

COMMISSIONERS JOURNAL NO. 43- DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD JULY 1, 2002

THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY MET IN REGULAR SESSION ON THIS DATE WITH THE FOLLOWING MEMBERS PRESENT:

Present: Donald Wuertz, Deborah Martin, James D. Ward

- 7:30 PM Public Hearing # 2 For Delaware County’s FY 2002 CDBG Program
- 7:45 PM Reconvening The Public Hearing For Annexation Of 482.762 Acres From Troy Township To The City Of Delaware
- 8:00 PM Public Hearing In Connection With The Issuance Of Health Care Facilities Revenue Bonds For Episcopal Retirement Homes, Inc., By The County Of Hamilton, Ohio; And Other Documents In Connection With The Issuance Of The Bonds
- 8:15 PM Public Hearing In Connection With The Issuance Of Revenue Bonds Of The Rickenbacker Port Authority, Ohio; And Authorizing Other Documents In Connection With The Issuance Of Such Bond

PUBLIC COMMENT

RESOLUTION NO. 02-840

IN THE MATTER OF APPROVING PURCHASE ORDERS, VOUCHERS AND PAYMENT OF WARRANTS IN BATCH NUMBER CMAPR0628:

It was moved by Mrs. Martin, seconded by Mr. Ward to approve payment of warrants in batch number CMAPR0628 and Purchase Orders and Vouchers as listed below:

PO’s

<u>Vendor</u>	<u>Description</u>	<u>Account Number</u>	<u>Amount</u>
Tidewater Products, Inc.	Chemical Polymer	65211905-5290	\$ 8,489.60
INCREASES			
Ohio Edison	Increase	66011912-5338	\$ 10,000.00
VOUCHERS			
Ohio State Extension	3rd Quarter Appropriation	10011102-560160101	\$ 57,880.75
Sungard	Software Support	40411413-545045065	\$ 11,833.00
Fort Defiance Construction	Africa Rd. Improvements	67111915-5420	\$ 86,053.94
Liberty Community Center	Child Care	22411606-5348	\$ 21,615.70

Vote on Motion Mrs. Martin Aye Mr. Wuertz Aye Mr. Ward Aye

RESOLUTION NO. 02-841

IN THE MATTER OF APPROVING A NEW LIQUOR LICENSE REQUEST FROM WHISTLE STOP DBA WHISTLE STOP AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the following resolution:

Whereas, the Ohio Division of Liquor Control has notified both the Delaware County Board of Commissioners and the Harlem Township Trustees that Whistle Stop DBA Whistle Stop has requested a new C1 permit located at 13342 Center Village Dr. Harlem TWP, Galena, Ohio 43021 and

Whereas, the Harlem Township Trustees have stated they have no objection, the Delaware County Sheriff has responded--no known reason for a hearing to be requested and the Delaware County Commissioners have received no objections.

Therefore Be it Resolved, The Clerk of the Board shall complete the necessary forms and notify the Ohio Division of Liquor Control that no objections are made and no hearing is requested by this Board of County Commissioners.

Vote on Motion Mr. Wuertz Aye Mrs. Martin Aye Mr. Ward Aye

RESOLUTION NO. 02 -842

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

It was moved by Mrs. Martin, seconded by Mr. Ward to approve the following:

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The Department Of Job and Family Services is requesting that Mona Reilly and Angela Thomas attend a Quality Service Delivery Roundtable discussion in Columbus, Ohio July 24-26, 2002, at no cost.

Vote on Motion                      Mr. Ward                      Aye                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye

RESOLUTION NO. 02 -843

IN THE MATTER OF APPROVING RIGHT OF WAY WORK PERMIT SUMMARY SHEET:

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the following work permits:

Permit #	Applicant	Location	Type of Work
U02092	Ameritech	Old 3C Highway	Bore across road and raise manhole
U02096	Fiber Technologies Networks	Sunbury Road	Pull fiber optic cable
U02097	Fiber Technologies Networks	Orange Road	Pull fiber optic cable
U02098	Fiber Technologies Networks	Green Meadows Drive	Pull fiber optic cable
U02101	Columbus Southern Power	Rutherford Road	Relocate overhead line

Vote on Motion                      Mrs. Martin                      Aye                      Mr. Wuertz                      Aye                      Mr. Ward                      Aye

RESOLUTION NO. 02-844

IN THE MATTER OF ACCEPTING AND AWARDING THE BID AND APPROVING THE CONTRACT WITH R&I CONSTRUCTION COMPANY FOR THE LAWRENCE ROAD PROJECT:

It was moved by Mrs. Martin, seconded by Mr. Ward to accept the following Bid and approving the following contract:

Lawrence Road Project  
Bid Opening of June 24, 2002

As a result of the referenced bid opening, The Engineer recommends that an award be made to R&I Construction Company of Tiffin, Ohio, the low bidder for the project- **\$171,978.78.**

CONTRACT

**AGREEMENT**, made and entered into this 1<sup>st</sup> day of July 2002, by and between the **DELAWARE COUNTY COMMISSIONERS**, Delaware County, Ohio, and hereinafter designated as **FIRST PARTY**, and **R&I CONSTRUCTION, INC.** hereinafter designated as **SECOND PARTY**.

**WITNESSETH**, that said **SECOND PARTY**, for and in consideration of the sum of **ONE HUNDRED SEVENTY ONE THOUSAND NINE HUNDRED SEVENTY EIGHT DOLLARS AND SEVENTY-EIGHT CENTS (\$171,978.78)**, based on unit prices on the attached **Bid Blank**, to be paid as hereinafter specified, hereby agrees to furnish unto said **FIRST PARTY**, all the necessary material, labor and equipment required to complete the project known as **LAWRENCE ROAD PROJECT**, in accordance with plans, **drawings**, general specifications, Invitation to Bid for same hereto attached; which plans, drawings, general specifications and Invitation to Bid are hereby declared to be a part of this **Contract**.

**SAID SECOND PARTY** further agrees to furnish said materials and to do the said work and labor promptly, in a good, substantial and workmanship manner, under the direction of the **Delaware County Engineer**. Work is to be completed on or before **September 13, 2002**.

**THE SECOND PARTY** hereby agrees to hold the **County** free and harmless from any and all claims for damages, costs, expenses, judgments or decrees, resulting from any operations of said **SECOND PARTY**, his sub-contractors, agents or employees.

**SECOND PARTY** further agrees to pay the **Prevailing Wage Rate** in accordance with **Section 4115 of the Ohio Revised Code** and to furnish the **Delaware County Engineer** a certified copy of the Contractor’s payroll. Contractor is also responsible providing any changes in the Prevailing Wage rates as furnished by the Delaware County Engineer during the course of this project to any and all Subcontractors employed by the Contractor.

Vote on Motion                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye                      Mr. Ward                      Aye

RESOLUTION NO. 02-845

IN THE MATTER OF DECLARE A NECESSITY TO ACQUIRE A RIGHT OF WAY FOR THE RECONSTRUCTION OF THE INTERSECTION OF STATE ROUTE 3 AND OLD 3C HIGHWAY:

It was moved by Mr. Ward, seconded by Mrs. Martin to declare a necessity to acquire a right of way for the reconstruction of the intersection of State Route 3 and Old 3C Highway, as follows:

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WHEREAS, the Delaware County Commissioners have a duty to provide for the development of adequate roads in the county, and

WHEREAS, the Delaware County Commissioners have decided that it is necessary to reconstruct the intersection of State Route 3 and Old 3C Highway to insure adequate roads for the county, and

WHEREAS, the Board of County Commissioners of Delaware County, Ohio, by and through consultation with the Delaware County Engineer and deliberations have selected the site for the reconstruction of the intersection of State Route 3 and Old 3C Highway that will best serve the needs and ends of the citizens of the county, and

WHEREAS, the County has been unsuccessful in its efforts to purchase certain parcels within for the required right of way for the reconstruction of the intersection of State Route 3 and Old 3C Highway, despite reasonable and continued efforts at negotiation, and

WHEREAS, the County has determined, through an appraisal conducted by a licensed appraiser, that just compensation for the parcel is \$82,150.00;

NOW THEREFORE BE IT RESOLVED, that the Commissioners of Delaware County, Ohio do hereby request that the Prosecuting Attorney of Delaware County, Ohio proceed with actions of appropriation pursuant to Chapter 163 of the Ohio Revised Code a 0.568 acre parcel upon a tract of land belonging to:

- 1. Jeffrey L. Rader and Nancy J. Rader (described below)

DESCRIPTION OF PARCEL 43WD  
STATE ROUTE 3

Situated In The State Of Ohio, County Of Delaware, Township Of Genoa, Being Part Of Farm Lot 13, Quarter Township 3, Township 3, Range 17, And Being Part Of The 10.070 And 2.250 Acre Tracts Conveyed To Jeffery And Nancy J. Rader By Deed Of Record In Deed Book 588, Page 212, Records Of The Recorder’s Office Delaware County, Ohio And Being More Particularly Described As Follows;

Beginning At A P.K. Nail Found In The Easterly Line Of Said 2.250 Acre Tract, At The Existing Centerline Intersection Of South Old 3C Highway And Mount Royal Avenue As Delineated Upon The Plat Of Orchard Lakes, Phase 1, Plat Cabinet, 1 Slide 613 Through 613A;

Thence The Following (5) Courses And Distances Across Said 2.250 And 10.070 Acre Tracts;

- 1. Thence N 75° 26’ 42” W A Distance Of 77.97 Feet To An Iron Pin Set, Being 90.00 Feet Right Of Station 50+40.00 Of The Centerline Survey Of State Route 3 As Established By The State Route 3 Widening Plan For The City Of Westerville Prepared By R.D. Zande & Associates, Inc.;
- 2. Thence S 60° 04’ 53” W A Distance Of 28.48 Feet To And Iron Pin Set, Being 70.00 Feet Right Of Centerline Survey Station 50+20.00;
- 3. Thence S 23° 01’ 33” W A Distance Of 81.52 Feet To An Iron Pin Set, Being 60.00 Feet Right Of Centerline Survey Station 49+40.00;
- 4. Thence S 15° 52’ 33” W A Distance Of 109.50 Feet To An Iron Pin Set;
- 5. Thence N 60° 46’ 08” W A Distance Of 5.15 Feet To An Iron Pin Set In The Existing Easterly Right-Of-Way Line Of Said State Route 3 As Delineated Upon The State Of Ohio Right-Of-Way Plan S.H. 24 Sect. T (Pt), S.H. 336 Sect. D (Pt), On File At The Engineer’s Office Of The Ohio Department Of Transportation, District 6, Delaware, Ohio And The Westerly Line Of Said 10.070 Acre Tract; Said Iron Pin Being 56.96 Feet Right Of Centerline Survey Station 48+35.72;

Thence N 15° 17’ 28” E A Distance Of 369.38 Feet Along Said Easterly Right-Of-Way Line Of State Route 3 And Said Westerly Line Of The 10.070 Acre Tract To An Iron Pin Set, Being 52.84 Feet Right Of Centerline Survey Station 52+00.00;

Thence The Following Three (3) Courses And Distances Across Said 10.070 And 2.250 Acre Tracts;

- 1. Thence S 7° 55’ 56” E A Distance Of 43.53 Feet To An Iron Pin Set, Being 70.00 Feet Right Of Centerline Survey Station 51+60.00;
- 2. Thence N 76° 16’ 55” E A Distance Of 105.00 Feet To An Iron Pin Set;
- 3. Thence N 52° 36’ 16” E A Distance Of 40.00 Feet To An Iron Pin Set In The Existing Westerly Right-Of-Way Line Of South Old 3C Highway, Being 30.00 Feet Westerly Of As Measured By Right Angles, Said Existing Centerline Of South Old 3c Highway;

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Thence N 28° 55’ 50” E A Distance Of 40.00 Feet Along The Existing Westerly Right-Of-Way Line Of South Old 3c Highway To An Iron Pin Set;

Thence S 61° 07’ 13” E A Distance Of 30.00 Feet To A Point In The Centerline Of South Old 3c Highway And Said Easterly Line Of The 2.250 Acre Tract;

Thence S 28° 55’ 50” W A Distance Of 72.06 Feet Along Said Existing Centerline Of South Old 3c Highway And Said Easterly Line Of The 2.250 Acre Tract, To The Point Of True Beginning Of The Herein Described Parcel, Containing 0.568 Acres, More Or Less, Of Which The Present Road Occupies 0.167 Acres, More Or Less;

The Bearing Datum Of The Afore-Described Parcel Is Based On The Bearing Of N 29° 12’ 00” E For The Centerline Of State Route 3, As Delineated Upon The State Of Ohio Right-Of-Way Plan Del-3-013 (1949) And S.H. 24 Sect T (Pt), S.H. 336 Sect. D (Pt), On File Ft The Engineer’s Office Of The Ohio Department Of Transportation, District 6, Delaware, Ohio.

Vote on Motion                      Mr. Ward                      Aye                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye

RESOLUTION NO. 02-846

IN THE MATTER OF ACCEPTANCE OF THE SANITARY SEWERS HIDDEN SPRINGS:

It was moved by Mrs. Martin, seconded by Mr. Ward to accept the sanitary sewers for ownership, operation, and maintenance by Delaware County as follows:

Hidden Springs                      1,936 feet of 8 inch sewer                      9 manholes

Vote on Motion                      Mrs. Martin                      Aye                      Mr. Wuertz                      Aye                      Mr. Ward                      Aye

RESOLUTION NO. 02-847

IN THE MATTER OF APPROVING THE SANITARY SEWER IMPROVEMENT PLANS FOR SHEFFIELD PARK-SECTION 1; GOLF VILLAGE-SECTION 2 PHASE B AND GOLF VILLAGE-SECTION 12 PHASES A AND B:

It was moved by Mr. Ward, seconded by Mrs. Martin to approve sanitary sewer plans for Sheffield Park-Section 1; Golf Village-Section 2 Phase B And Golf Village- Section 12 Phases A And B for submittal to the Ohio EPA for their approval as per recommendation of the County Sanitary Engineer.

Vote on Motion                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye                      Mr. Ward                      Aye

RESOLUTION NO. 02-848

IN THE MATTER OF APPROVING THE SANITARY SUBDIVIDER’S AGREEMENTS FOR CROSS CREEK SECTION 2 PHASE B; TARTAN FIELDS PHASE 15 AND WILSHIRE SECTION 6 PHASE A:

It was moved by Mrs. Martin, seconded by Mr. Ward to accept the following Sanitary Subdivider’s Agreements:

Cross Creek Section 2 Phase B

SUBDIVIDER'S AGREEMENT  
DELAWARE COUNTY SANITARY ENGINEER

THIS AGREEMENT executed on this 1<sup>st</sup> day of July 2002, by and between HOMEWOOD SUBDIVIDER, as evidenced by the CROSS CREEK SECTION 2 PHASE B Subdivision Plat filed with the Delaware County Recorder, Delaware County, Ohio and the BOARD OF COUNTY COMMISSIONERS of Delaware County, Ohio is governed by the following considerations and conditions, to wit:

The SUBDIVIDER shall upon executing this AGREEMENT pay to the DELAWARE COUNTY SANITARY ENGINEER \$85,550.00, representing the payment of fifty percent (50%) of the capacity charges then in effect for each single family residential connection, for 29 equivalent single family residential connections. The remaining capacity charge shall be fifty percent (50%) of the rate currently in effect at the time connection is made and shall be paid for each single family residential connection upon application to the DELAWARE COUNTY SANITARY ENGINEER for a tap permit to connect the single family residence to the sanitary sewer. Ownership of more than one (1) lot will not cause aggregation of the payments.

Said SUBDIVIDER is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this AGREEMENT; said SUBDIVIDER is to execute Bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (\$20,861.00) which is acceptable to the COUNTY COMMISSIONERS to insure faithful performance of this AGREEMENT and the completion of

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all improvements in accordance with the Subdivision Regulations of Delaware County, Ohio. The SUBDIVIDER shall pay the entire cost and expense of said improvements.

The SUBDIVIDER shall indemnify and save harmless the County, Townships and/or Villages and all of their officials, employees and agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any action, or omissions of any contractor or sub-contractor or from any material, method or explosive used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date of the approval of said SUBDIVIDER by the COUNTY COMMISSIONERS, but extension of time may be granted if approved by the COUNTY COMMISSIONERS.

The SUBDIVIDER shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the COUNTY. The representative shall be replaced by the SUBDIVIDER, when in the opinion of the COUNTY, his performance is deemed inadequate.

The SUBDIVIDER further agrees that any violations of or noncompliance with any of the provisions and stipulations of this AGREEMENT shall constitute a breach of contract, and the COUNTY shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this Subdivision.

**SANITARY SEWER CONSTRUCTION**

It is further agreed that upon execution of this AGREEMENT, the SUBDIVIDER shall deposit, with the DELAWARE COUNTY SANITARY ENGINEER the sum of \$1,500.00, estimated to be necessary to pay the cost of inspection by the DELAWARE COUNTY SANITARY ENGINEER. The DELAWARE COUNTY SANITARY ENGINEER shall in his sole discretion inspect, as necessary, the IMPROVEMENTS being installed or constructed by the SUBDIVIDER and shall keep accurate records of the time spent by his employees and agents in such inspections for which the SANITARY ENGINEER shall be reimbursed from charges against said deposit. At such time as said fund, as a result of charges against the same at the rate of:

INSPECTOR \$60.00  
CAMERA TRUCK \$150.00

per hour for time spent by said SANITARY ENGINEER or his staff has been depleted to a level of less than \$1,000.00, the SUBDIVIDER shall make an additional deposit of \$1,000.00 to said fund. On completion of all IMPROVEMENTS provided herein and acceptance of same by the COUNTY, any unused portions of the inspection fund shall be repaid to the SUBDIVIDER less an amount equal to \$0.50 per foot of sewer which will be deducted to cover a re-inspection.

The SUBDIVIDER, for a period of five (5) years after acceptance of the IMPROVEMENTS by the COUNTY, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the IMPROVEMENTS shall be the same as new equipment warranties and shall be assigned to the COUNTY upon acceptance of the IMPROVEMENTS.

The SUBDIVIDER shall provide to the COUNTY all necessary easements or rights-of-way required to complete the IMPROVEMENTS, all of which shall be obtained at the expense of the SUBDIVIDER.

The COUNTY shall, upon certification in writing from the DELAWARE COUNTY SANITARY ENGINEER that all construction is complete according to the plans and specifications, by Resolution accept the IMPROVEMENTS described herein and accept and assume operations and maintenance of the same.

**ALL CONSTRUCTION UNDER COUNTY JURISDICTION:**

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to DELAWARE COUNTY as required, "as built" drawings on the IMPROVEMENTS which plans shall become the property of the COUNTY and shall remain in the office of the DELAWARE COUNTY SANITARY ENGINEER and DELAWARE COUNTY ENGINEER. The drawings shall be on reproducible MYLAR and 3.5" or 5.25" Diskettes in either Autocad DWG files or DXF files.

The SUBDIVIDER shall within thirty (30) days of completion of construction, furnish to the COUNTY an itemized statement showing the cost of IMPROVEMENTS and an Affidavit that all material and labor costs have been paid. The SUBDIVIDER shall indemnify and hold harmless the COUNTY from expenses or claims for labor or materials incident to said construction of the IMPROVEMENTS.

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the DELAWARE COUNTY SANITARY ENGINEER a five (5) year maintenance Bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The SUBDIVIDER shall during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the COUNTY regarding submission of shop drawings, construction schedules, operation of facilities and other matters incident hereto.

The SUBDIVIDER shall obtain all other necessary utility services incident to the construction of said IMPROVEMENTS AND FOR THEIR CONTINUED OPERATION. The SUBDIVIDER shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the SUBDIVIDER and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the COUNTY.

Should the SUBDIVIDER become unable to carry out the provisions of this AGREEMENT, the SUBDIVIDER'S heirs, successors or assigns shall complete and comply with all applicable terms, conditions,

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provisions, and requirements of this AGREEMENT.

IN CONSIDERATION WHEREOF, the DELAWARE COUNTY BOARD OF COMMISSIONERS hereby grants the SUBDIVIDER or his agent the right and privilege to make the IMPROVEMENTS stipulated herein and as shown on the approved plans.

**Tartan Fields Phase 15**

**SUBDIVIDER'S AGREEMENT  
DELAWARE COUNTY SANITARY ENGINEER**

THIS AGREEMENT executed on this 1<sup>st</sup> day of July 2002, by and between NHG DEVELOPMENT, SUBDIVIDER, as evidenced by the **TARTAN FIELDS PHASE 15** (Subdivision Plat filed with the Delaware County Recorder, Delaware County, Ohio) and the BOARD OF COUNTY COMMISSIONERS of Delaware County, Ohio is governed by the following considerations and conditions, to wit:

Said SUBDIVIDER is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this AGREEMENT; said SUBDIVIDER is to execute Bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$69,801.00**) which is acceptable to the COUNTY COMMISSIONERS to insure faithful performance of this AGREEMENT and the completion of all improvements in accordance with the Subdivision Regulations of Delaware County, Ohio. The SUBDIVIDER shall pay the entire cost and expense of said improvements.

The SUBDIVIDER shall indemnify and save harmless the County, Townships and/or Villages and all of their officials, employees and agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any action, or omissions of any contractor or sub-contractor or from any material, method or explosive used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date of the approval of said SUBDIVIDER by the COUNTY COMMISSIONERS, but extension of time may be granted if approved by the COUNTY COMMISSIONERS.

The SUBDIVIDER shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the COUNTY. The representative shall be replaced by the SUBDIVIDER, when in the opinion of the COUNTY, his performance is deemed inadequate.

The SUBDIVIDER further agrees that any violations of or noncompliance with any of the provisions and stipulations of this AGREEMENT shall constitute a breach of contract, and the COUNTY shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this Subdivision.

**SANITARY SEWER CONSTRUCTION**

It is further agreed that upon execution of this AGREEMENT, the SUBDIVIDER shall deposit, with the DELAWARE COUNTY SANITARY ENGINEER the sum of **\$4,100.00**, estimated to be necessary to pay the cost of inspection by the DELAWARE COUNTY SANITARY ENGINEER. The DELAWARE COUNTY SANITARY ENGINEER shall in his sole discretion inspect, as necessary, the IMPROVEMENTS being installed or constructed by the SUBDIVIDER and shall keep accurate records of the time spent by his employees and agents in such inspections for which the SANITARY ENGINEER shall be reimbursed from charges against said deposit. At such time as said fund, as a result of charges against the same at the rate of:

INSPECTOR \$60.00  
CAMERA TRUCK \$150.00

per hour for time spent by said SANITARY ENGINEER or his staff has been depleted to a level of less than \$1,000.00, the SUBDIVIDER shall make an additional deposit of \$1,000.00 to said fund. On completion of all IMPROVEMENTS provided herein and acceptance of same by the COUNTY, any unused portions of the inspection fund shall be repaid to the SUBDIVIDER less an amount equal to \$0.50 per foot of sewer which will be deducted to cover a re-inspection.

The SUBDIVIDER, for a period of five (5) years after acceptance of the IMPROVEMENTS by the COUNTY, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the IMPROVEMENTS shall be the same as new equipment warranties and shall be assigned to the COUNTY upon acceptance of the IMPROVEMENTS.

The SUBDIVIDER shall provide to the COUNTY all necessary easements or rights-of-way required to complete the IMPROVEMENTS, all of which shall be obtained at the expense of the SUBDIVIDER.

The COUNTY shall, upon certification in writing from the DELAWARE COUNTY SANITARY ENGINEER that all construction is complete according to the plans and specifications, by Resolution accept the IMPROVEMENTS described herein and accept and assume operations and maintenance of the same.

**ALL CONSTRUCTION UNDER COUNTY JURISDICTION:**

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to DELAWARE COUNTY as required, "as built" drawings on the IMPROVEMENTS which plans shall become the property of the COUNTY and shall remain in the office of the DELAWARE COUNTY

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SANITARY ENGINEER and DELAWARE COUNTY ENGINEER. The drawings shall be on reproducible MYLAR and 3.5" or 5.25" Diskettes in either Autocad DWG files or DXF files.

The SUBDIVIDER shall within thirty (30) days of completion of construction, furnish to the COUNTY an itemized statement showing the cost of IMPROVEMENTS and an Affidavit that all material and labor costs have been paid. The SUBDIVIDER shall indemnify and hold harmless the COUNTY from expenses or claims for labor or materials incident to said construction of the IMPROVEMENTS.

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the DELAWARE COUNTY SANITARY ENGINEER a five (5) year maintenance Bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The SUBDIVIDER shall during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the COUNTY regarding submission of shop drawings, construction schedules, operation of facilities and other matters incident hereto.

The SUBDIVIDER shall obtain all other necessary utility services incident to the construction of said IMPROVEMENTS AND FOR THEIR CONTINUED OPERATION. The SUBDIVIDER shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the SUBDIVIDER and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the COUNTY.

Should the SUBDIVIDER become unable to carry out the provisions of this AGREEMENT, the SUBDIVIDER'S heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this AGREEMENT.

**Wilshire Section 6 Phase A**

**SUBDIVIDER'S AGREEMENT  
DELAWARE COUNTY SANITARY ENGINEER**

THIS AGREEMENT executed on this 1<sup>st</sup> day of July 2002, by and between CENTEX HOME, INC SUBDIVIDER, as evidenced by the WILSHIRE, SECTION 6 PHASE A Subdivision Plat filed with the Delaware County Recorder, Delaware County, Ohio and the BOARD OF COUNTY COMMISSIONERS of Delaware County, Ohio is governed by the following considerations and conditions, to wit:

The SUBDIVIDER shall upon executing this AGREEMENT pay to the DELAWARE COUNTY SANITARY ENGINEER \$118,000.00, representing the payment of fifty percent (50%) of the capacity charges then in effect for each single family residential connection, for 40 equivalent single family residential connections. The remaining capacity charge shall be fifty percent (50%) of the rate currently in effect at the time connection is made and shall be paid for each single family residential connection upon application to the DELAWARE COUNTY SANITARY ENGINEER for a tap permit to connect the single family residence to the sanitary sewer. Ownership of more than one (1) lot will not cause aggregation of the payments.

Said SUBDIVIDER is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this AGREEMENT; said SUBDIVIDER is to execute Bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (\$60,283.25) which is acceptable to the COUNTY COMMISSIONERS to insure faithful performance of this AGREEMENT and the completion of all improvements in accordance with the Subdivision Regulations of Delaware County, Ohio. The SUBDIVIDER shall pay the entire cost and expense of said improvements.

The SUBDIVIDER shall indemnify and save harmless the County, Townships and/or Villages and all of their officials, employees and agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any action, or omissions of any contractor or sub-contractor or from any material, method or explosive used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date of the approval of said SUBDIVIDER by the COUNTY COMMISSIONERS, but extension of time may be granted if approved by the COUNTY COMMISSIONERS.

The SUBDIVIDER shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the COUNTY. The representative shall be replaced by the SUBDIVIDER, when in the opinion of the COUNTY, his performance is deemed inadequate.

The SUBDIVIDER further agrees that any violations of or noncompliance with any of the provisions and stipulations of this AGREEMENT shall constitute a breach of contract, and the COUNTY shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this Subdivision.

**SANITARY SEWER CONSTRUCTION**

It is further agreed that upon execution of this AGREEMENT, the SUBDIVIDER shall deposit, with the DELAWARE COUNTY SANITARY ENGINEER the sum of \$4,200.00, estimated to be necessary to pay the cost of inspection by the DELAWARE COUNTY SANITARY ENGINEER. The DELAWARE COUNTY SANITARY ENGINEER shall in his sole discretion inspect, as necessary, the IMPROVEMENTS being installed or constructed by the SUBDIVIDER and shall keep accurate records of the time spent by his employees and agents in such inspections for which the SANITARY ENGINEER shall be reimbursed from charges against said deposit. At such time as said fund, as a result of charges against the same at the rate of:

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INSPECTOR \$60.00  
CAMERA TRUCK \$150.00

per hour for time spent by said SANITARY ENGINEER or his staff has been depleted to a level of less than \$1,000.00, the SUBDIVIDER shall make an additional deposit of \$1,000.00 to said fund. On completion of all IMPROVEMENTS provided herein and acceptance of same by the COUNTY, any unused portions of the inspection fund shall be repaid to the SUBDIVIDER less an amount equal to \$0.50 per foot of sewer which will be deducted to cover a re-inspection.

The SUBDIVIDER, for a period of five (5) years after acceptance of the IMPROVEMENTS by the COUNTY, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the IMPROVEMENTS shall be the same as new equipment warranties and shall be assigned to the COUNTY upon acceptance of the IMPROVEMENTS.

The SUBDIVIDER shall provide to the COUNTY all necessary easements or rights-of-way required to complete the IMPROVEMENTS, all of which shall be obtained at the expense of the SUBDIVIDER.

The COUNTY shall, upon certification in writing from the DELAWARE COUNTY SANITARY ENGINEER that all construction is complete according to the plans and specifications, by Resolution accept the IMPROVEMENTS described herein and accept and assume operations and maintenance of the same.

ALL CONSTRUCTION UNDER COUNTY JURISDICTION:

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to DELAWARE COUNTY as required, "as built" drawings on the IMPROVEMENTS which plans shall become the property of the COUNTY and shall remain in the office of the DELAWARE COUNTY SANITARY ENGINEER and DELAWARE COUNTY ENGINEER. The drawings shall be on reproducible MYLAR and 3.5" or 5.25" Diskettes in either Autocad DWG files or DXF files.

The SUBDIVIDER shall within thirty (30) days of completion of construction, furnish to the COUNTY an itemized statement showing the cost of IMPROVEMENTS and an Affidavit that all material and labor costs have been paid. The SUBDIVIDER shall indemnify and hold harmless the COUNTY from expenses or claims for labor or materials incident to said construction of the IMPROVEMENTS.

The SUBDIVIDER shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the DELAWARE COUNTY SANITARY ENGINEER a five (5) year maintenance Bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The SUBDIVIDER shall during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the COUNTY regarding submission of shop drawings, construction schedules, operation of facilities and other matters incident hereto.

The SUBDIVIDER shall obtain all other necessary utility services incident to the construction of said IMPROVEMENTS AND FOR THEIR CONTINUED OPERATION. The SUBDIVIDER shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the SUBDIVIDER and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the COUNTY.

Should the SUBDIVIDER become unable to carry out the provisions of this AGREEMENT, the SUBDIVIDER'S heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this AGREEMENT.

IN CONSIDERATION WHEREOF, the DELAWARE COUNTY BOARD OF COMMISSIONERS hereby grants the SUBDIVIDER or his agent the right and privilege to make the IMPROVEMENTS stipulated herein and as shown on the approved plans.

Vote on Motion                      Mr. Ward                      Aye                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye

**RESOLUTION NO. 02-849**

**IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE ENVIRONMENTAL SERVICES DEPARTMENT, THE DELAWARE COUNTY COMMISSIONERS AND LAND OWNER REALITY FARMS INC. FOR THE APPLICATION OF BIOSOLIDS BY DELAWARE COUNTY:**

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the following:

**CONTRACT FOR USE OF LAND  
BETWEEN DELAWARE COUNTY AND REALITY FARMS INC.**

This contract is for the use of sixty acres of Farmland owned by Reality Farms INC. located at Clark-Shaw Road for the application of biosolids by Delaware County. This contract is for the use of Sixty acres (60) at the rate of One Hundred and twenty five Dollars (\$125.00), for a total contract price of Seventy-five Hundred Dollars \$7,500.00. This contract is limited and the parties are bound by the following conditions:

**CONDITIONS**

1. The period of use is for 07/15/02 beginning after the wheat harvest and ending on 01/2003.
2. The biosolids shall be applied to Wheat Stubble.



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- 3. The fields described in Condition 2 will not be used if soil moisture conditions will be adversely affected by the field vehicles. This determination shall be made by Delaware County and owner/farm operator.
- 4. Any change in the total number of acres used by Delaware County either at the behest of the owner or by Delaware County, either as a result of Condition 3 or any other reason, shall result in the contract price being renegotiated.
- 5. Payment to Reality Farms will be made on 7/15/02.
- 6. This contract constitutes the entire agreement between the parties relating to the use of the Owner’s land and supersedes all other prior or concurrent, oral or, written agreements or understandings relating to the use of the owner’s land.
- 7. The landowner shall defend, indemnify and hold Delaware County, after the start date of the period described in condition 1, and its agents and employees, harmless from and against any and all loss or liability sustained, in respect of any and all losses, suits, proceedings, demands, judgments, damages, expenses and costs (including reasonable attorney’s fees and litigation expenses) (collectively 'Damages'), which it may suffer or incur by reason of (a) the breach of any of the representations and warranties of Landowner contained in this Contract; and (b) the breach of any agreements made by him in this Contract.  
Reality Farms will not be responsible or liable for any damages or errors incurred by Delaware County.

Vote on Motion                      Mrs. Martin                      Aye                      Mr. Wuertz                      Aye                      Mr. Ward                      Aye

RESOLUTION NO. 02-850

IN THE MATTER OF APPROVING THE SURVEYING SERVICES AGREEMENT BETWEEN THE ENVIRONMENTAL SERVICES DEPARTMENT, THE DELAWARE COUNTY COMMISSIONERS AND FLOYD BROWNE & ASSOCIATES FOR THE PERRY-TAGGART SANITARY SEWER IMPROVEMENTS:

It was moved by Mrs. Martin, seconded by Mr. Ward to approve the following:

DELAWARE COUNTY, OHIO  
SURVEYING SERVICES AGREEMENT WITH  
DELAWARE COUNTY SANITARY ENGINEER

This Agreement entered into this day of July 1, 2002, by and between the Delaware County Board of Commissioners, hereinafter referred to as the COUNTY and Floyd Browne & Associates, Inc., hereinafter referred to as CONSULTANT, for the provision of surveying services to the COUNTY in regard to the Perry –Taggart Sanitary Sewer Improvements. Contract length of the project is approximately 19,000 feet starting at the Retreat Lane in Powell, Ohio to the southwest corner of Hyatts Road.

Witnesseth, that for the mutual considerations herein specified, the COUNTY and the CONSULTANT have agreed and to hereby agree as follows:

SECTION I - BASIC SERVICES OF CONSULTANT

The duties of the CONSULTANT shall encompass the following tasks.

- 1. Checking the topographical aerial survey for accuracy.
- 2. Survey field locations of existing utilities including sanitary and storm sewers and pertinent field items such as mailboxes, small diameter trees, etc. that are not delineated by the aerial survey.
- 3. Obtain property line locations to verify and supplement property information as shown on existing tax maps.
- 4. Set preliminary centerline stakes for easement acquisition.
- 5. Prepare easement documents with exhibits and short descriptions using the Delaware County Sanitary Engineer’s plans supplemented by property maps, recorded deeds, and record research information.
- 6. Perform perimeter survey of wetlands delineated by others along the proposed sewer alignment.
- 7. Survey soil-boring locations.
- 8. Perform topography survey for 6 river crossings to identify the bottom cross section of the Olentangy River.
- 9. Prepare a digital base map of surveyed information and the provided aerial mapping.
- 10. As-built survey of constructed infrastructure.
- 11. Set project benchmarks

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SECTION II - PAYMENT FOR PROFESSIONAL SERVICES

- A. The COUNTY agrees to pay the CONSULTANT as compensation for professional services not to exceed amounts as listed in Section I on a time and materials basis per task basis as set forth in the following table:
- |  |                    |
|--|--------------------|
| 1. Aerial Topography verification                            | \$1,000.00         |
| 2. Field Survey of Existing Utilities and pertinent features | \$20,000.00        |
| 3. Property Locations  | \$10,000.00        |
| 4. Sewer Alignment staking for easement negotiation          | \$3,000.00         |
| 5. Preparation of easement descriptions and exhibits         | \$20,000.00        |
| 6. Wetlands delineation survey                               | \$2,000.00         |
| 7. Soil Borings Survey                                       | \$1,500.00         |
| 8. Topographical Survey of River Crossings                   | \$2,000.00         |
| 9. Preparation of base map of surveyed information           | \$5,000.00         |
| 10. As-built survey  | \$3,000.00         |
| 11. Setting of project bench marks                           | <u>\$2,000.00</u>  |
| <b>Total Estimated Cost</b>                                  | <b>\$69,500.00</b> |
- B. The actual cost plus reimbursable expenses as approved by COUNTY’s management designees, as incurred by the CONSULTANT in the performance of the portion of the work outlined in Section I of this Agreement, shall not exceed the amount stipulated in Section IIIA without an amendment to the Agreement duly authorized by the COUNTY. The surveying costs for this project are based on an agreed estimate. Any subsequent changes in rules, regulations or policies or changes by the County, which result in modifications of or additions to the work contemplated in Section I, and any delays beyond the control of the CONSULTANT are reasons that will be considered by the COUNTY for adjustment of the total fee.
- C. Payment for services performed shall be due and payable monthly, based on the CONSULTANT's detailed invoicing. The agreed rate schedule is detailed as Exhibit “A.” Invoicing shall be structured to include a tabulation of expenses and hours dedicated to the project by each class of employee.

SECTION III - OBLIGATION OF COUNTY

- A. Any provision in this Contract to the contrary, notwithstanding the maximum obligation of the COUNTY under this Contract, is limited to the amount of \$69,500.00. Unless the COUNTY appropriates and authorizes the expenditure of additional funds pursuant to proper modification of this Contract, the CONSULTANT's duties and obligations to perform additional services under this Contract shall be considered ended when the amount of \$69,500.00 has been invoiced and paid to the CONSULTANT in accordance with the provisions of this Section. Payment of invoices submitted to the COUNTY by the CONSULTANT shall be made by the COUNTY within thirty (30) days of the date of the invoice. If the maximum obligation of the COUNTY provided herein is changed properly as described above, then the new amount will control the continuation of the duties and obligations of the CONSULTANT to perform additional services.
- B. COUNTY shall provide all criteria and information in its possession as to COUNTY's requirements for the Project; designate a person to act on COUNTY's behalf in respect of all aspects of the CONSULTANT's services; examine and respond promptly to CONSULTANT's submissions; and give prompt written notice to CONSULTANT whenever COUNTY observes or otherwise becomes aware of any defect in the work.
- C. COUNTY shall also do the following and pay all costs incident thereto:
1. Guarantee access to and make all provisions for CONSULTANT to enter upon public and private property.

SECTION IV - NON-DISCRIMINATION

During the performance of this Contract, the CONSULTANT agrees as follows:

The CONSULTANT will not discriminate against any employee or applicant for employment because of age, race, color, religion, sex or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed and employees are treated during employment without regard to their age, race, color, religion, sex or national origin. Such action will include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.

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**SECTION V - CONTRACT TERMINATION OR SUSPENSION**

The COUNTY or the CONSULTANT may terminate or suspend this Engineering Agreement by (1) giving written notice not less than ten (10) days prior to the effective date by registered mail of its intention to do so and (2) an opportunity for consultation with the terminating party prior to termination. Payment to the CONSULTANT will be made promptly for the amount of any fees earned to the date of the notice of termination or suspension, less any payments previously made. In the event the Agreement is terminated, the CONSULTANT, upon payment, as specified, shall deliver to the COUNTY copies of all reports, field books, drawings, surveys, and other documents, which have been prepared in the course of the work done under this Agreement. The CONSULTANT shall make no other claim for additional compensation against the COUNTY by reason of such termination. In the event the CONSULTANT'S services are suspended by the COUNTY, the CONSULTANT shall bill the COUNTY immediately for all work completed to date, less any previous payments.

**SECTION VI - CONTINUING OBLIGATION**

The CONSULTANT agrees that if, because of death or any other occurrence, it becomes impossible for any one of the aforementioned officers to render his services hereunder, neither the CONSULTANT nor the surviving officers shall be relieved of their obligations to complete performance hereunder; provided, however, in such event the COUNTY may terminate this Agreement if it considers the death or incapacity of such officer to be a loss of such magnitude as would affect the CONSULTANT's ability to satisfactorily complete the performance of this Agreement.

**SECTION VII – WARRANTY**

The CONSULTANT warrants that he has not employed or retained any company or person, other than a bonafide employee, working solely for the CONSULTANT, to solicit or secure this Contract, and that he has not paid or agreed to pay any company or person, other than a bonafide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Contract. The CONSULTANT also warrants, that he will comply will all Federal, State and Local laws and ordinances applicable to the work. For breach or violation of the warranty, the COUNTY shall have the right to annul the Engineering Services Agreement without liability.

**SECTION VIII – INSURANCE AND INDEMNITY**

- A. CONSULTANT shall comply with the laws of the State of Ohio relating to insurance coverage and shall carry during the performance of the Agreement and keep in full force, Worker's Compensation. A copy of a document evidencing such Worker's Compensation shall be furnished to the COUNTY prior to the commencement of the services.
- B. CONSULTANT shall carry the following minimum amounts of Automobile Liability Insurance Comprehensive and General Liability Insurance each with the following limits:
  - 1. Public Liability Insurance in the amount of \$1,000,000.00 for bodily injuries including those resulting in death of any one person and on account of any one account of any one accident or occurrence.
  - 2. Property Damage in an amount of \$1,000,000.00 from damages on account of any one accident or occurrence.
- C. CONSULTANT shall carry Valuable Paper's Insurance in an amount sufficient to ensure the restoration of any plans, drawings, field notes, or other similar data relating to the work covered by the Engineering Contract, in the event of their loss or destruction, (until such time as the plans, field, and design data and bid documents are delivered to the COUNTY).
- D. CONSULTANT shall carry Professional Liability Insurance in the sum of not less than one million dollars (\$1,000,000) annual aggregate, on a claims made basis.
- E. Certificates of Insurance indicating coverage and conditions stipulated in paragraphs VIII (B, C, D) shall be provided by the CONSULTANTS prior to the commencement of services.
- F. CONSULTANT shall have COUNTY listed as an additional insured on its insurance policies.

**SECTION IX - MISCELLANEOUS**

- A. Reuse of Documents.

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All documents, including Drawings, Specifications, and Electronic Media prepared or furnished by the CONSULTANT (and CONSULTANT's independent professional associates and consultants) pursuant to this Agreement, are instruments of service in respect of the Project. COUNTY shall retain an ownership and property interest therein whether or not the Project is completed. However, such documents are not intended or represented by CONSULTANT to be suitable for reuse by COUNTY or others on extensions of the Project or on any other Project. Any reuse without written verification or adaptation by CONSULTANT for the specific purpose intended will be at COUNTY's sole risk and without liability or legal exposure to CONSULTANT, or to CONSULTANT's independent professional associates or CONSULTANT'S.

Vote on Motion                      Mr. Wuertz              Aye              Mrs. Martin              Aye              Mr. Ward              Aye

RESOLUTION NO. 02-851

IN THE MATTER OF APPROVING THE CONTRACTS BETWEEN THE DEPARTMENT OF JOB AND FAMILY SERVICES, THE DELAWARE COUNTY COMMISSIONERS AND CHILD CARE PROVIDERS KATHERINE DURU, ARLENE SHEETS, WANDA REED, REBECCA DOSS, MARJORIE CLARK, CONNIE LEICHNER, WILMA SANDERS, BARBARA HEMP, PHYLLIS WILSON AND LAURIE DAUM:

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the following:

Child Care		Basic Rates Full Time (Per day –5 hrs or more	Basic Rates Part Time (Per day- less than 5 hrs)	Adjustment to Basic Rates
Katherine Duru 3190 Agape Drive Columbus, Ohio 43224	Infant Toddler Preschool Schoolage	\$21.40 \$18.00 \$16.00 \$13.00	\$11.00 \$ 9.00 \$ 8.00 \$10.00	None
Child Care		Basic Rates Full Time (25 Hrs. or More)	Basic Rates Part Time (25 Hrs. or Less)	Adjustment to Basic Rates
Arlene Sheets 4240 Hyatts Road Delaware, Ohio 43015	Infant Toddler Preschool Schoolage	\$2.75 \$2.75 \$2.50 \$2.50		None
Wanda Reed 171 S. Washington Street Delaware, Ohio 43015	Infant Toddler Preschool Schoolage	\$2.75 \$2.75 \$2.50 \$2.50		None
Rebecca Doss 88 Cottonwood Drive Marysville, Ohio 43040	Infant Toddler Preschool Schoolage	\$2.20 \$2.20 \$2.00 \$2.00		None
Marjorie Clark 896 Kingbury Delaware, Ohio 43015	Infant Toddler Preschool Schoolage	\$2.05 \$2.05 \$1.90 \$1.90		None
Connie Leichner 260 S. Franklin Street Delaware, Ohio 43015	Infant Toddler Preschool Schoolage	\$2.05 \$2.05 \$1.90 \$1.90		None
Wilma Sanders 6443 Baltursol Court Westerville, Ohio 43082	Infant Toddler Preschool Schoolage	\$2.05 \$2.05 \$1.90 \$1.90		None
Barbara Hemp 1005 St. Rt. 257 N. Ostrander, Ohio 43061	Infant Toddler Preschool Schoolage	\$2.05 \$2.05 \$1.90 \$1.90		None
Phyllis Wilson 6169 Dublin Rd. Delaware, Ohio 43015	Infant Toddler Preschool Schoolage	\$2.05 \$2.05 \$1.90 \$1.90		None

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Laurie Daum 3443 Courtland Drive Lewis Center, Ohio 43035	Infant Toddler Preschool Schoolage	\$2.05 \$2.05 \$1.90 \$1.90		None

Vote on Motion                      Mr. Ward                      Aye                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye

RESOLUTION NO. 02-852

IN THE MATTER OF APPROVING THE COORDINATION AGREEMENT BETWEEN  
DELAWARE COUNTY COMMISSIONERS AND THE OHIO HISTORIC PRESERVATION OFFICE  
FOR THE ADMINISTRATION OF CDBG AND HOME FUNDED ACTIVITIES:

It was moved by Mrs. Martin, seconded by Mr. Ward to approve the following agreement:

**WHEREAS**, the U.S. Department of Housing and Urban Development (“HUD”) has allocated Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) funds to the State of Ohio Department of Development (“State”);

**WHEREAS**, the State has awarded CDBG and/or HOME funds to Delaware County for undertakings that may affect properties that are listed in or eligible for listing in the National Register of Historic Places (“National Register”); and

**WHEREAS**, the County and the Ohio State Historic Preservation Officer (“SHPO”) agree that by following the procedures outlined in this agreement, the County will be able to meet its obligations pursuant to Section 106 and Section 110(f) of the National Historic Preservation Act (16 U.S.C. 470) and its implementing regulations, Protection of Historic Properties (36 CFR Part 800), to take into account the effects of federally assisted projects on historic properties and provide the Advisory Council on Historic Preservation (“Council”) an opportunity to comment.

**NOW, THEREFORE**, the County and the SHPO have agreed to carry out their respective responsibilities pursuant to Section 106 and Section 110(f) of the NHPA and the regulation at 36 CFR Part 800, in accordance with the following stipulations:

STIPULATIONS

I. Exempt Activities

- A. If the County determines that an undertaking only involves (a) properties that are less than fifty years old or (b) exempt activities, as defined by Stipulation I. B., and I. C., then the undertaking shall be deemed exempt and require no further review under this agreement because these activities generally have no effect on historic properties. The County will keep documentation of this decision on file and compile a list of exempt undertakings annually, as required in Stipulation IV.
- B. If the proposed undertaking falls within one of the following categories, the activities shall be deemed exempt:
  - 1. Non-Construction Work
    - a. Public service program that does not physically impact buildings or sites.
    - b. Architectural and engineering fees and other non-construction fees and costs.
    - c. Rental or purchase of equipment
    - d. Temporary board-up, bracing or shoring of a property, provided that it is installed without permanent damage to the building or site.
    - e. Mortgage refinancing where no change in use will occur.
  - 2. Site Work
    - a. Repair, replacement, line painting, resurfacing and maintenance of existing streets, roads, alleys, sidewalks, curbs, ramps and driveways where no change in width, surfaces, or vertical alignment to drainage is to occur.
    - b. Maintenance and repair of existing landscape features, including planting, fences, retaining walls, and walkways.
  - 3. Exterior Rehabilitation
    - a. Rebuilding of existing wheelchair ramps.
    - b. Repair of porches, cornices, exterior siding, doors, balustrades, stairs, or other trim as long as any new material matches existing features in composition, design, color, texture, and other visual and physical qualities.
    - c. Foundation repair and replacement with in-kind material.

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- d. Exterior scraping with non-destructive means and painting of wood siding, features and trim; exterior painting of brickwork, if existing surfaces are already painted. (This does not apply to lead-encapsulant painting).
- e. Caulking, reglazing and weather-stripping.
- f. Installing of screens and storm windows, provided that they:
  - (1) Completely fill the original window opening.
  - (2) Match the meeting rail or other major divisions.
  - (3) Outside storms must not protrude beyond the face of the building.
  - (4) Interior storms must not cause damage to the original interior trim.
  - (5) Interior storms must be designed to seal completely so as to protect the primary window from condensation damage.
- g. Installation of storm doors, if they are undecorated and have a painted finish to match existing trim.
- h. Repair or replacement of asphalt, fiberglass shingle, and asbestos roofs with in-kind materials.
- i. Replacement of a flat roof not visible from a public right-of-way.
- j. Repair or replacement of gutters and downspouts.

4. Interior Rehabilitation

- a. Repair or installation of new basement floors.
  - b. Installation of attic insulation.
  - c. Repair of existing interior walls, floors, ceilings, decorative plaster, or woodwork, provided the work is limited to repainting, in-kind patching, refinishing, or repapering.
  - d. Kitchen and bathroom remodeling if no walls, windows, or doors are altered.
  - e. Installation of new furnace, water heater, or furnace cleaning or repair.
  - f. Installation or repair of all electrical, plumbing, heating, ventilation, and air conditioning systems as long as no alteration is made to structural or decorative features.
  - g. Lead base paint and asbestos abatement activities that do not involve removal or alteration of structure or decorative features.
- C. Activities defined in 24 CFR Section 58.34, of the “Environmental Review Procedures for Entities Assuming HUD Environmental Review Responsibilities, as amended” are exempt from review under this agreement. (**Appendix C**)
- D. Activities defined in 24 CFR Section 58.35(b), of the “Environmental Review Procedures for Entities Assuming HUD Environmental Review Responsibilities, as amended” are exempt from review under this agreement. (**Appendix D**)

## II. Project Review

- A. If the County determines that an undertaking will involve any activities that are not exempt under Stipulation I, the County will, in accordance with 36 CFR 800, consult with the SHPO before starting the undertaking by submitting the following documentation to the SHPO: (1) project location, including a map; (2) project description, including work write-ups, plans, or specifications, as appropriate; (3) color photographs of all elevations of the building or site; (4) date any buildings in the project area were built; (5) a statement of whether any properties in the project area are listed in or eligible for listing in the National Register; (6) if there are listed or eligible properties, a statement of whether and how the undertaking will affect the historic properties (**See Appendix A**).
- B. This submission should include, and the SHPO will consider, the following information if it explains the County decisions regarding National Register eligibility and effect:
- (1) Condition assessments for various historic elements;
  - (2) An explanation of the goals of the undertaking;
  - (3) Alternative treatments considered and cost estimates for each;
  - (4) Life cycle maintenance costs related to each alternative;
  - (5) Proposed measures to mitigate or minimize adverse effects;
  - (6) Available marketing studies; and
  - (7) Any other information that warrants consideration.
- C. The SHPO will respond, in accordance with 36 CFR Part 800, to the County within 30 days after receiving the project documentation by stating that (1) the SHPO concurs with the County’s decision about eligibility and effect; (2) the SHPO disagrees with the County’s decision about eligibility and effect; or (3) the SHPO needs more information in order to concur or disagree with the County’s decision about eligibility or effect.
- D. If the SHPO and the County agree that the undertaking will have no effect on properties that are listed in or eligible for listing in the National Register, the County will retain the SHPO’s letter in its project file

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and the review process, in accordance with 36 CFR Part 800, will be complete.

- E. If the SHPO and the County agree that the undertaking will have an effect on properties that are listed in or eligible for listing in the National Register, or the SHPO disagrees with the County’s decision, the County will follow the procedures described in 36 CFR Section 800.5 (See Appendix B).
- F. After receiving additional information from the County, the SHPO will respond within 30 days as described in Stipulation II.C., above.

III. Technical Assistance and Educational Activities

Staff in the SHPO’s Resource Protection and Reviews Department will provide technical assistance, consultation, and training of County staff as required by the County or as proposed by the SHPO in order to assist the County in carrying out the terms of this agreement.

IV. Monitoring

Within 30 days after the end of each calendar year that this agreement is in force, the County will submit to the SHPO a list of the undertakings exempted from review under Stipulation I of this agreement. For each exempt undertaking, the list will include a brief description of each activity undertaken and the age of the building or a notation that it was less than 50 years old.

V. Definitions

The definitions provided in the National Historic Preservation Act and the regulations at 36 CFR Part 800 applies to terms used throughout this agreement, such as “historic property” and “effect.”

VI. Terms of Agreement

This agreement will continue in full force until [specify a date that is up to three years from the signature date] and will be reviewed for modifications, termination, or renewal before this date. At the request of either party, this agreement may be reviewed for modifications at any time.

By execution and implementation of this agreement, the County and the SHPO agree that their respective responsibilities under the NHPA, associated regulations, and other related statutes, will be fulfilled.

Vote on Motion                      Mrs. Martin              Aye              Mr. Wuertz              Aye              Mr. Ward              Aye

RESOLUTION NO. 02-853

IN THE MATTER OF AUTHORIZING ADDITIONAL FUNDS FROM THE DELAWARE COUNTY  
REVOLVING LOAN FUNDS (RLF) TO ASSIST THE VILLAGE OF SHAWNEE HILLS’ DRAINAGE  
FACILITY PROJECT:

It was moved by Mr. Ward, seconded by Mrs. Martin to authorize the following:

- WHEREAS, Delaware County received \$60,000 in the Fiscal Year 2000 Small Cities Community Development Block Grant (CDBG) funds under the Formula Program for drainage facility improvements in the Village of Shawnee Hills, Ohio, and
- WHEREAS, the total cost of this project was estimated to be \$180,000, and
- WHEREAS, The Delaware County Board of Commissioners approved a RLF infrastructure grant in the amount of \$40,000 on July 3, 2000, to further assist in the construction of drainage facility improvements in the Village of Shawnee Hills, Ohio.
- WHEREAS, after change orders and conflicts in the field, the cost is now \$226,062 an increase of \$46,062, and
- WHEREAS, the Village of Shawnee Hills is requesting from Delaware County additional funds in the amount of \$46,062 to pay for the additional costs associated with the project..

NOW THEREFORE, PURSUANT TO THE FOREGOING, BE IT HEREBY RESOLVED, by the Board of Commissioners, County of Delaware, State of Ohio as follows:

- Section 1. That the Delaware County Commissioners authorize the use of additional RLF funds to assist the Village of Shawnee Hills in paying the added cost of \$46,062 for the Storm Drainage Improvement Project.
- Section 2. That this resolution shall take effect and be in force immediately after passage.

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Vote on Motion                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye                      Mr. Ward                      Aye

RESOLUTION NO. 02-854

IN THE MATTER OF AUTHORIZING ADDITIONAL FUNDS FROM THE DELAWARE COUNTY  
REVOLVING LOAN FUNDS (RLF) TO ASSIST THE VILLAGE OF SHAWNEE HILLS’ WITH  
WASTEWATER FACILITIES IMPROVEMENT PROJECT:

It was moved by Mrs. Martin, seconded by Mr. Ward to authorize the following;

WHEREAS, the Ohio Department of Development provides financial assistance to local governments under the Community Development Block Grant (CDBG) Water & Sewer and Formula Programs; and

WHEREAS, the construction of wastewater facilities is an eligible activity to be funded under the CDBG Water & Sewer Program and Formula Program; and

WHEREAS, funding, in the amount of Six Hundred Thousand Dollars (\$600,000) has been provided to Delaware County through the FY99 CDBG Water & Sewer Program, and funding in the amount of Eighty-five Thousand Two Hundred Dollars (\$85,200) has been provided to Delaware County through the FY99 CDBG Formula Program, and funding in the amount of One Hundred sixty-five Thousand Dollars (\$165,000) is to be provided from Delaware County’s Revolving Loan Fund for the Village of Shawnee Hills Wastewater Facilities Improvement Project, which consists of the installation of approximately 31,500 lineal feet of conventional gravity sewer, 3,500 lineal feet of force main, a pumping station, and miscellaneous wastewater collection support facilities; and

WHEREAS, Kokosing Construction Company, Inc., submitted the lowest and best bid for the construction of the Village of Shawnee Hills Wastewater Improvement Project, in the amount of \$2,134,942.00; and

WHEREAS, after change orders the cost of the project is now \$2,955,719.14 an increase of \$820,719.14; and

WHEREAS, the Village is requesting that Delaware County assistance in the amount of \$147, 000 to pay a portion of the additional cost associated with the project..

NOW THEREFORE, PURSUANT TO THE FOREGOING, BE IT HEREBY RESOLVED by the Board of Commissioners, County of Delaware, State of Ohio as follows:

Section 1. That the Delaware County Commissioners authorize the use of additional RLF funds to assist the Village of Shawnee Hills in the amount of \$147,000 for the Village of Shawnee Hills Wastewater Improvement Project.

Section 2. That this resolution shall take effect and be in force immediately after passage.

Vote on Motion                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye                      Mr. Ward                      Aye

RESOLUTION NO. 02-855

7:30 PM - IN THE MATTER OF PUBLIC HEARING # 2 FOR FY02 CDBG FORMULA PROGRAM:

It was moved by Mrs. Martin, seconded by Mr. Ward to open the hearing.

Vote on Motion                      Mrs. Martin                      Aye                      Mr. Wuertz                      Aye                      Mr. Ward                      Aye

RESOLUTION NO. 02-856

IN THE MATTER OF CLOSING THE PUBLIC HEARING # 2 FOR FY02 CDBG FORMULA  
PROGRAM:

It was moved by Mr. Ward, seconded by Mrs. Martin to close the hearing.

Vote on Motion                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye                      Mr. Ward                      Aye

RESOLUTION NO. 02-857

IN THE MATTER OF AUTHORIZING THE FILING OF AN APPLICATION WITH THE OHIO  
DEPARTMENT OF DEVELOPMENT, OFFICE OF HOUSING AND COMMUNITY PARTNERSHIPS  
FOR THE FISCAL YEAR 2002 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR THE  
SMALL CITIES FORMULA PROGRAM:

It was moved by Mrs. Martin, seconded by Mr. Ward to authorize the application:



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WHEREAS, the Ohio Department of Development has allocated \$138,000 in the Fiscal Year 2002 Small Cities Community Development Block (CDBG) grant funds under the Formula Program to Delaware County, and

WHEREAS, Delaware County has conducted its first public hearing on March 4, 2002, concerning the CDBG program and has conducted a second public hearing on the proposed application on July 1, 2002. Such hearings indicate significant need and interest in utilizing these funds to assist the communities within the County with necessary and useful programs, which are responsive to the State and national program objectives and qualification criteria for this program.

NOW THEREFORE, PURSUANT TO THE FOREGOING, BE IT HEREBY RESOLVED by the Board of Commissioners, County of Delaware, State of Ohio as follows:

Section 1. That the County Administrator is hereby authorized to make application for \$138,000 of Community Development Block Grant Small Cities Formula Program funds. \$6,000 of which shall be used for Flood & Drainage Improvements in the Village of Ashley; \$30,000 is to be used for Street Improvements for the Village of Ostrander; \$10,000 is to be used for ADA Accessibility of the Township Historical Society Building for Radnor; \$46,000 to be used for Flood and Drainage Improvements for the Village of Ostrander, \$30,000 is to be used for Roadway Improvements for the Village of Shawnee Hills; \$5,000 is to be used to update the Land Use Plan Study for the Village of Galena; \$5,000 is to be used for Commercial Area Plan for the Village of Shawnee Hills; \$3,000 is to be used for Fair Housing educational activities throughout the County; and \$3,000 is to be used for Program Administration. Included with said application will be all necessary program assurances.

Section 2. That this resolution shall take effect and be in force immediately after passage.

Section 3. The funding for the projects for the FY 2002 Grant is attached below:

FY 2002						
Community Name	Proposed Project	Total Project Cost	Proposed CDBG Formula Funding	Proposed RLF Funding	Proposed Other Funding	
Radnor	ADA accessibility of Radnor Historical Center	\$ 14,895	\$ 10,000	\$ 4,895		Township to pay architectural fees
Village of Ostrander	Streetscape	\$ 61,450	\$ 30,000	\$ 31,450	0	Village to pay engineering & design firm.
Village of Ostrander	Storm Drainage	\$146,000	\$ 46,000	\$100,000		Village to pay \$18,000 to \$35,000 for engineering, design & inspection services
Village of Ashley	Storm Drainage Improvements	\$ 12,000	\$ 6,000	\$ 6,000		Village to pay \$2,000 to \$5,000 for engineering, design & surveying services
Village of Shawnee Hills	Road Improvements	\$ 61,000	\$ 30,000	\$ 31,000	0	
Village of Galena	Land Use Plan Update	\$ 50,000	\$ 5,000	\$ 20,000	\$25,000	Village
Village of Shawnee Hills	Commercial Area Plan	\$ 35,000	\$ 5,000	\$ 26,500	\$ 3,500	Village
Fair Housing	Countywide	\$ 3,000	\$ 3,000	0	0	
Administrative	General	\$ 3,000	\$ 3,000	0	0	
Totals		\$386,345	\$138,000	\$219,845	\$ 28,500	

Vote on Motion                      Mr. Ward                      Aye                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye

RESOLUTION NO. 02-858

IN THE MATTER OF AUTHORIZING THE USE OF DELAWARE COUNTY REVOLVING LOAN FUNDS (RLF) TO ASSIST IN FUNDING THE VILLAGE OF ASHLEY FLOOD & DRAINAGE IMPROVEMENTS, VILLAGE OF OSTRANDER STREET IMPROVEMENTS, RADNOR ADA ACCESSIBILITY OF THE TOWNSHIP HISTORICAL SOCIETY BUILDING, VILLAGE OF OSTRANDER FLOOD & DRAINAGE IMPROVEMENTS, VILLAGE OF SHAWNEE HILLS ROADWAY IMPROVEMENTS, VILLAGE OF GALENA LAND USE PLAN, AND VILLAGE OF SHAWNEE HILLS COMMERCIAL AREA PLAN IN ADDITION TO FUNDS ALLOCATED THROUGH THE FISCAL YEAR 2002 COMMUNITY DEVELOPMENT BLOCK GRANT SMALL CITIES FORMULA PROGRAM FOR THESE PROJECTS:

It was move by Mr. Ward, seconded by Mrs. Martin to authorize the following;

WHEREAS, Delaware County has applied for \$138,000 in the Fiscal Year 2002 Small Cities Community

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Development Block (CDBG) grant funds under the Formula Program for various improvement and planning projects in the County, and

WHEREAS, the total cost of these projects is estimated to be \$386,345; and

WHEREAS, it is anticipated that a funding gap exists between the total cost of said projects and the amount of funds available to totally fund these projects from the FY02 CDBG Small Cities Formula Program; and

WHEREAS, Delaware County has established a Revolving loan Fund (RLF) capitalized with the payback from CDBG loans to local businesses; and

WHEREAS, the CDBG funds to be utilized to assist said various projects will meet the needs of the community’s low and moderate-income households and the National Objectives established for the CDBG Program.

NOW THEREFORE, PURSUANT TO THE FOREGOING, BE IT HEREBY RESOLVED, by the Board of Commissioners, County of Delaware, State of Ohio as follows:

- Section 1. That the Delaware County Board of Commissioners hereby approves an RLF infrastructure grant in the amount of \$6,000 to further assist in the construction of Flood & Drainage Improvements in the Village of Ashley, Ohio.
- Section 2. That the Delaware County Board of Commissioners hereby approves an RLF infrastructure grant in the amount of \$31,450 to further assist in the construction of Street Improvements in the Village of Ostrander, Ohio.
- Section 3. That the Delaware County Board of Commissioners hereby approves an RLF infrastructure grant in the amount of \$4,895 to further assist in the construction of ADA Accessibility of the Township Historical Building in Radnor, Ohio.
- Section 4. That the Delaware County Board of Commissioners hereby approves an RLF planning grant in the amount of \$100,000 to further assist in the development of a Flood & Drainage Improvements in the Village of Ostrander, Ohio.
- Section 5. That the Delaware County Board of Commissioners hereby approves an RLF infrastructure grant in the amount of \$31,000 to further assist in the construction of Roadway Improvements to Village of Shawnee Hills, Ohio.
- Section 6. That the Delaware County Board of Commissioners hereby approves an RLF planning grant in the amount of \$20,000 to further assist in the updating of the Land Use Plan for the Village of Galena, Ohio.
- Section 7. That the Delaware County Board of Commissioners hereby approves an RLF planning grant in the amount of \$26,500 to further assist in the developing of a Commercial Area Plan for the Village of Shawnee Hills, Ohio.
- Section 8. The funding for the projects for the FY 2002 Grant is attached below:

FY 2002						
Community Name	Proposed Project	Total Project Cost	Proposed CDBG Formula Funding	Proposed RLF Funding	Proposed Other Funding	
Radnor	ADA accessibility of Radnor Historical Center	\$ 14,895	\$ 10,000	\$ 4,895		Township to pay architectural fees
Village of Ostrander	Streetscape	\$ 61,450	\$ 30,000	\$ 31,450	0	Village to pay engineering & design firm.
Village of Ostrander	Storm Drainage	\$146,000	\$ 46,000	\$100,000		Village to pay \$18,000 to \$35,000 for engineering, design & inspection services
Village of Ashley	Storm Drainage Improvements	\$ 12,000	\$ 6,000	\$ 6,000		Village to pay \$2,000 to \$5,000 for engineering, design & surveying services
Village of Shawnee Hills	Road Improvements	\$ 61,000	\$ 30,000	\$ 31,000	0	
Village of Galena	Land Use Plan Update	\$ 50,000	\$ 5,000	\$ 20,000	\$25,000	Village

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Village of Shawnee Hills	Commercial Area Plan	\$ 35,000	\$ 5,000	\$ 26,500	\$ 3,500	Village
Fair Housing	Countywide	\$ 3,000	\$ 3,000	0	0	
Administrative	General	\$ 3,000	\$ 3,000	0	0	
Totals		\$386,345	\$138,000	\$219,845	\$ 28,500	

Vote on Motion                      Mrs. Martin              Aye              Mr. Wuertz              Aye              Mr. Ward              Aye

RESOLUTION NO. 02-859

IN THE MATTER OF APPROVING PERSONNEL ACTIONS:

It was moved by Mrs. Martin, seconded by Mr. Ward to approve the following:

Kevin W. Tobin is on an unpaid leave of absence from the Maintenance Department with an expected date of return September 6, 2002; effective date June 14, 2002.

Vote on Motion                      Mr. Wuertz              Aye              Mrs. Martin              Aye              Mr. Ward              Aye

RESOLUTION NO. 02-860

IN THE MATTER OF ESTABLISHING DEPOSIT AND FEES REGULATIONS FOR COST INCURRED IN ANNEXATION PROCEEDINGS:

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the following:

Whereas, Amended Substitute Senate Bill 5 (SB 5) of the 124<sup>th</sup> General Assembly, changing Ohio’s annexation laws, has been passed by the General Assembly and signed by the Governor; and

Whereas, Section 709.014(A) of the Ohio Revised Code (ORC) as enacted by SB 5 authorizes the Board of Commissioners of Delaware County to establish a reasonable fee or schedule of fees to cover the costs incurred by the County in any annexation proceeding that takes place under sections 709.02 to 709.21 of the ORC: and

Whereas, Section 709.014 of the ORC as enacted by SB 5 also authorizes the Board to require an initial deposit to be paid at the time a petition for annexation is filed or promptly thereafter; and

Whereas, Section 709.032(B) of the ORC as enacted by SB 5 also provides for the payment of other fees or requires deposits in connection with the processing of annexation petitions; and

Whereas, the Board desires to implement a deposit and fee schedule for annexation petitions filed with the Board;

Now Therefore Be it Resolved by the Board of Commissioners of Delaware County:

Section 1.0              Annexation Deposit

Every annexation petition submitted pursuant to Sections 709.02 to 709.21 of the ORC shall be subject to a deposit according to the following schedule:

- a.      When the total area sought to be annexed is 5 acres or less - \$100.00
- b.      When the total area sought to be annexed is more than 5 acres - \$250.00

Section 1.1              Time Period In Which To Make Deposit

The deposit required pursuant to Section 1.0 of this resolution shall be filed with the Clerk of the Board of Commissioners, or in the absence of the Clerk, with Assistant Clerk, or in the absence of both, with the County Administrator, at the time of filing.

Section 2.0              Fees for Subpoenas Requested by Necessary Party

If a necessary party to an annexation proceeding, as defined in Section 709.32(A) of the ORC, requests the Board to issue subpoenas for witnesses, for books, papers, correspondence, memoranda, agreements, or other documents or records relevant or material to the petition, the party requesting the subpoena shall pay in advance the fees and mileage expenses necessary to serve the subpoena. The remainder of the expenses shall be paid out of fees charged by the Board pursuant to Section 709.014 of the ORC.

Section 2.1              Fees for Subpoenas Issued by the Board Without a Request From a Necessary Party

If the Board issues a subpoena on its own initiative for witnesses or documents specified in Section 2.0, all costs shall be paid out of fees charged by the Board pursuant to Section 709.014 of the ORC.

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Section 2.2 Amount of Fees Associated with Subpoenas

The fees and mileage expenses for the Sheriff(s) and witnesses shall be the same as those allowed by the court of common pleas in criminal cases and as maintained on file with the Board of Commissioners of Delaware County.

Section 2.3 Fees for Transcription of Record of Hearing

If a request is made to transcribe the record of the hearing, in accordance with Section 709.032(B) of the ORC, it shall be accompanied by a payment in the amount estimated by the Clerk of the Board to be necessary to cover the costs of transcribing the record. If the actual cost exceeds the estimate, the person requesting the transcription shall be responsible for the full cost.

Section 2.4 Other Fees

Fees not otherwise provided for in this Resolution shall be paid by the agent for the petitioners. In addition to the fees provided for in sections 2.0, 2.1, 2.2, and 2.3 of this Resolution, fees shall be paid by the agent for the petitioner for other costs incurred by the Board relating to an annexation petition.

These fees include, but are not limited to, 1) providing for the cost of the official court reporter; 2) all costs incurred in preparing and providing copies of notices and documents to all agents for the petitioner, other parties to the proceeding, the County Engineer, the County Prosecutor or other County officials, including the petition and all papers that accompany the petition; 3) certified resolutions of the Board related to the proceeding; 4) duplicate electronic records of the proceeding; 5) any of the papers on file that constitute the record of the proceeding; 6) materials, postage, paper and other supplies, long distance telephone charges, and other related costs (copies .05 per page).

Section 3.0 Deposit of Fee Revenue

The Clerk of the Board shall deposit all funds received from deposits or fees for processing annexation petitions into an agency fund of the County. The Board approves the creation of a new Annexation Fund No. 7291920 for the purpose of paying expenses related to the processing of annexation petitions.

Section 3.1 Payments of Expenses

All expenses incurred in the processing of an annexation petition shall be paid from the fund within the County treasury as created under Section 3.0.

Section 3.2 Maintenance of Records and Final Accounting of Fees Prepaid

The Clerk of the Board shall maintain an accurate and detailed accounting of all funds received and expended in processing each annexation petition filed pursuant to Chapter 709 of the ORC. The Clerk of the Board may issue invoices to the agent for the petitioners whenever it appears that adequate funds are not on deposit to pay expenses in accordance with the deposit and fee schedule contained in this Resolution.

At the conclusion of the annexation proceeding for each petition, the Clerk of the Board shall make a final accounting of expenses incurred in processing the petition and shall render an invoice to the agent for the petitioners if adequate funds have not been received. Approval of the annexation will be contingent upon payment of all fees. In the event the funds received are in excess of the final expenses, the Clerk of the Board shall cause any such excess to be refunded to the agent for the petitioners.

Vote on Motion                      Mr. Ward                      Aye                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye

**RESOLUTION NO. 02-861**

**IN THE MATTER OF APPOINTING THE CLERK OF THE BOARD OF COMMISSIONERS IN THE ABSENCE OF THE CLERK THE ASSISTANT CLERK OR IN THE ABSENCE OF BOTH THE COUNTY ADMINISTRATOR TO SET DATE, TIME, AND PLACE FOR ANNEXATION HEARINGS AND TO PROVIDE ASSOCIATED NOTICES TO THE AGENT FOR THE PETITIONERS:**

It was moved by Mrs. Martin, seconded by Mr. Ward to approve the following:

Whereas, Amended Substitute Senate Bill 5 (Senate Bill 5) of the 124<sup>th</sup> General Assembly has been passed by the General Assembly and signed by the governor, and

Whereas, Section 709.014(B) of the Ohio Revised Code (ORC) as enacted by SB 5 authorizes the Board of County Commissioners to appoint the Clerk of the Board of Commissioners, or in the absence of the

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Clerk, the Assistant Clerk, or in the absence of both, the County Administrator to set the date, time and place for hearings on annexation petitions and to provide associated notices to the agent for the petitioners;

Now therefore Be It Resolved by the Board of Commissioners of Delaware County

Section 1.0            Delegating of Authority to the Clerk of the Board of Commissioners, or in the absence of the Clerk, the Assistant Clerk, or in the absence of both, the County Administrator to Set Hearing

The Board hereby appoints the Clerk of the Board of Commissioners, in the absence of the Clerk, the Assistant Clerk, or in the absence of both, the County Administrator, to establish the date, time and place for annexation hearings.

Section 1.1            Compliance With Law

The Clerk of the Board of Commissioners, or in the absence of the Clerk, the Assistant Clerk, or in the absence of both, the County Administrator, shall establish the hearing dates for annexation petitions in order to comply with all statutory requirements of SB 5 and other sections of the ORC. In accordance with Section 709.03(A) of the ORC and Section 1.0 of this Resolution, the Clerk of the Board of Commissioners, or in the absence of the Clerk, the Assistant Clerk, or in the absence of both, the County Administrator, shall, within five days after the petition is filed with the Board, set the time, date, and place of the hearing. The hearing shall occur at least 60 days after but no more than 90 days after the date on which the petition was filed with the Board. In the case of a hearing pursuant to ORC 709.024(E), the hearing shall be at the next regular session of the Board.

Section 1.2            Delegation of Authority to Clerk of the Board of Commissioners, or in the absence of the Clerk, the Assistant Clerk, or in the absence of both, the County Administrator to Provide Notice to Agent for Petitioners

The Board hereby appoints the Clerk of the Board of Commissioners, or in the absence of the Clerk, the Assistant Clerk, or in the absence of both, the County Administrator to provide notice to the agent for the petitioners of the time, date, and place of the hearing.

In accordance with Sections 709.03(A) or 709.024(E) of the ORC, the Clerk of the Board of Commissioners, or in the absence of the Clerk, the Assistant Clerk, or in the absence of both, the County Administrator, shall provide this notice immediately after the date of the hearing is determined.

Section 1.3            Notification to the Board and Entry of the Hearing Date in the Journal

Upon setting the date, time, and place of the hearing pursuant to Section 709.03(A) of the ORC, the Clerk of the Board of Commissioners, or in the absence of the Clerk, the Assistant Clerk, or in the absence of both, the County Administrator, shall inform the Board, at its next regular session, of the date, time and place of the hearing, and the Board shall cause this information to be entered in the journal.

Vote on Motion            Mrs. Martin            Aye            Mr. Wuertz            Aye            Mr. Ward            Aye

RESOLUTION NO. 02-862

IN THE MATTER OF ESTABLISHING GENERAL ORDERS FOR THE HEARING OF  
ANNEXATION PETITIONS:

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the following:

Whereas, Amended Substitute Senate Bill 5 (Senate Bill 5) of the 124<sup>th</sup> General Assembly has been passed by the General Assembly and signed by the Governor, and

Whereas, it is appropriate for the County to establish Guidelines and Procedures regarding the processing of annexation petitions that are consistent with the provisions of Senate Bill 5, and

Whereas, these procedures will help to insure compliance with the law and appropriate public involvement with the annexation process:

Therefore be it Resolved by the Board of Commissioners of Delaware County:

Section 1.0            Filing of Annexation Petition

A complete petition for annexation pursuant to Section 709.02 of the Ohio Revised Code shall be filed by the agent for the petitioners with the Clerk of the Board of Commissioners, or in the absence of the Clerk, with Assistant Clerk, or in the absence of both, with the County Administrator, in the office of the Delaware County Commissioners. The original and seven copies of the petition shall be provided. For

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the purposes of this Resolution, Clerk of the Board of Commissioners, or in the absence of the Clerk, the Assistant Clerk, or in the absence of both, the County Administrator, are hereby designated to receive all filings related to any and all annexations. The Clerk of the Board of Commissioners, or in the absence of the Clerk, the Assistant Clerk, or in the absence of both, the County Administrator, shall time stamp each document and return one copy to the agent for the petitioners.

A complete petition must include a letter from the Delaware County Engineer stating the petition, description, and map or plat has been reviewed by the Engineer's Office and complies with ORC 709.02.

Section 1.1 Form of Annexation Petition

The petition, when filed, shall be in the form and comply with the provisions of ORC 709.02. Failure to file a complete petition in any respect shall be fatal to the petition and be cause for its dismissal.

Section 1.2 Filing Fee

At the time of filing, the agent for the petitioners shall pay a fee as established in Resolution No. 02-860.

Section 2.0 All Subsequent Filings

Any notice, request, or document associated with, or required to be filed with the Board that relates to an annexation shall have filed an original and seven copies with the Clerk of the Board of Commissioners, or in the absence of the Clerk, with the Assistant Clerk, or in the absence of both, with the County Administrator, in the office of the Delaware County Commissioners, who shall, upon receipt, time stamp all copies and return one copy to the filing entity.

Section 3.0 Notice of Publication

For the purpose of the notice required to be published by the agent pursuant to ORC 709.03(B)(3), the following newspaper is determined to be the newspaper of general circulation in this county: The Delaware Gazette.

Section 3.1 Public Comment

Public Comment regarding a petition for annexation will be accepted by the Board during the session of the Board when the petition appears on the agenda as an item of business. The Board president shall have the discretion to limit comment to that which is relevant and non-repetitive.

Section 4.0 Review of Petitions Filed Pursuant to Section 709.021 of the Ohio Revised Code

A petition filed pursuant to ORC 709.02, seeking annexation under one of the special procedures provided for in ORC 709.022, 709.023 or 709.024, shall be reviewed by the Board to determine whether the contents of the petition meet the statutory requirements of Divisions (C), (D), and (E) of ORC 709.02 and any other particular statutory requirements specific to the section under which it was filed. Failure to meet a requirement shall be fatal to the petition, and the Board shall pass a resolution specifically identifying the deficiency and dismissing the petition. A petition dismissed by the Board may be re-filed at any time upon the correction of the deficiency.

Section 5.0 Annexation Hearing

A hearing before the Board shall be held pursuant to ORC 709.024(E) or 709.03. The hearing shall be public. The hearing shall commence upon the time and date established by the Board; however, it may be continued until its completion at the discretion of the Board.

Section 5.1 Personal Testimony

Any person providing testimony to the Board shall first be sworn.

Section 5.2 Affidavit Testimony

Affidavit testimony will be accepted by the Board, but only if the filing of the affidavit has complied with ORC 709.032(C).

Section 5.3 Rights Conferred by Statute

Ohio law provides certain persons with various opportunities to request that certain actions be taken with regard to an annexation petition or hearing. These requests shall be made in writing and filed in the Commissioners' Office with the Clerk of the Board of Commissioners, in the absence of the Clerk, with Assistant Clerk, or in the absence of both, with the County Administrator. The Commissioners' Office

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may provide a form upon which these requests must be submitted. These requests include:

- Withdrawal of signature, pursuant to ORC 709.03(C)
- Amendment of the petition, pursuant to ORC 709.031(B)
- Challenge of proof of authority to sign, pursuant to ORC 709.032(C)
- Request for the issue of subpoena, pursuant to ORC 709.032(B)
- Request for official court reporter, pursuant to ORC 709.032(B)
- Request for hearing transcript, pursuant to ORC 709.032(B)

Section 5.4      Record of Hearing

Unless otherwise requested pursuant to ORC 709.032(B), the official record of the hearing shall be the transcript taken by the court reporter.

Section 5.5      Request for Copy of the Record

When a hearing is continued upon recess for the day of the hearing, a necessary party may request a copy of the transcript of the hearing conducted on that day. A copy of the transcript of the complete hearing will be provided to any person making a written request to the court reporter’s company. A person requesting a copy of a transcript shall pay the actual cost for the preparation of the copy.

Section 5.6      Order of Hearing

The hearing before the Board will be conducted as follows:

- A.      Opening statements
- B.      Challenges to validity of petition signatures
  - 1.    Owner’s request to void petition signature
  - 2.    Challenges to proof of authority of person to sign
- C.      Determination of the validity of the petition
- D.      Disposition of procedural matters.
- E.      Presentation of the case by the parties
  - 1.    Agent for the petitioners’ case
  - 2.    Municipality’s case
  - 3.    Township’s case (or townships’ cases, if more than one is involved)
- F.      Testimony from any other person wishing to support or contest the petition
- G.      Closing statements
- H.      Adjournment of hearing

Section 5.7      Continuance of Hearing

The Board may, within its discretion, continue a hearing. The necessity and timing of a continuance will be based upon consultation with the necessary parties in an attempt to be fair to all parties. A continuance will be granted in order to ensure that the hearing is completed in a timely manner and that all parties are given a reasonable opportunity to prepare for and present their case.

The Board may require the agent for the petitioners to advertise the date and time of the continued hearing, between 20 and 30 days prior to the hearing, in the newspaper of general circulation.

Section 5.8      Post-hearing Briefs (If ordered by the Board)

Necessary parties to the hearing may be asked to file a post-hearing brief which will be incorporated into the record as a non-evidentiary exhibit. A post-hearing brief will be accepted within 14 days after the adjournment of the hearing. The Applicant will supply four (4) copies of the post-hearing brief along with an electronic copy filed with the Commissioners’ Office. The brief should contain:

- A.      Proposed findings of fact on each of the conditions for annexation as requested in either ORC 709.024(F) or 709.033(A).
- B.      References to the hearing testimony or exhibits, which support those findings.
- C.      Recommendation as to the decision of the Board.

Section 5.9      Decision of the Board

The Board shall render its decision within 30 days after the adjournment of the hearing.

Vote on Motion              Mr. Wuertz      Aye      Mrs. Martin      Aye      Mr. Ward      Aye

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**7:45 PM RECONVENING THE PUBLIC HEARING FOR ANNEXATION OF 482.762 ACRES FROM TROY TOWNSHIP TO THE CITY OF DELAWARE:**

It was moved by Mrs. Martin, seconded by Mr. Ward to open the Hearing at 7:50PM.

Vote on Motion                      Mr. Ward                      Aye                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye

**RESOLUTION NO. 02-864**

**IN THE MATTER OF CLOSING THE PUBLIC HEARING FOR ANNEXATION OF 482.762 ACRES FROM TROY TOWNSHIP TO THE CITY OF DELAWARE:**

It was moved by Mr. Ward, seconded by Mrs. Martin to close the Hearing at 7:55PM.

Vote on Motion                      Mr. Ward                      Aye                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye

**RESOLUTION NO. 02-865**

**IN THE MATTER OF WITHDRAWING THE PETITION FOR ANNEXATION OF 482.762 ACRES FROM TROY TOWNSHIP TO THE CITY OF DELAWARE:**

It was moved by Mr. Ward, seconded by Mrs. Martin to approve the withdrawing of the petition for annexation of 482.762 acres from Troy Township To The City Of Delaware.

Vote on Motion                      Mrs. Martin                      Aye                      Mr. Wuertz                      Aye                      Mr. Ward                      Aye

**RESOLUTION NO. 02-866**

**8:00 PM PUBLIC HEARING IN CONNECTION WITH THE ISSUANCE OF HEALTH CARE FACILITIES REVENUE BONDS FOR EPISCOPAL RETIREMENT HOMES, INC., BY THE COUNTY OF HAMILTON, OHIO; AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS:**

It was moved by Mrs. Martin, seconded by Mr. Ward to open the Hearing at 8:00PM.

Vote on Motion                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye                      Mr. Ward                      Aye

**RESOLUTION NO. 02-867**

**IN THE MATTER OF CLOSING THE PUBLIC HEARING FOR THE ISSUANCE OF HEALTH CARE FACILITIES REVENUE BONDS FOR EPISCOPAL RETIREMENT HOMES, INC., BY THE COUNTY OF HAMILTON, OHIO; AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS:**

It was moved by Mr. Ward, seconded by Mrs. Martin to close the Hearing at 8:10PM.

Vote on Motion                      Mr. Ward                      Aye                      Mr. Wuertz                      Aye                      Mrs. Martin                      Aye

**RESOLUTION NO. 02-868**

**AUTHORIZING THE COUNTY OF DELAWARE, OHIO TO EXECUTE AND DELIVER A PUBLIC HOSPITAL AGENCIES AGREEMENT IN CONNECTION WITH THE ISSUANCE OF HEALTH CARE FACILITIES REVENUE BONDS (EPISCOPAL RETIREMENT HOMES, INC.), BY THE COUNTY OF HAMILTON, OHIO; AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS:**

It was moved by Mrs. Martin, seconded by Mr. Ward to approve the following:

WHEREAS, Episcopal Retirement Homes, Inc. (the “Corporation”), an Ohio nonprofit corporation, plans to undertake the financing the acquisition, construction and equipping of “Hospital Facilities” (as that term is defined in Section 140.01, Ohio Revised Code), consisting of (a) the purchase and development of approximately 133 acres of land located at the south side of Hyatts Road starting approximately 2811.67 feet east of CL Taggart Road and the construction thereon of a continuing care retirement community (the “Delaware County Project”) located within the County of Delaware, Ohio (the “County”), (b) the acquisition and construction of improvements to the Corporation’s facilities which constitute Hospital Facilities located within the County of Hamilton, Ohio (“Hamilton County”) and (c) the refunding of certain existing indebtedness of the Corporation (the “Existing Indebtedness”) incurred to finance Hospital Facilities and has represented to the County and Hamilton County that it would be more economical and efficient to have one political subdivision of the State of Ohio issue revenue bonds on behalf of the County and Hamilton County; and



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WHEREAS, Section 140.03, Ohio Revised Code, provides a procedure by which the County and Hamilton County may enter into an agreement pursuant to which Hamilton County may issue its bonds for projects which constitute Hospital Facilities located in the County; and

WHEREAS, Hamilton County proposes to issue its Health Care Facilities Revenue Bonds (Episcopal Retirement Homes, Inc.) (the "Bonds"), in one or more series in an aggregate principal amount estimated not to exceed \$120,000,000 to (a) acquire and construct the Delaware County Project, (b) reimburse the Corporation for capital expenditures it has made with respect to Hospital Facilities located in Hamilton County, (c) acquire and construct Hospital Facilities improvements to its facilities in Hamilton County, and (d) refund the Existing Indebtedness on behalf of the County and Hamilton County, and the County and Hamilton County plan to enter into such an Agreement (the "Public Hospital Agencies Agreement") in connection with the issuance of the Bonds;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Delaware County, Ohio:

SECTION 1. That at least two members of the Board of County Commissioners be and they are hereby authorized and directed to execute and enter into on behalf of the County of Delaware, Ohio, a Public Hospital Agencies Agreement with Hamilton County to facilitate the issuance of the Bonds for the purpose of financing, acquiring and constructing additional Hospital Facilities and refunding the Existing Indebtedness.

SECTION 2. That the Public Hospital Agencies Agreement authorized in Section 1 of this resolution shall be substantially in the form presented to the Board and on file with the Clerk, and it is hereby determined, based solely on representations of the Corporation, that such Public Hospital Agency Agreement will promote the public purpose stated in Section 140.02 of the Ohio Revised Code, and the County of Delaware, Ohio will be duly benefited thereby.

SECTION 3. That the Public Hospital Agencies Agreement will provide that in connection with the issuance of the Bonds the Corporation will enter into a lease agreement and a sublease with the Hamilton County for Hospital Facilities located within the County. Hamilton County is authorized to execute an indenture with a corporate trustee authorizing and securing the Bonds.

SECTION 4. That at least two members of the Board of County Commissioners be and they are hereby authorized and directed to execute and deliver such other certificates, documents and instruments in connection with the issuance and public sale of the Bonds, financing, acquiring and constructing of the Hospital Facilities and refunding of the Existing Indebtedness as may be required, necessary or appropriate, including, without limitation, conveyances of title to real and personal property, and terminations of financing statements and other releases of security interests in property. Such documents including the one specifically authorized hereby, shall be subject to such changes, insertions and omissions as may be approved by the Board, which approval shall be conclusively evidenced by the execution thereof by the members of this Board.

SECTION 5. That this Board of County Commissioners, as the "applicable elected representative" of the County for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended, hereby approves the issuance of the Bonds in the maximum principal amount of not to exceed \$120,000,000, the proceeds of which will be used (a) to refund and retire the Existing Indebtedness, (b) to acquire approximately 133 acres of land on the south side of Hyatts Road, starting approximately 2811.67 feet east of CL Taggart Road upon which the Corporation intends to construct 150 manor homes, 100 independent living units, 40 assisted living units and 34 to 40 nursing care units which project constitutes Hospital Facilities.

SECTION 6. It is found and determined that all formal actions of this Board concerning and relating to the adoption of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board any of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22, Ohio Revised Code.

**PUBLIC HOSPITAL AGENCIES AGREEMENT  
BETWEEN COUNTY OF HAMILTON, OHIO  
AND THE COUNTY OF DELAWARE, OHIO**

THIS AGREEMENT is made and entered into as of the 1st day of July, 2002, by and between the COUNTY OF HAMILTON, OHIO, acting by and through its Hospital Commission (the "Issuer") and the COUNTY OF DELAWARE, OHIO, each of which are political subdivisions of the State of Ohio constituting "public hospital agencies" as that term is defined in Section 140.01, Ohio Revised Code, including the Issuer, being herein referred to collectively as the "Public Hospital Agencies", which have heretofore adopted or will, by appropriate resolutions, approve participation in a financing program for EPISCOPAL RETIREMENT HOMES, INC., an Ohio nonprofit corporation (the "Corporation") which constitutes a "nonprofit hospital agency" as that term is defined in Section 140.01, Ohio Revised Code, further described herein (the "Program"), in order to finance Hospital Facilities as that term is defined in Section 140.01, Ohio Revised Code, for the benefit of the Corporation.

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WHEREAS, pursuant to the Constitution and Laws of the State of Ohio, and particularly Chapter 140, Ohio Revised Code, Ohio political subdivisions are authorized to issue revenue obligations, as that term is defined in Section 140.01 of the Ohio Revised Code, in one or more series, for the purpose of paying all or part of the cost of Hospital Facilities, as that term is defined in Section 140.01 of the Ohio Revised Code, and to lease such Hospital Facilities to the Corporation, which lease must provide for the rentals by the Corporation sufficient to amortize the debt service on such revenue obligations; and

WHEREAS, the Public Hospital Agencies are authorized by Section 140.03, Ohio Revised Code to cooperate and act jointly in exercising powers, privileges, and authority capable of exercise by the Public Hospital Agencies in their respective individual capacities; and

WHEREAS, it is determined and declared that it is necessary and for the best interests of the citizens, residents, and inhabitants of the respective jurisdictions served by the Public Hospital Agencies, that the Public Hospital Agencies cooperate in taking action to:

(a) Provide for and promote the public health, safety, and general welfare of the jurisdictions served by the Public Hospital Agencies by the adoption and implementation of the Program, so that the Corporation may finance the costs of Hospital Facilities, including reimbursement of such costs, qualifying under Chapter 140, Ohio Revised Code, to promote the public purpose set forth in Section 140.02, Ohio Revised Code; and

(b) Carry out such Program, to lessen the cost of patient care and provide a savings to third parties and others who must pay for such care; and

WHEREAS, the Program and this Agreement will better provide for the health and welfare of the people of the State of Ohio by enhancing the availability, efficiency and economy of Hospital Facilities and the services rendered thereby; and

WHEREAS, it is necessary, desirable, and authorized by Chapter 140, Ohio Revised Code that such Public Hospital Agencies approve the issuance by the Issuer of revenue obligations to provide funds needed for the Program; and

WHEREAS, it is deemed advisable that the Public Hospital Agencies enter into this Agreement to provide for the issuance of revenue obligations by the Issuer, in one or more series, to finance the Program and this Agreement and the Program will promote the public purposes stated in Section 140.02, Ohio Revised Code; and

WHEREAS, pursuant to the Program, the Issuer intends to issue its Health Care Facilities Revenue Bonds, in one or more series, in order to finance and/or refinance the acquisition, construction, renovation, improvement and/or equipping of certain facilities constituting Hospital Facilities, for the benefit of the Public Hospital Agencies;

NOW, THEREFORE, THE COUNTY OF DELAWARE, OHIO AND THE COUNTY OF HAMILTON, OHIO HEREBY AGREE AS FOLLOWS:

**ARTICLE I**

**ISSUANCE OF OBLIGATIONS BY PUBLIC HOSPITAL AGENCIES**

The Public Hospital Agencies hereby jointly associate for the purpose of consenting to the issuance by the Issuer, of revenue obligations, in one or more series (the "Obligations"), to finance the Program (as defined in the Preambles hereto) within their respective boundaries, pursuant to Chapter 140, Ohio Revised Code. Each of the Public Hospital Agencies has adopted a resolution authorizing the execution by the Issuer of a trust indenture with a trustee (the "Trustee") authorizing and securing the Obligations and the execution of all other necessary documentation.

The Hospital Facilities in each jurisdiction financed from the proceeds of the Obligations have been or shall be subleased pursuant to the provisions of Section 140, Ohio Revised Code, by the Issuer to the Corporation and the proceedings authorizing such Obligations may provide for the pledging of all or any part of the hospital receipts, as defined in Section 140.01, Ohio Revised Code (the "Hospital Receipts"), and the investment income therefrom, to be received by or on behalf of the Issuer pursuant to such sublease agreements entered into in connection with the issuance of the Obligations, and such proceedings may provide that, as security for the Obligations, the Issuer agrees to pledge, and/or grant security interests in such Hospital Receipts, and in any other funds or revenues contributed to or received by the Issuer in connection with such Program; such pledged Hospital Receipts to be assigned to the Issuer.

The Public Hospital Agencies specifically authorize the Issuer to carry out all actions necessary to implement the Program and issue the Obligations, and the Issuer hereby accepts the appointment of it to act in such capacity.

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Each Public Hospital Agency hereby acknowledges that no Public Hospital Agency, except for the Issuer, shall have any duty or obligation, other than those set forth herein, with respect to the Obligations, the implementation of the Program, any other Public Hospital Agency or the Corporation. Further, each Public Hospital Agency acknowledges that no Public Hospital Agency, other than the Issuer, is required to make any contribution under this Agreement pursuant to Chapter 140, Ohio Revised Code.

ARTICLE II

ADDRESSES AND PLACES OF BUSINESS

The principal offices and places of business of the Public Hospital Agencies shall be as follows:

Issuer:	Hamilton County Hospital Commission 2100 Sherman Avenue, Suite 100 Cincinnati, Ohio 45212 <u>Attn:</u> Secretary
County of Delaware:	County of Delaware, Ohio 101 North Sandusky Street Delaware, Ohio 43015-1732 <u>Attn:</u> Clerk, Board of County Commissioners

ARTICLE III

DURATION

This Agreement shall be effective from and after its execution by the Public Hospital Agencies. The duration of this Agreement from and after said effective date shall be until the date of final payment and retirement of all Obligations issued by the Issuer pursuant to this Agreement and the satisfaction by the Issuer and the Corporation of all obligations and commitments pertaining to the Obligations. Pursuant to this Agreement the Issuer may issue one or more series of Obligations which are in furtherance of the Program for an indefinite term.

Other Ohio political subdivisions may be added as parties to this Agreement with the consent of the Issuer and become Public Hospital Agencies. Notwithstanding Article VII, the approval of the other Public Hospital Agencies shall not be required to add another Ohio political subdivision as a Public Hospital Agency, but such new Public Hospital Agency must have within its jurisdiction facilities which are owned or operated by the Corporation.

ARTICLE IV

NO SEPARATE GOVERNING BODY; COSTS

There shall be no separate governing body of this Agreement. The Agreement is undertaken jointly by the Public Hospital Agencies, and all actions pursuant to this Agreement shall be undertaken jointly and based upon the cooperative efforts and undertakings of the Public Hospital Agencies, with all proceedings and documents being signed by authorized representatives of the Issuer, and the Obligations may be executed with the manual or facsimile signature of the appropriate official or officials of the Issuer.

The financing and staffing for the Program shall be provided from the proceeds from the sale of the Obligations, earnings thereon, Hospital Receipts from the Corporation and fees paid in connection with the Program, and the Public Hospital Agencies shall not be obligated to provide funds for the Program from any other sources, and shall not be required to establish and maintain a budget for the Program.

ARTICLE V

PURPOSE; OBJECTS; POWERS

The purpose of this Agreement, its objects, and the joint powers of the Public Hospital Agencies hereunder, shall be as follows:

- (a) To adopt jointly the Program, as set out in the Preambles hereto, and to take such steps as may be deemed to be reasonably necessary for the promotion of the public health, safety, and general welfare of the citizens and inhabitants of the jurisdictions served by the Public Hospital Agencies in connection therewith.
- (b) To finance the Program through the issuance of Obligations, notes, or other evidences of indebtedness or obligations under Section 140.01, Ohio Revised Code, by the Issuer, and to evidence such obligations in any legal manner.
- (c) To cooperate with each other and with any other governmental agency in accomplishing any of the

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stated purposes of this Agreement, including the holding of joint public hearings.

(d) To do all of the foregoing and generally to take any and all action necessary and incident to the general purposes of this Agreement and as may be necessary or desirable to carry out the purposes of the Program.

(e) No Public Hospital Agency shall have any power to issue certificates or shares or declare dividends, and this Agreement is not formed for and shall not be operated for profit of any private individual, partnership, corporation, or other entity, but is created solely to carry out the purposes and to exercise the powers set out above.

## ARTICLE VI

### GENERAL PROVISIONS

The parties further agree to the following general provisions:

(a) **Prohibition of Arbitrage.** The Issuer agrees that sums derived from the proceeds of the Obligations and from the revenues, Obligations, and assets and Hospital Receipts pledged to the Obligations shall not be used or invested in a manner which would cause such Obligations to be treated as “arbitrage obligations” within the meaning of Sections 103(b)(2) or 148 of the Internal Revenue Code of 1986, as amended.

(b) **Limitation on Use of Proceeds of Obligations and Revenues Derived in Connection with the Issuance of Revenue Obligations.** All of the proceeds of the Obligations and of the Hospital Receipts shall be used exclusively for the purposes herein set out, including payment of expenses incidental thereto; no part of the proceeds of the Obligations, the investment income derived therefrom, or the revenues securing the Obligations shall inure to the benefit of any representative of any of the Public Hospital Agencies, and shall not inure to the benefit of any private shareholder or individual.

## ARTICLE VII

### TERMINATION OF AGREEMENT; WITHDRAWAL OF PUBLIC HOSPITAL AGENCIES; AMENDMENTS

(a) Any Public Hospital Agency may terminate this Agreement and withdraw from the proposed Program at any time prior to the issuance of the Obligations or other obligations of the Public Hospital Agencies, upon thirty days’ written notice to the other Public Hospital Agencies, and may otherwise withdraw upon such Notice upon the following conditions:

(1) Such termination at that time shall not, in the opinion of recognized Bond Counsel, constitute an act of default in connection with any outstanding Obligations; and

(2) Provisions as to the written satisfaction of the rights of holders of such Obligation and the other Public Hospital Agencies, by the firm of Bond Counsel employed by the Issuer, shall be made for the protection of the holders of the Obligations and of the Trustee designated in the proceedings authorizing such Obligations;

(b) Provided, further, that the Public Hospital Agencies shall have the right at any time, to agree on any other method of partial or complete termination, to whatever extent may be permissible, in the opinion of recognized Bond Counsel, without adversely affecting the rating or status of the Obligations, the exemption of interest thereon from taxation, or other rights of the holders of such Obligations; and

(c) This Agreement may be amended at any time upon written consent of all Public Hospital Agencies, including, without limitation, amendments which add additional public hospital agencies as parties to this Agreement, in accordance with Article III hereof.

## ARTICLE VIII

### OBLIGATIONS SHALL NOT CONSTITUTE GENERAL OBLIGATION INDEBTEDNESS OF PUBLIC HOSPITAL AGENCIES, AND NO OFFICIAL SHALL HAVE ANY PERSONAL LIABILITY FOR OBLIGATIONS OR ANY INDEBTEDNESS IN CONNECTION THEREWITH

Obligations issued pursuant to this Agreement shall be revenue obligations of the Issuer, payable solely from and secured by a pledge of the proceeds of the Obligations until disbursed, the investment of such proceeds (including loans purchased with such proceeds), and all revenues, funds, proceeds of insurance, and other assets pledged under the trust indenture authorizing and securing the Obligations, which amount shall be pledged to be set aside as a special fund or funds for that purpose, and such Obligations shall not constitute general obligations, debt or bonded indebtedness of the Issuer or any Public Hospital Agency within the meaning of the Constitution

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and laws of the State of Ohio and the holders or owners thereof shall not be given the right, and shall have no right, to have excises or taxes levied for the payment of obligation service charges.

None of the officials of the Public Hospital Agencies, or of any of the members of the legislative bodies of the jurisdictions served by the Public Hospital Agencies or their officers or employees, shall be liable in their personal capacities on such Obligations, obligation proceedings, other agreements or the contract created pursuant to this Agreement.

This Agreement shall be construed and enforced in accordance with the laws of the State of Ohio.

This Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original constituting but one and the same instrument.

Vote on Motion                Mrs. Martin                Aye                Mr. Wuertz                Aye                Mr. Ward                Aye

RESOLUTION NO. 02-869

IN THE MATTER OF POSTPONING THE PUBLIC HEARING IN CONNECTION WITH THE  
ISSUANCE OF REVENUE BONDS OF THE RICKENBACKER PORT AUTHORITY, OHIO; AND  
AUTHORIZING OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH  
BOND:

It was moved by Mrs. Martin, seconded by Mr. Ward to postpone the hearing to July 29, 2002 at 7:30PM.

Vote on Motion                Mr. Wuertz                Aye                Mrs. Martin                Aye                Mr. Ward                Aye

There being no further business the meeting adjourned.

\_\_\_\_\_  
Deborah B. Martin

\_\_\_\_\_  
James D. Ward

\_\_\_\_\_  
Donald E. Wuertz

\_\_\_\_\_  
Letha George, Clerk to the Commissioners