 Fax: (765) 747-7763

April 14, 2023

To: Delaware County Commissioners

Subject: Consideration of County Commissioners to absorb the cost of Juvenile Electronic Monitoring

Dear Commissioners:

Earlier this year, Delaware County Community Corrections personnel (DCCC) analyzed the cost of providing Electronic Monitoring services for juvenile clients (see attachment). As you may know, over the past ten years this cost has historically been paid by the Juvenile Probation Department through our annual JDAI grant. However, due to the rising cost of monitoring services, limitations placed on the grant by the Indiana Department of Corrections, as well as a reduction of local services related to the placement of juveniles, it is respectfully requested that the County Commissioners absorb the cost of these electronic monitoring services beginning on or about July 1st 2023.

There are several reasons this request is in the best interests of youth and the community to include the following:

- **Improved Efficiency and Resource Allocation:** By the County Commissioners taking on the responsibility of paying for juvenile electronic monitoring, Juvenile Probation will be able to focus our JDAI grant funds on its primary mission of supporting local community-based prevention, rehabilitation, and supportive youth programs.
- **Better Integration of Services:** Because the Commissioners already pay for the Adult Pretrial Jail Release Program (JRP) at Community Corrections, in addition to having the majority appointment power for the Community Corrections Advisory Board, they are the body that is best positioned to integrate and provide oversight for these services which will enhance efficiencies and improve outcomes.
- **Long Term Cost Savings:** Although this will be an additional expenditure, long-term outcomes will outweigh the short-term cost. By enabling the Juvenile Probation Department to focus on delinquency prevention, rehabilitation, and support, recidivism rates will decrease which will ultimately reduce the costs associated with the criminal justice system for both juveniles and adults.

Estimated expenditures for these services would be approximately \$20,000.00 per year. This estimate is based on 2022 usage rates of 1530 total days with a cost analysis breakdown provided by Community Corrections of \$14 per diem rate. Probation has have averaged around 40 clients per year on electronic monitoring since 2017.

I look forward to having further discussions on these considerations with the county executive body through future commissioner's meetings and/ or meetings of the Community Corrections Advisory Board. I am hopeful that these matters can be resolved in coordination with other local stakeholders so that we can create a safer, more cohesive community that supports the rehabilitation and reintegration of young people in Delaware County.

Respectfully Submitted,



Delaware County Chief Probation Officer

DELAWARE COUNTY COMMUNITY CORRECTIONS

Jayne Meranda
Probation Officer
Executive Director

January 10, 2023

Jayne Meranda
Director, DCCC

ADULT PROGRAMS

Community Service
Community Transition
Court Alcohol and Drug
Home Detention
Electronic Monitoring
Ignition Interlock
Problem Solving Courts
Jail Diversion
Vivitrol Program

JUVENILE PROGRAMS

Home Detention


COGNITIVE PROGRAMS

Adult Education
Prime For Life
Changing Offender Behavior
Coping with Anger
Partners in Parenting
Straight Ahead Recovery

RE: Juvenile EHD 2022 Review

In 2022 DCCC completed 55 juvenile intake amongst 47 different clients. There was 1,530 actual monitoring days attributed to the juvenile electronic monitoring program. The average daily juvenile caseload is 4 clients with a range of 1 – 12 actual clients being monitored at a given time. The approximate cost to run the program in 2022 was \$15,031.80. This cost includes a daily GPS rental fee, an employee salary for 1hr of time per client per week, and the cost for surveillance (gas/salary) to check on the client in the home once per week. The minimum amount of time was used while factoring these costs. Some clients require more home visits by surveillance, as well as more office time with case management. In 2017 an electronic monitoring cost analysis estimated the actual daily cost of monitoring a single client on home detention is \$14 per day. This daily rate includes factors not mentioned above like rent, insurance, front office staff, office supplies directly related to the client, and other DCCC operating fees. This would put the program cost for 2022 at approximately \$21,420.00. DCCC was receiving \$975 per month for juvenile monitoring which equates to approximately \$11,700 per year. This would be an approximate \$9,720.00 program deficit.

Sincerely,


Derek Bailey
Home Detention Supervisor

3100 S. Tillotson Avenue, Suite 220

How is how it figures the numbers

GPS Rental \$4.50/day @ 1530 Days	\$6,885.00
1 hr/Client/Week \$27.45 @ 219 wks	\$6,011.55
20 minutes Surveillance/Week \$8 @ 219	\$1,752.00
1/2 gal. of gas/client/week \$1.75 @ 219	\$383.25
Juvenile Program Cost	Avg @ \$3/gal
	\$15,031.80 *
	(\$3,331.80)

*This cost does not factor in operating cost like paper, files, rent, etc.
When all costs are averaged in EHD monitoring cost is \$14/client/day

Payments from JDAI Program \$975/mo.	\$11,700.00
EHD Monitoring \$14/day/client @ 1530 Days	\$21,420.00
	(\$9,720.00)

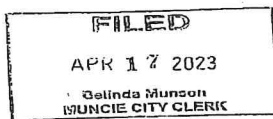
CONTRACTS OR AGREEMENTS FOR APPROVAL
INTERLOCAL AGREEMENT SR 32 BRIDGE

Mr. Brooke, presented interlocal agreement for SR 32 bridge, per the request of City of Muncie. City of Muncie is going to be receiving money from the state for the bridge, located on East Jackson. The state asked that the city take control of this particular bridge. Under state law the county is in charge of bridges, there had been questions making sure that the inspections were done in a timely matter. The interlocal agreement is, in essence, a lease to the City of Muncie and giving this particular bridge to the city for their use and control for the next 50 years. Inspections, maintenance and requirements would be the responsibility of the City of Muncie.

MOTION: Commissioner King made a motion to approve the interlocal agreement with SR 32 bridge.

SECOND: Commissioner Riggins

YEAS: Commissioner King, Commissioner Riggins, President Henry



INTERLOCAL AGREEMENT
SR 32 BRIDGE

WHEREAS, Delaware County, Indiana and City of Muncie, Indiana, enter into an Interlocal Agreement (hereinafter "Agreement") with one another; and

WHEREAS, Delaware County is an Indiana political subdivision, hereinafter called "County"; and

WHEREAS, City of Muncie, Indiana, is hereinafter called "City"; and

WHEREAS, the County and City desire to enter into an Agreement regarding the SR 32 Bridge, NBI #010772 (hereinafter "the Bridge"); and

WHEREAS, the parties hereto recognize that it is in the best interests of the citizens within their respective jurisdictions to allow the City to maintain the Bridge; and

WHEREAS, the governing body of each party has resolved, agreed, or ordained that this Agreement may be entered into;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is hereby agreed as follows:

1. TERMS

(a) The County shall transfer the Bridge to the City, once the State of Indiana transfers SR 32 to the City; and

(b) The City shall receive no cumulative bridge funds for the Bridge; and

(c) The City shall be responsible for compliance with all federal highway bridge inspection reports and all applicable state and federal laws during the pendency of this Agreement.

2. MODIFICATIONS

This Agreement may only be modified in writing approved by action of the County and City.

3. EQUIPMENT

The City shall maintain and repair all equipment and assets associated with the Bridge subject to this Agreement at its own cost during the pendency of this Agreement.

4. TERM

This Agreement shall be in full force and effect for Fifty (50) Years, upon the date of transfer from the County to the City, _____. This Agreement shall not renew and will terminate after the term of this Agreement.

5. DURATION AND TERMINATION

Except as otherwise specifically provided herein, any party to this Agreement may withdraw from this Agreement upon at least a Twelve (12) Month notice after execution of this Agreement.

6. EXECUTION OF AGREEMENT

Each party to this Agreement may bind itself with all other parties to this Agreement by signing a duplicate original of this Agreement and submitting such signed original duplicate original to the County. It is understood that such execution shall not require that one original Agreement be signed by each party to this Agreement, but that there will be multiple duplicate originals signed by each party to this Agreement. The purpose of this provision is to facilitate the signing of this Agreement and to avoid undue delay in the execution of the Agreement. This Agreement, however, shall be executed on behalf of each party by its authorized representative(s).

7. NO PARTNERSHIP

It is understood and agreed by the parties that nothing within this Agreement shall be construed as creating or constituting a partnership between the parties.

Dated: April 19, 2023

**CITY OF MUNCIE BOARD OF
PUBLIC WORKS AND SAFETY**

[Signature]
LINDA GREGORY

[Signature]
TED BAKER

Lola Mauer
LOLA MAUER

ATTEST:

[Signature]
CITY CLERK

Dated: _____

DELAWARE COUNTY COMMISSIONERS

[Signature]
SHANNON HENRY

[Signature]
JAMES KING

[Signature]
SHERRY RIGGIN

ATTEST:

[Signature]
ED CARROL, AUDITOR
DELAWARE COUNTY

Dated: 4/19/23

CITY OF MUNCIE MAYOR

[Signature]
DAN RIDENOUR

RAILROAD LEASE AGREEMENT

Mr. Brooke presented the lease agreement with Smyrna Ready Mix Concrete, LLC. At the end of the lease agreement Smyrna Ready Mix Concrete, LLC. would have the option to purchase the rail spur. Delaware County's contribution was \$1.8 for construction of the rail spur project. This will net the county out at \$3,500,000, doubling the money that the county put into the project. SRM has already pledged and got approval to add \$9.5 million in infrastructure improvements by building a silo for the mix. This will generate jobs and income to Delaware County and is a win/win.

MOTION: Commissioner King made a motion to accept the lease agreement.

SECOND: Commissioner Riggins

YEAS: Commissioner King, Commissioner Riggins, President Henry

Mr. Bookout will provide signatures once a resolution is approved by County Council.

4-17-2023

LEASE AGREEMENT
WITH PURCHASE OPTION

ORIGINAL

This Lease Agreement (hereinafter referred to as "Lease") is made this 17th day of April, 2023 (the "Effective Date"), between The Board of Commissioners of Delaware County, Indiana (hereinafter referred to as "Lessor") and Smyrna Ready Mix Concrete, LLC, a Tennessee limited liability company (hereinafter referred to as "Tenant"), pursuant to the following terms and conditions:

1. **Leased Property.** The Lessor agrees to lease to Tenant and the Tenant agrees to lease from Lessor certain real estate located in various parcels in Mt. Pleasant Township, all in Delaware County, Indiana, which parcels are identified as follows (collectively the "Property"):

- (a) Parcel No. 18-10-06-200-012.000-014;
- (b) Parcel No. 18-10-06-200-013.000-014;
- (c) Parcel No. 18-10-06-200-011.000-014;
- (d) Parcel No. 18-10-06-300-014.000-014;
- (e) Parcel No. 18-10-05-100-015.000-014;
- (f) Parcel No. 18-10-05-100-016.000-014;
- (g) Parcel No. 18-10-05-100-017.000-014;
- (h) Parcel No. 18-06-32-300-023.600-008;
- (i) Parcel No. 18-06-32-300-024.000-008; and
- (j) Parcel No. 18-06-32-400-016.000-008.

2. **Terms of Lease.** The Property is leased for a term, commencing on the Commencement Date (as hereinafter defined), and terminating seven (7) years thereafter (the "Initial Term"). In the event the Tenant does not exercise the Purchase Option at the end of the Initial Term as provided for in Paragraph 13 below, this Lease shall automatically renew, upon the same terms and conditions set forth in this Lease, for successive one (1) year periods (each a "Renewal Term"; the Initial Term and each Renewal Term shall collectively be known as the "Term") unless otherwise terminated by the Tenant by providing the Lessor no less than thirty (30) days' prior written notice before the end of the then current term, of its election to terminate the Lease. There shall be no more than two (2) Renewal Terms. The "Commencement Date" shall be the date in which the following conditions have been met:

- (i) Tenant shall have received all required approvals from all required governmental authorities and shall have obtained proper zoning for Tenant's intended use of the Property; and
- (ii) Tenant shall have provided written notice to Lessor of its intent to commence the Term of this Lease. Written notice shall be provided no more than thirty (30) days after the Tenant has received all required approvals from governmental authorities for the intended use of the Property.

At any time prior to the Commencement Date, Tenant may terminate this Lease for any reason by providing written notice to Lessor, at which point this Lease shall terminate and neither party shall have any further right or obligation under this Lease. Any and all obligations incurred by the Tenant for parking rail cars on the Property prior to the Commencement Date shall be paid by the Tenant to the Lessor.

3. Rent. The Rent of the Property shall be paid at the annual rate of Two Hundred Eighty-One Thousand Four Hundred Twenty-Nine Dollars and no cents (\$281,429.00), due and payable on the Commencement Date and upon each anniversary of the Commencement Date thereafter during the Term, and any renewal thereof. Lease payments shall be deemed "late" if not made within ten (10) days of the due date. Any payments that are late shall have a fee added of Five Hundred Dollars (\$500.00) per day until paid in full. The parties agree that the "late fee" is reasonable and appropriate.

4. Use of Property. The Tenant shall use the Property for commercial purposes only, including without limitation, the loading, unloading and transportation of goods via railroad and truck and the construction and operation of a cement terminal, which Tenant intends to construct on Parcel No. 18-10-06-300-014.000-014. The Tenant shall not permit any illegal or improper usage or create any disturbances, or other annoyance detrimental to the reasonable comfort of the other tenants or persons in the area. Any violation of this section shall be considered a material breach of this lease and subject the Tenant to immediate expulsion from the Property. Notwithstanding any term or provision contained in this Lease to the contrary, Lessor understands and agrees that the construction and operation of a cement terminal and transportation of goods via railroad and truck can be inherently loud, and nothing contained herein shall prevent Tenant from constructing and operating the cement terminal and loading and unloading trucks and railcars and transporting railcars by train. Further, Landlord agrees to reasonably cooperate with Tenant, at Tenant's cost, in obtaining all necessary approvals from all required governmental authorities for Tenant's intended use of the Property, including, without limitation, the construction and operation of a cement terminal with specifications acceptable to Tenant, in Tenant's sole and absolute discretion, and the operation of the rail spur located on the Property for the transportation of cement and other materials to and from the Property.

5. Utilities. The Tenant shall pay all utility costs and service incurred by them. Any improvements to the utilities shall be the sole responsibility of the Tenant.

6. Payment of Real Estate Taxes. The Tenant shall be responsible for the payment of all real estate taxes and assessments for the Property.

7. Subletting or Assignment. The Tenant shall not be permitted to sublet the Property or furnishings or any part thereof, or assign this Lease, without the Lessor's written consent. Written consent will not be unreasonably withheld. Notwithstanding any term or provision contained in this Lease to the contrary, Lessor agrees that Tenant may, without Lessor's consent, assign this Lease or sublet the Property to an affiliate of Tenant or as a result of (i) the reorganization, merger or consolidation of Tenant or any of Tenant's parent entities with any corporation or entity; (ii) any reorganization, merger or consolidation of Tenant or any of Tenant's parent entities to any other parent, subsidiary or affiliate of Tenant or any of Tenant's parent entities, or to any entity controlling, controlled by, or under common control with Tenant or any of Tenant's parent entities; (iii) the sale of all or substantially all of the assets of Tenant or any of Tenant's parent entities; (iv) a change of ownership or control of Tenant or any of Tenant's parent entities, including as a result thereof from the sale of the capital stock of or the ownership interests in Tenant or any of Tenant's parent entities.

8. Reserved Rights. Lessor reserves the right to enter the Property during all hours, in a manner so as not to unreasonably interfere with Tenant's use and enjoyment of the Property, to examine and

protect same, or to make such repairs, additions or alterations, and for any other purpose whatsoever related to the safety, protection, preservation or improvements of the Property.

9. Tenant's Obligations. The Tenant shall:

- (a) Keep the Property in a clean and sanitary condition;
- (b) Properly dispose of rubbish, garbage, and waste in a clean and sanitary manner at reasonably and regular intervals;
- (c) Not intentionally or negligently destroy, deface, damage, impair, or remove any part of the improvements on the Property;
- (d) Not to permit a nuisance or common waste;
- (e) Complete all necessary repairs and maintenance to the Property necessary for Tenant's intended use of the Property;
- (f) Maintain all structural components in at least as good repair as they are as of the Commencement Date, including mowing, utilities, crossing signals, trackage and ties, gates, ingress and egress, aggregates and other related apparatuses; and
- (g) Maintain any and all drains of surface water on the property.

10. Abandonment. In the event Tenant shall abandon or vacate the Property before the end of the Term, the Property or any part thereof may be repossessed by the Lessor and re-let upon terms satisfactory to it, and Tenant shall be liable for any resulting deficiency.

11. Default of Lease. The failure by Tenant to make any payment of Rent or of any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of ten (10) days after written notice thereof by Lessor to Tenant, shall be deemed a default of this Lease. Upon default, it shall be lawful for Lessor to re-enter and repossess the Property and improvements thereon, to remove all persons therefrom, and to take exclusive possession of and remove all defects, contamination or improvements that have come into disrepair therefrom with or without judicial process, and all rights of the Tenant shall immediately cease. For the purpose of such re-entry, except as otherwise provided for herein, Tenant hereby waives notice of any such failure or default and demand for possession of the Property. The Lessor shall further have the rights provided in this Paragraph and Paragraph 12, despite the fact Tenant did not abandon or vacate the Property and improvements before default. In the event of a default, Tenant shall vacate the Property immediately and cease use of the improvements upon the written demand of the Lessor.

The failure on the part of the Lessor to re-enter or repossess the Property or to exercise any of its rights hereunder upon any default shall not preclude the Lessor from the exercise of any such rights upon any subsequent defaults. The acceptance of past due rent will in no event act as a waiver of Lessor's right to terminate this Lease for non-payment of rent when due, and no notice or demand shall be required for enforcement.

12. Costs and Attorney Fees. If, by reason of any default or breach on the part of either party in the performance of any of the provisions of this Lease, a legal action is instituted, the losing party agrees to pay all reasonable attorney fees of the prevailing party in connection therewith.

13. Option to Purchase Property and Improvements. For and in consideration of the mutual covenants set forth in this Lease and the sum of One Million Five Hundred Thousand and 00/100 Dollars (\$1,500,000.00) (the "Option Fee") to be paid by Tenant to Lessor within five (5) days from the Commencement Date, Lessor hereby grants to Tenant an absolute and exclusive first option to purchase the Property (the "Purchase Option"). The Purchase Option may be exercised by Tenant at the end of the Initial Term or at any time during a Renewal Term (the "Option Period") by providing written notice to Lessor of such intent. The purchase price of the Property shall be Thirty Thousand and 00/100 Dollars (\$30,000.00) to be paid in cash from Tenant to Lessor at closing. Lessor shall convey by General Warranty Deed the Property free from all liens and encumbrances. All closing costs and expenses associated with Tenant's exercise of the Purchase Option and the closing of said transaction, shall be paid by Tenant at closing. Upon providing written notice of its option to purchase the Property, Tenant agrees to close on said purchase within sixty (60) days from the date of said notice. From the Commencement Date and extending through the Option Period, Landlord shall not enter into an agreement to sell the Property to any third party. This Purchase Option shall be binding upon Lessor's successors and assigns. If at any time within six (6) months of the Commencement Date of this Lease, Tenant elects to terminate this Purchase Option, or in the event this Lease terminates for any reason within six (6) months of the Commencement Date of this Lease, Tenant shall be entitled to a full refund of the Option Fee. Thereafter, the Option Fee shall become non-refundable except for in the event of a breach of this Lease by Lessor. In the event Tenant exercises the Purchase Option during a Renewal Term, rent shall be prorated for the remainder of the Renewal Term and credited back to Tenant at closing. The Option to Purchase shall not take place before March 15, 2029.

14. [Intentionally Omitted]

15. [Intentionally Omitted]

16. Insurance. Tenant shall hold the Lessor harmless for any damage to the improvements and use of the Property during the term of this Lease. It is understood that Lessor does not maintain any insurance for the benefit of the Tenant. It shall be the responsibility of the Tenant to carry insurance to cover any and all personal property located on the Property. The Tenant shall also maintain liability insurance coverage on the Property in the total sum of One Million Dollars (\$1,000,000.00) for any and all accidents and or damages.

17. Choice of Law. This Lease, and the rights and obligations of the parties hereto, shall be interpreted and construed in accordance with the laws of the State of Indiana and any action filed by either party shall be filed in the Circuit Court in Delaware County.

18. Casualty Losses. In the event that more than twenty-five per cent (25%) of the value of the improvements is damaged, destroyed or rendered untenable by fire or other casualty, Tenant may elect to terminate this Lease by giving notice of such election to Lessor on or before the day which is ninety (90) days after such fire or other casualty, stating the date of termination.

- (a) Upon the date specified in such notice, this Lease and the term hereof shall cease and expire; and
- (b) Any fixed annual rent after such date of termination shall be refunded to Tenant upon demand.

19. Repairs and Redecoration. Except for reasonable wear and tear, Tenant shall, at Tenant's own expense, keep the Property including all fixtures and equipment in good order, condition and repair and in a clean and sanitary condition.

20. Alterations. The Tenant agrees that no alterations are to be made or added without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, conditioned or denied. Tenant shall submit a list of planned alterations to Lessor in advance of lease signing.

21. Miscellaneous. The parties agree that all negotiations are merged into this document and that there are no additional terms or conditions not entered into in this Lease. Any and all modifications to this Lease shall be in writing and executed by all parties. The election by the Lessor of one particular remedy, does not prohibit the Lessor from seeking any and all other remedies.

22. Compliance with EDA Restrictive Covenants. The Lessor and Tenant acknowledge that the Property was improved, in part, with funding from EDA and is subject to the terms and conditions of the EDA financial assistance award and applicable EDA Property Management regulations. Consequently, all recipients or owners and/or their successors and assigns agree as follows:

- (a) Real property or equipment acquired or improved with EDA Investment Assistance must be used in a manner that is consistent with the authorized general and specific purposes of the financial assistance award and EDA policies including non-relocation, adequate consideration and environmental compliance. Further, said Property may not be used in violation of the nondiscrimination requirements set forth in 13 C.F.R. § 302.20 or for inherently religious activities prohibited by applicable federal law.
- (b) Tenant agrees to cooperate with Lessor, at Lessor's cost, in its efforts to provide EDA with any document, evidence or report required to assure compliance with federal and state law, including but not limited to applicable federal and state environmental laws.
- (c) Any deeds or instruments of conveyance shall contain a covenant which shall prohibit the use of the subject Property for any purpose other than the authorized purpose of the EDA award. This covenant shall remain in effect for 15 years, the EDA-defined useful life of the facilities, which began on the date of completion of the project. The 15-year useful life expires in 2029.

Landlord represents to Tenant that Tenant's intended use of the Property as a cement terminal and railroad loading and unloading facility does not violate any of the above restrictive covenants.

23. Subject to Approval. This Lease Agreement with Purchase Option is subject to the approval of the Delaware County Commissioners and the Delaware County Council.

Dated this 17th day of April, 2023.

"TENANT"

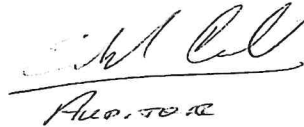
SMYRNA READY MIX CONCRETE, LLC

By: Jeff Hollingshead, Chief Executive Officer

"LESSOR"

BOARD OF COMMISSIONERS,
DELAWARE COUNTY, INDIANA

By: Sherry Riggins, President

Three handwritten signatures in cursive script, stacked vertically. The top signature appears to be "Sherry Riggins".A handwritten signature in cursive script, followed by the printed text "Auditor" on a new line.

DELAWARE COUNTY CONSTELLATION

Mr. Ed Carroll, Auditor, said this will be presented at the next Commissioners meeting. The county building was not in the agreement, so there were questions regarding the contract.

BEING AN ORDINANCE TO AMAND THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE

SECOND READING

ORDINANCE 2023-012

Ms. Kathy Vannice, Ashland Surveyor, presented Ordinance 2023-012. The request is getting it rezoned from an R2 to R3 and the parcels being combined into one parcel of land. The property was purchased with the intention that the owners owned both parcels.

MOTION: Commissioner King made a motion to approve Ordinance 2023-012, being an Ordinance to Amend the Delaware County Comprehensive Zoning Ordinance.

SECOND: Commissioner Riggin

YEAS: Commissioner King, Commissioner Riggin, President Henry

Ordinance is available at www.co.delaware.in.us

DEPARTMENT HEADS AND ELECTED OFFICIALS

Commissioner King said with Ms. Jane Lasater recent death and for all of the time and commitment toward the fairgrounds that Ms. Lasater put in, he would like to see the grandstands be named after Ms. Lasater.

Both Commissioners agreed. They will have further discussion regarding what the sign will say.

Mr. Brooke said this is the Commissioners property and he would prepare a resolution for the next Commissioners meeting if all agrees.

MOTION: Commissioner King made a motion to approve that the grandstand be named in memory of Jane Lasater.

SECOND: Commissioner Riggin

YEAS: Commissioner King, Commissioner Riggin, President Henry

Commissioner King would like BW construction to provide an update on the mental health and addiction facility.

PAYMENT OF CLAIMS

MOTION: Commissioner Riggin made a motion to approve claims in the amount of \$1,738,151.63.

SECOND: Commissioner King

YEAS: Commissioner King, Commissioner Riggin, President Henry

PUBLIC COMMENTS, QUESTIONS, OTHER BUSINESS & DISCUSSION

Mr. Rick Yencer, Muncie, Indiana is concerned regarding tax rates going up. Mr. Yencer would like to see property tax relief like federal and state government did with income taxes.

RECESS

MOTION: Commissioner King made a motion to recess.

SECOND: Commissioner Riggin

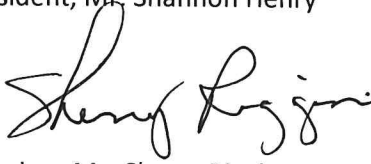
YEAS: Commissioner King, Commissioner Riggin, President Henry




President, Mr. Shannon Henry



Vice President, Mr. James King



Member, Ms. Sherry Riggin



Auditor, Mr. Ed Carroll