

ORDINANCE NO. 17-2023

AUTHORIZING THE VILLAGE ADMINISTRATOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE LITTLE MIAMI JOINT FIRE & RESCUE DISTRICT AND COLUMBIA TOWNSHIP, OHIO

WHEREAS, the Village of Fairfax (the “Village”) is one member of the Little Miami Joint Fire & Rescue District (the “District”); and

WHEREAS, Columbia Township, Ohio (the “Township”) is the other member of the District; and

WHEREAS, the Village and the Township depend on the District to provide high quality, professionally staffed safety services that each member must have for the benefit of their residents and businesses, but that neither member can provide as well or as economically on their own or through any other available arrangement; and

WHEREAS, accordingly, the Village, the Township, and the District have been engaged in extended discussions about the best ways for the District to continue its record of providing such high quality, professionally staffed safety services to the Village and the Township over the short term and long term, all within a sustainable economic framework for the parties and their constituents; and

WHEREAS, after numerous cooperative and productive discussions, all parties reached agreement on the Memorandum of Understanding attached hereto as Exhibit A (the “MOU”); and

WHEREAS, in an extensive series of recitals, the MOU sets forth the reasons for entering into the MOU, including the specific understandings outlined therein; and

WHEREAS, this Council hereby adopts and incorporates such recitals by reference, and endorses them fully; and

WHEREAS, the Township and the District are prepared to enter into the MOU, which the Mayor and Village Administrator also recommend to the Village after participating materially in the foregoing discussions held with the Township and the District, and after consultation with the Village Fiscal Officer;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Fairfax, State of Ohio, that:

SECTION I: The Village Administrator is hereby authorized to execute the MOU attached hereto as Exhibit A, or such substantially similar MOU as may be necessary to correct errors or make changes of a minor nature.

SECTION II: The foregoing recitals are incorporated by reference, as if set forth fully herein.

SECTION III: This Ordinance shall take and be in full force and effect as of the earliest date allowed by law.

Passed this 20th day of November, 2023.

Mayor

ATTEST:

Fiscal Officer

CERTIFICATE

I certify the foregoing to be a true and correct copy of Ordinance No. 17-2023 adopted by the Council of the Village of Fairfax on the 20th day of November, 2023.

Fiscal Officer

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into as of the latest date of execution below by and between the Little Miami Joint Fire & Rescue District (the “District”), the Village of Fairfax, Ohio (the “Village”), and Columbia Township, Ohio (the “Township”) (collectively, the “Parties” and each, a “Party”).

WHEREAS, the Village and the Township are neighboring communities and members (“Members”) of the District, a joint fire district created under R.C. 505.371 that provides fire protection and emergency medical services to the Members; and

WHEREAS, the Members formed the District nearly thirty years ago to provide such crucial safety services that are more expensive and less efficient to provide on their own; and

WHEREAS, for the District’s entire existence, the District has provided high quality, professional safety services while managing its finances conservatively and striving not to overburden its taxpayers; and

WHEREAS, the District’s taxpayers have repeatedly shown confidence in the District’s full-time professional staffing model by passing multiple tax levies to support District operations, without failing to pass any proposed levy, and otherwise by expressing clear and unmistakable support for the District as an integral part of the Member communities; and

WHEREAS, on two separate occasions following the District’s formation, it added a new, more geographically remote member for the purpose of enhancing the District’s shared services model and meeting the needs of each new member; and

WHEREAS, each new member subsequently withdrew from the District following a mutual determination that their membership did not meet the District's or such member's expectations given their remoteness from the Member communities and other related factors; and

WHEREAS, accordingly, the District and the Village of Newtown, Ohio ("Newtown") are parties to that certain Agreement for the Division of Assets and Apportionment of Indebtedness of the Little Miami Joint Fire and Rescue District, executed as of August 23, 2016 (the "Newtown Agreement"), governing aspects of Newtown's withdrawal as a member of the District as required by R.C. 505.371; and

WHEREAS, the District and the Village of Golf Manor, Ohio ("Golf Manor") are parties to that certain Agreement for the Allocation of Assets and Apportionment of Indebtedness of the Little Miami Joint Fire and Rescue District, executed as of November 17, 2021 (the "Golf Manor Agreement"), governing aspects Golf Manor's withdrawal as a member of the District as required by R.C. 505.371; and

WHEREAS, while Newtown was a member of the District, and before Newtown announced its decision to withdraw, the District incurred debt in the form of long term general obligation Build America Bonds to finance the construction of Station 66 in the Village, out of which the District currently operates exclusively, as well as the reconstruction of a separate building into a fire station (the "Newtown Station") to service Newtown while it was a member of the District; and

WHEREAS, under the debt service schedule for the Build America Bonds (the "Debt Service Schedule," attached as Exhibit A), the District must make regularly scheduled payments on a biannual basis (the "Debt Payments"), with the first Debt

Payment of each year (the “First Payment”) due by June 1 and the second Debt Payment of each year (the “Second Payment”) due by December 1, and the final installment due by December 1, 2036; and

WHEREAS, the First Payment consists of one-half of all interest due for the applicable calendar year, and the Second Payment consists of the remaining one-half of such interest plus all principal due for that calendar year; and

WHEREAS, the Build America Bonds are subject to a periodic subsidy payment from the United States Treasury (the “Subsidy Payment”) that may vary from year-to-year, which the District receives as reimbursement after making its First Payment and Second Payment; and

WHEREAS, notwithstanding Newtown’s withdrawal from the District, the District remains liable to make all payments due for the Build America Bonds; and

WHEREAS, under the Newtown Agreement, and as required by R.C. 505.371, the Hamilton County Auditor collects periodic tax payments each year from Newtown for the District’s benefit to pay Newtown’s allocated portion of the Debt Payments due for the Build America Bonds (the “Newtown Contribution”); and

WHEREAS, the Newtown Contribution varies based on changes in real property valuation as determined by the Hamilton County Auditor, but is currently 38.2645% of the Debt Payments due; provided, however, that the Hamilton County Auditor applies such valuation percentage to the Debt Payments due minus the amount of the anticipated Subsidy Payment for the applicable tax year (the “Newtown Discount”); and

WHEREAS, the Newtown Discount results in reduced cash flow to the District to make each Debt Payment due because the District does not receive Subsidy Payments until late in each calendar year, after already making its Debt Payments; and

WHEREAS, the Hamilton County Auditor also divides payment to the District for the Newtown Contribution into two installments made in the Spring and Fall respectively, resulting in a further reduction of cash flow; and

WHEREAS, the Members wish to alleviate the District's cash flow reduction caused by the Newtown Discount and installment payment system to allow the District to provide professional safety services to the Members at the desired level over a longer period of time than is currently sustainable;

WHEREAS, under the Golf Manor Agreement, the District remains liable to make annual payments to Golf Manor until March 1, 2026 for Golf Manor's proportionate share of the District's net assets determined as of Golf Manor's withdrawal, as required by R.C. 505.371; and

WHEREAS, Newtown's withdrawal, followed by the new membership of Golf Manor and subsequent lengthy negotiations for Golf Manor's withdrawal, created short-term fiscal uncertainty on a temporary basis and precluded the District from engaging in all desired long-term financial planning or the execution of such planning; and

WHEREAS, promptly following Golf Manor's withdrawal in 2021, the District stabilized financially, District taxpayers in the Member communities expressed their continuing confidence in the District by passing an additional 1.75 mill tax levy in 2022, and the District and its individual Members engaged in extensive short-term and long-

term financial and operational planning that they are confident will ensure the District's continued viability and success; and

WHEREAS, the Members are committed firmly to ensuring the District's success for their mutual benefit and the safety of their residents, businesses, and visitors; and

WHEREAS, for the foreseeable future, the Members anticipate being in a financial position to make fee payments to the District, allowing the District to achieve short-term and longer-term financial stability while the District addresses its financial obligations incurred during, and as a result of, other membership, and while the District continues to modernize its firefighting and emergency medical equipment and operational capacity, all for the purpose of providing the desired level of professional safety services, as chosen by the respective communities, to the Members; and

WHEREAS, having examined in detail various bond refunding and/or repurchase scenarios and other funding mechanisms, the Parties agree that such Member fees constitute, during current bond market conditions and given the Member communities' support for certain safety service levels, the most fiscally prudent approach to executing the District's short-term and long-term planning necessary to sustain the desired professional safety service levels; and

WHEREAS, under the circumstances described above, the true cost of having the District provide professional safety services at the desired level includes fee payments from the Members; and

WHEREAS, the Members agree to continue to research and report, at District Board meetings, on regional and national best practices and emerging new practices for sustainable professional safety services with the goal to reduce or replace the Member

Fee support with a District funding model that is sustainable for a longer term than addressed in this MOU;

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, which the Parties acknowledge and agree are good, valuable, and sufficient consideration, and incorporating the foregoing recitals by reference, the Parties agree as follows:

1. The Parties agree for the purpose of optimal short-term and long-term planning not to refund the Build America Bonds at this time, to maintain the full benefit of the Newtown Contribution and the Subsidy Payment, and for the Members to remit funds biannually to the District (the “Member Fee”) as a fee for professional safety services provided.

2. During each calendar year through 2036, each Member shall pay a total Member Fee, calculated as follows:

(a) First, by calculating the Total Principal and Interest Bonds (as shown in the fourth column of the Debt Service Schedule) remaining due from the District through December 1, 2036 after accounting for the Newtown Contribution and the Newtown Discount;

(b) Second, by calculating the Member’s proportionate share of the Total Principal and Interest Bonds remaining due from the District (the “Proportionate Share”), based on such Member’s most recent percentage of the District’s property tax valuation, as determined periodically by the Hamilton County Auditor; and

(c) Third, by calculating the annual interest on the Member’s Proportionate Share, based on the interest rate paid by the State Treasury Asset Reserve

of Ohio on April 15 of the applicable calendar year (the “STAR Ohio Interest Rate”); provided, however, that: (i) if the STAR Ohio Interest Rate is less than four percent (4%), the Member shall calculate interest based on a 4% rate as the minimum rate; and (ii) if the STAR Ohio Interest Rate is greater than five-and-one-half percent (5.5%), the Members shall calculate interest based on a 5.5% rate as the maximum rate. The Parties shall confirm the applicable STAR Ohio Interest Rate by email or other written correspondence delivered on or promptly after April 15 of the applicable calendar year.

The Member Fee for the applicable year shall be calculated prior to the due date for the First Member Fee (defined in Paragraph 3 below), and shall equal the annual interest determined under Paragraph 2(c) above. An example payment calculation is set forth on Exhibit B, for illustrative purposes only.

3. Each Member shall pay its annual Member Fee in two installments. The first installment shall be paid in advance of the First Payment (the “First Member Fee”) and the second installment shall be paid in advance of the Second Payment (the “Second Member Fee”). The First Member Fee shall be payable to the District by May 1 of each year. The Second Member Fee shall be payable to the District by November 1 of each year.

4. The First Member Fee shall be equal to 75% of the total Member Fee calculated in advance of the May 1 due date. The Second Member Fee shall be equal to the remaining 25% of such Member Fee.

5. Member Fee payments shall begin during and for the year 2023 and end during and for the year 2036. Notwithstanding any provision above to the contrary, however, the amount and timing of the Member Fee for 2023 only shall be determined in

good faith by the Parties given the execution of this MOU late in calendar year 2023, after at least the First Member Fee would have been due and in close proximity to the Second Member Fee.

6. The Parties will determine in good faith, by subsequent arrangement, how the District shall account for the Member Fees paid, whether in a bond retirement fund or other designated fund.

7. The District shall keep all Subsidy Payments; provided, however, that, as long as any Debt Payments remain due under the Debt Service Schedule, the District shall use the full amount of such Subsidy Payments toward the retirement of the Debt Payments remaining due. The Parties acknowledge that the Subsidy Payment may vary and is otherwise subject to review by the federal government, while also acknowledging that there is no present reason to presume that the Subsidy Payment will be reduced materially or eliminated. Notwithstanding any federal action as to the Subsidy Payment, the Parties agree that the Member Fee method is the most fiscally sound course of action at this time. In the event the Subsidy Payment is reduced materially or eliminated, the Parties agree in good faith to discuss whether the Members should increase their biannual Member Fees to account for the loss of any or all of the Subsidy Payment.

8. This MOU is a memorandum of understanding for the purpose of fostering cooperation among Parties with a mutual interest, not an adversarial undertaking to be enforced under penalty of law or by an equitable remedy. By entering into this MOU, the Parties intend to provide the District with every reasonable and good faith assurance of the payments discussed above for the Parties' mutual benefit. The Members intend to undertake all reasonable efforts to pay each Member Fee until the District's final payment

under the Debt Service Schedule. The Parties acknowledge, however, that one or more Members' financial circumstances could change materially before the District makes such a final payment in 2036. Accordingly, if one or more Members determine, in their sole discretion, that paying some or all of any scheduled Member Fee would constitute a hardship on such Member or otherwise prove prohibitive, the Parties shall engage in good faith discussions to amend this MOU consistent with the needs of each Party. Under no circumstances shall any Party institute any action at law or in equity, or undertake any other collection efforts, to enforce payment of any or all Member Fees or other obligations under this MOU.

9. This MOU is made solely for the benefit of the Parties. The Parties expressly disclaim any third-party beneficiary of this MOU, including, but not limited to, the holder(s) of the Build America Bonds or their designees or servicers. No third-party shall have any rights whatsoever under this MOU, whether at law, in equity, or otherwise.

10. The Parties acknowledge that all Member Fees shall be subject to and contingent upon the requirements of Ohio law, including, but not limited to, appropriations and other necessary authorizing legislation.

11. If, at any time, the District ceases to exist by operation of law, this MOU shall terminate automatically upon such event.

12. This MOU may be amended or supplemented at any time in writing, signed by the Parties, following required legislative approvals.

13. A fax, email, scan, or photocopy of this MOU shall be deemed an original for all purposes. This Agreement may be executed in counterparts.

ONLY SIGNATURES TO FOLLOW

Little Miami Joint Fire & Rescue District _____

By (Printed Name): _____

Its: _____

Date: _____

Village of Fairfax, Ohio _____

By (Printed Name): _____

Its: _____

Date: _____

Columbia Township, Ohio _____

By (Printed Name): _____

Its: _____

Date: _____

EXHIBIT A

DEBT SERVICE SCHEDULE

The following table presents for each bond year ending December 1, the amount required for the payment of the principal due on the Bonds whether by maturity or mandatory redemption, for the payment of interest on said Bonds, and for the total debt service on said Bonds.

<u>Year</u>	<u>Principal Bonds</u>	<u>Interest</u>	<u>Total Principal and Interest Bonds</u>	<u>Subsidy Payment Bonds</u>	<u>Net Debt Service Bonds</u>
2011	\$190,000	\$465,663.70	\$655,663.70	(\$159,342.38)	\$496,321.22
2012	225,000	413,602.50	638,602.50	(144,760.86)	493,841.64
2013	230,000	410,227.50	640,227.50	(143,579.62)	496,647.88
2014	230,000	406,202.50	636,202.50	(142,170.86)	494,031.64
2015	235,000	401,027.50	636,027.50	(140,359.62)	495,667.88
2016	240,000	394,800.00	634,800.00	(138,180.00)	496,620.00
2017	240,000	387,600.00	627,600.00	(135,660.00)	491,940.00
2018	250,000	379,440.00	629,440.00	(132,804.00)	496,636.00
2019	255,000	370,065.00	625,065.00	(129,522.74)	495,542.26
2020	265,000	356,422.50	621,422.50	(124,747.86)	496,674.64
2021	270,000	342,245.00	612,245.00	(119,785.74)	492,459.26
2022	280,000	327,800.00	607,800.00	(114,730.00)	493,070.00
2023	290,000	312,820.00	602,820.00	(109,487.00)	493,333.00
2024	300,000	297,305.00	597,305.00	(104,056.74)	493,248.26
2025	310,000	281,255.00	591,255.00	(98,439.24)	492,815.76
2026	320,000	264,670.00	584,670.00	(92,634.50)	492,035.50
2027	335,000	245,470.00	580,470.00	(85,914.50)	494,555.50
2028	350,000	225,370.00	575,370.00	(78,879.50)	496,490.50
2029	360,000	204,370.00	564,370.00	(71,529.50)	492,840.50
2030	375,000	182,770.00	557,770.00	(63,969.50)	493,800.50
2031	390,000	160,270.00	550,270.00	(56,094.50)	494,175.50
2032	405,000	136,090.00	541,090.00	(47,631.50)	493,458.50
2033	420,000	110,980.00	530,980.00	(38,843.00)	492,137.00
2034	440,000	84,940.00	524,940.00	(29,729.00)	495,211.00
2035	455,000	57,660.00	512,660.00	(20,181.00)	492,479.00
2036	475,000	29,450.00	504,450.00	(10,307.50)	494,142.50
TOTAL	\$8,135,000	\$7,248,516.20	\$15,383,516.20	(\$2,533,340.76)	\$12,850,175.44

EXHIBIT B

**Example Calculation of an Annual Member Fee Using Year 2023 Numbers
(For Illustrative Purposes Only; Not Binding for 2023 Fee)**

First Step (Paragraph 2(a)) – Total Principal and Interest Bonds Due From District:

Total Principal and Interest Bonds due over life of bonds, per Debt Service Schedule	\$15,383,516.20
Less Total Principal and Interest Bonds paid to date, through 2022	7,565,096.20
Equals Total Principal and Interest Bonds remaining due through 2036	<hr/> \$7,818,420.00
Less Newtown Contribution of 38.2645% after applying the Newtown Discount (\$6,910,723.02 x .382645) ¹	\$2,644,353.61
Equals the District's remaining share of the Total Principal and Interest Bonds due	<hr/> \$5,174,066.39

Second Step (Paragraph 2(b)) – Member Proportionate Share

Columbia Township (\$5,174,066.39 x Auditor valuation percentage of .5447)	\$2,818,313.96
Fairfax (\$5,174,066.39 x Auditor valuation percentage of .4553)	\$2,355,752.43

Third Step (Paragraph 2(c)) – Apply Interest Rate to Determine Total Member Fee

Columbia Township (\$2,818,313.96 x April 15, 2023 STAR Ohio rate of .0516)	\$145,425.00²
Fairfax (\$2,355,752.43 x April 15, 2023 STAR Ohio rate of .0516)	\$121,556.83

¹ The Newtown Discount affects the Newtown Contribution as follows: Total Principal and Interest Bonds remaining due (\$7,818,420.00), less the total Subsidy remaining due through 2036 per the Debt Service Schedule (\$907,696.98), equals \$6,910,723.02, of which Newtown pays 38.2645%.

² 75% of this amount is due by May 1, and the remaining 25% is due by November 1, per Paragraph 4.