

COMMISSIONERS JOURNAL NO. 46 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD DECEMBER 6, 2004

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

Present: Kristopher W. Jordan, Deborah B. Martin, James D. Ward

7:30 PM Final Hearing By The Commissioners For The Highland Lakes East Section 4 Parts 2, 3, 4, & 5 Subdivision Ditch Project (Lake Forest Way Residents Association)

7:45 PM Final Hearing By The Commissioners For The Orchard Lakes Phases 1-2-3 Subdivision Ditch Project

PUBLIC COMMENT

RESOLUTION NO. 04-1471

IN THE MATTER OF APPROVING THE RESOLUTIONS AND RECORDS OF THE PROCEEDINGS FROM REGULAR MEETING HELD DECEMBER 2, 2004 AS CONTAINED IN THE COUNTY'S OFFICIAL ELECTRONIC RECORDINGS OF THE PROCEEDINGS:

It was moved by Mr. Jordan, seconded by Mrs. Martin to approve the resolutions and records of the proceedings from regular meeting held December 2, 2004 as contained in the county's official electronic recordings of the proceedings.

Vote on Motion Mrs. Martin Aye Mr. Jordan Aye Mr. Ward Abstain

RESOLUTION NO. 04-1472

IN THE MATTER OF APPROVING PURCHASE ORDERS, VOUCHERS AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR123:

It was moved by Mr. Jordan, seconded by Mr. Ward to approve payment of warrants in batch numbers CMAPR123, and Purchase Orders and Vouchers as listed:

<u>Vendor</u>	<u>Description</u>	<u>Account Number</u>	<u>Amount</u>
PO's			
Bd of Dev Disabilities	Board & Care	10011501-5350	\$ 15,000.00
Commissioners	Postage	22411605-5331	\$ 5,600.00
Riley Homes Ltd.	Reimbursement for Tap Fees	65211905-5415	\$ 2,990.00
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Increases			
US Postal Service	Postal Service for Del County	10011105-5331	\$ 20,000.00
Decrease			
AEP	Electric Utility Service	10011105-5338	\$ 20,000.00
Vouchers			
Del Area Career Center	ABLE	22411603-5348	\$ 5,103.00
Barefoot and Case	Repair of Pump at Peachblow	65211905-532832810	\$ 6,767.00
AEP	Electric Utility Service	65211905-533833802	\$ 30,363.01
US Filter	Bioxide	65211905-5290	\$ 5,250.00

Vote on Motion Mr. Jordan Aye Mrs. Martin Abstain Mr. Ward Aye

RESOLUTION NO. 04-1473

SETTING DATE AND TIME FOR VIEWING AND PUBLIC HEARING FOR CONSIDERATION OF A DITCH PETITION FILED BY JAMIE STABL AND OTHERS FOR THE PARKSHORE SECTIONS 1-2-4 SUBDIVISION DITCH MAINTENANCE PROJECT:

It was moved by Mr. Ward, seconded by Mr. Jordan to adopt the following resolution:

WHEREAS, on this 6th day of December, 2004, the Clerk of this Board gave notice to the Board of County Commissioners and the County Engineer of Delaware County, Ohio, on the filing with her of a petition signed by Jamie Stabl (representing the homeowners association) and other petitioners, to:

1. Replace, repair or alter the existing improvements as required.
2. To maintain these improvements.

WHEREAS, the proper bond has been filed with the clerk, approved, conditioned for the payment of costs of notices, plus any other incidental expenses, except the cost incurred by the Engineer in making his preliminary

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reports, if the prayer of this petition is not granted, or if the petition is for any cause dismissed, unless the Board decides to pay the Engineer's cost from the bond in accordance with Section 6131.09 of the Revised Code;

THEREFORE, BE IT RESOLVED, BY THE Board of County Commissioners, that the **31st day of January, 2005, at 1:30 PM** at 6266 Westwick PL. Lewis Center, Ohio 43035, be and the same is hereby fixed as the time and place for the view thereon, and

BE IT FURTHER RESOLVED, That the **7th day of March, 2005, at 7:30 PM** at the Office of the Board of County Commissioners, 101 North Sandusky Street Delaware, Ohio be and the same is hereby fixed as the time and place for the first hearing on the petition, and

BE IT FURTHER RESOLVED, that notice of said view and hearing be given, as required by law.

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

RESOLUTION NO. 04-1474

SETTING DATE AND TIME FOR VIEWING AND PUBLIC HEARING FOR CONSIDERATION OF A DITCH PETITION FILED BY ERIC M. SMITH AND OTHERS FOR THE WILLOW SPRINGS NORTH SUBDIVISION DITCH MAINTENANCE PROJECT:

It was moved by Mr. Jordan, seconded by Mr. Ward to adopt the following resolution:

WHEREAS, on this 6th day of December, 2004, the Clerk of this Board gave notice to the Board of County Commissioners and the County Engineer of Delaware County, Ohio, on the filing with her of a petition signed by Eric M. Smith (representing the homeowners association) and other petitioners, to:

1. Replace, repair or alter the existing improvements as required.
2. To maintain these improvements.

WHEREAS, the proper bond has been filed with the clerk, approved, conditioned for the payment of costs of notices, plus any other incidental expenses, except the cost incurred by the Engineer in making his preliminary reports, if the prayer of this petition is not granted, or if the petition is for any cause dismissed, unless the Board decides to pay the Engineer's cost from the bond in accordance with Section 6131.09 of the Revised Code;

THEREFORE, BE IT RESOLVED, BY THE Board of County Commissioners, that the **7th day of February, 2005, at 1:30 PM** at 3306 Arctic Ave. Lewis Center, Ohio 43035, be and the same is hereby fixed as the time and place for the view thereon, and

BE IT FURTHER RESOLVED, That the **4th day of April, 2005, at 7:30 PM** at the Office of the Board of County Commissioners, 101 North Sandusky Street Delaware, Ohio be and the same is hereby fixed as the time and place for the first hearing on the petition, and

BE IT FURTHER RESOLVED, that notice of said view and hearing be given, as required by law.

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

RESOLUTION NO. 04-1475

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

The Court of Common Pleas is requesting that Lorrie Richards and Carolee Gilkey attend a Professional Development and Expert Communication Seminar in Columbus, Ohio December 15, 2004, at the cost of \$298.00.

The Emergency Services Department is requesting that Larry Fisher and John Tracy attend a Seminar on "Change Orders in Ohio" in Columbus, Ohio January 25, 2005, at the cost of \$618.00.

The Emergency Services Department is requesting that Todd Barstow attend an Exercise Design and Evaluation Training Course at the Ohio EPA January 25-27, 2005, at no cost.

The Emergency Services Department is requesting that Todd Barstow attend an CERT & Citizens Corps Program Conference in Columbus, Ohio January 19-20, 2005, at no cost.

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

RESOLUTION NO. 04-1476

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IN THE MATTER OF GRANTING THE ANNEXATION PETITION OF 6.995 ACRES OF LAND IN GENOA TOWNSHIP TO THE CITY OF WESTERVILLE:

It was moved by Mr. Jordan, seconded by Mr. Ward to address the following:

Whereas, on November 8, 2004, the Clerk to the Board of the Delaware County Commissioners received an annexation petition filed by Eugene L. Hollins Esquire, agent for the petitioners, of 6.995 Acres, more or less, in Genoa Township to the City of Westerville.

Whereas, ORC Section 709.16- Annexations by Petition of Municipality for Municipal, County or State Owned Land- states that within 30 days after filing of annexation, the Board shall enter upon its journal a resolution acting on the proposed annexation.

Therefore, Be It Resolved, the Delaware County Board of Commissioners grants the annexation petition request to annex 6.995 Acres, more or less, in Genoa Township to the City of Westerville.

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

RESOLUTION NO. 04-1477

IN THE MATTER OF APPROVING SUBDIVIDER'S AGREEMENTS FOR SUMMERWOOD EXTENSION AND PRE-GRADING PLAN FOR "TARTAN FIELDS – SAUNDERS TRACT":

It was moved by Mr. Ward, seconded by Mr. Jordan to approve the following agreements:

Summerwood Extension

SUBDIVIDER'S AGREEMENT

THIS AGREEMENT executed on this 6th day of December 2004, between **SUMMERWOOD/DELAWARE DEVELOPMENT, LLC**, as evidenced by the **SUMMERWOOD EXTENSION** Construction plans filed with the **Delaware County Engineer**, Delaware County, Ohio and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** is governed by the following considerations, 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** shall, at the time of plat approval, execute bond, certified check, irrevocable letter of credit or other approved financial warranties equal to the cost of any remaining construction as shown in the Engineer's Estimate approved 8/26/04, 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 all improvements.

The **SUBDIVIDER** shall indemnify and save harmless the **County, Townships and/or Villages** and all of their officials, employees or 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 actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method 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 year from the date of the approval of said subdivision by the **COUNTY COMMISSIONERS**. But an 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 plans and specifications and shall have the 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.

If no bonding or performance surety has been filed, then no subdivision plat will be approved until a performance bond has been approved or until all public improvements have been made. In either case, the **SUBDIVIDER** further agrees that any violations or non-compliance 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.

If a subdivision plat has been approved with the necessary bonding, then the **COUNTY** shall have the right to act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

ROADWAY AND STORM DRAINAGE

It is further agreed that upon execution of the **AGREEMENT**, the **SUBDIVIDER** shall deposit **ONE HUNDRED FORTY SIX THOUSAND SIX HUNDRED DOLLARS** estimated to be necessary to pay the cost of

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inspection by the **Delaware County Engineer** and, if deemed necessary by the **Delaware County Engineer**, testing by an independent laboratory. When the fund has been depleted to **thirty percent (30%)** of the original amount deposited, the **SUBDIVIDER** shall replenish the account, upon notice by the **Delaware County Engineer**. Upon completion and acceptance of the construction, the remaining amount in the fund shall be returned to the **SUBDIVIDER**, with the exception of a nominal amount for the final inspection at the end of the maintenance period.

The **County** reserves the right during construction and thereafter to permit connection of adjoining properties within the original drainage basin to the storm sewer system.

Upon completion of construction, the **SUBDIVIDER** shall be responsible for the maintenance, repair or reconstruction of any and all defective materials or workmanship for a period of one year. Said **SUBDIVIDER'S** bond or certified check or irrevocable letter of credit may be reduced to an amount estimated by the **County Engineer** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance to the **Ohio Department of Transportation Specifications**.

Acceptance of the roads and drainage structures in said subdivision into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **SUBDIVIDER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

Any snow and ice removal or other safety requirements deemed necessary by the **County Engineer** during the period of construction or maintenance shall be the responsibility of the **SUBDIVIDER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

CONSTRUCTION

The **SUBDIVIDER** shall, within thirty (30) days following the completion of construction and prior to final acceptance, furnish to **Delaware County**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **County** and remain in the office of the **Delaware County Engineer**.

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 material incident to said construction of improvements.

The **SUBDIVIDER** shall, during 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 the improvements and for their continued operation. The **SUBDIVIDER** shall be responsible for all utility charges and installation costs. 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 **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants the **SUBDIVIDER** or his agent the right and privilege to make the improvements stipulated herein.

Pre-Grading Plan For "Tartan Fields – Saunders Tract"

SUBDIVIDER'S AGREEMENT

THIS AGREEMENT made and entered into this 6th day of December 2004, by and between the **COUNTY OF DELAWARE** (acting by and through its **BOARD OF COUNTY COMMISSIONERS**), hereinafter called the **COUNTY**, and **NHG DEVELOPMENT GROUP, LTD.** hereinafter called the **SUBDIVIDER**, as evidenced by the Pre-Grading Plan for "**TARTAN FIELDS – SAUNDERS TRACT**" which was approved by the **County Engineer**, hereinafter called the **PLAN**, is governed by the following considerations, to wit:

1. The **SUBDIVIDER** is to perform said work as shown and set forth to be performed and completed on the **PLAN**, which is a part of this **AGREEMENT**.
2. The **SUBDIVIDER** shall pay the entire cost and expenses of said improvements.
3. The **SUBDIVIDER** shall deposit **EIGHTEEN THOUSAND SIX HUNDRED FORTY DOLLARS** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **thirty percent (30%)** of the original amount deposited, the **SUBDIVIDER** shall replenish the account, upon notice by the **Delaware County Engineer**. Upon completion and acceptance of the construction, the remaining amount in the fund shall be returned to the **SUBDIVIDER**.
4. The **SUBDIVIDER** is to complete all work to the satisfaction of the **COUNTY**.
5. The **SUBDIVIDER** shall hold the **COUNTY** free and harmless from any and all claims for damages of every nature arising or growing out of the construction of the said improvements.
6. The **SUBDIVIDER** will at all times during the construction of said improvements maintain through traffic on the public roadway and keep the same free of unreasonable hazards to the public. Said roadway shall not be

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closed to traffic except as approved by the **Delaware County Engineer**. Construction signs, barricades and lights shall be placed as needed on the job site in accordance with the **Ohio Department of Transportation “Uniform Traffic Control Devices”** and **“Traffic Control for Construction and Maintenance”**.

7. The **SUBDIVIDER** further agrees that any violation of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **Delaware County Engineer** shall have the right to stop work forthwith and use the surety for the completion of the improvement.

8. If the **SUBDIVIDER** should 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**.

9. Upon approval and acceptance of the improvements, the original copy of the **PLAN** shall become the property of the **COUNTY** and shall be filed in the office of the **Delaware County Engineer**.

10. In consideration whereof, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants to the **SUBDIVIDER** or his agent the right and privilege to make the said improvements stipulated herein.

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

RESOLUTION NO. 04 -1478

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

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

Permit #	Applicant	Location	Type of Work
U04189	American Electric Power	E. Powell Road	Replace/relocate 4 poles
U04190	American Electric Power	Joe Walker Road	Remove/install poles

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

RESOLUTION NO. 04-1479

IN THE MATTER OF ACCEPTING AND AWARING THE BID AND APPROVING THE CONTRACT WITH MAIDEN & JENKINS CONSTRUCTION COMPANY FOR THE COOK ROAD BRIDGE REPLACEMENT PROJECT:

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

Cook Road Bridge Replacement Project-Bid Opening of November 23, 2004

As the result of the above referenced bid opening, The Engineer recommends that a bid award be made to Maiden & Jenkins Construction Company of Nelsonville, Ohio, the low bidder for the project. A copy of the bid tabulation is available for your review.

CONTRACT

AGREEMENT, made and entered into this 6th day of December 2004, by and between the **DELAWARE COUNTY COMMISSIONERS**, Delaware County, Ohio, and hereinafter designated as **FIRST PARTY**, and **MAIDEN & JENKINS CONSTRUCTION COMPANY**, hereinafter designated as **SECOND PARTY**.

WITNESSETH, that said **SECOND PARTY**, for and in consideration of the sum of **THREE HUNDRED NINETY-THREE THOUSAND EIGHT HUNDRED DOLLARS** (\$393,800.00), 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 **COOK ROAD BRIDGE REPLACEMENT 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 **August 15, 2005**.

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.

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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 Mrs. Martin Aye Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 04-1480

IN THE MATTER OF APPROVING THE PROFESSIONAL SERVICES CONTRACT WITH HNTB OHIO INC. FOR SAFETY AND SERVICE IMPROVEMENTS TO THE INTERSECTION OF LEWIS CENTER ROAD (CR#106) AND SOUTH OLD STATE ROAD (CR#10):

It was moved by Mr. Jordan, seconded by Mr. Ward to approving the following contract:

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is entered into between Delaware County Commissioners, Delaware County, Ohio (Owner) and HNTB Ohio Inc. (HNTB), for the following reasons:

1. Owner intends to provide safety and level of service improvements to the intersection of Lewis Center Road (CR#106) and South Old State Road (CR#10); and,
2. Owner requires certain professional engineering services in connection with the Project; and,
3. HNTB is prepared to provide the Services.

In consideration of the promises contained in this Agreement, Owner and HNTB agree as follows:

ARTICLE 1 - EFFECTIVE DATE

The effective date of this Agreement shall be December 6, 2004.

ARTICLE 2 - GOVERNING LAW

This Agreement shall be governed by the laws of the State of Ohio.

ARTICLE 3 - SCOPE OF SERVICES

HNTB shall provide the Services described in Attachment A, Scope of Services.

ARTICLE 4 - SCHEDULE

HNTB shall exercise its reasonable efforts to perform the Services described in Attachment A according to the Schedule set forth in Attachment B.

ARTICLE 5 - COMPENSATION

Owner shall pay HNTB in accordance with Attachment C, Compensation.

Notwithstanding anything to the contrary in this Agreement or Attachment C, should the Services under this Agreement include products or services that are commercially priced by HNTB, such amounts shall be invoiced to Owner at the catalog price(s) offered by HNTB and are not subject to audit on the basis of costs incurred.

Invoices shall be due and payable upon within 30 days. Owner shall give prompt written notice of any disputed amount and shall pay the remaining amount.

ARTICLE 6 - OWNER'S RESPONSIBILITIES

Owner hereby grants HNTB the right to use the plans, documents or other materials it owns or has the right to use for the limited purpose of performing the Services.

ARTICLE 7 - STANDARD OF CARE

The same degree of care, skill, and diligence shall be exercised in the performance of the Services as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances. No other warranty, express or implied, is included in this Agreement or in any drawing, specification, report, opinion, or other instrument of service, in any form or media, produced in connection with the Services.

ARTICLE 8 - INDEMNIFICATION AND LIABILITY

General. Having considered the potential liabilities that may exist during the performance of the Services, the relative benefits and risks of the Project, and HNTB's fee for the Services, and in consideration of the promises contained in this Agreement, Owner and HNTB agree to allocate and limit such liabilities in accordance with this Article. Indemnification. HNTB agrees to indemnify and hold the Owner harmless from and against legal liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by HNTB's negligent acts, errors, or omissions arising out of its performance of the Services. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of HNTB and Owner, they shall be borne by each party in proportion to its own negligence.

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Survival. The terms and conditions of this Article shall survive completion of the Services, or any termination of this Agreement.

ARTICLE 9 - INSURANCE

During the performance of the Services under this Agreement, HNTB shall maintain the following insurance:

- (a) General Liability Insurance, with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
- (b) Automobile Liability Insurance, with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- (c) Workers' Compensation Insurance in accordance with statutory requirements and Employers' Liability Insurance, with a limit of \$500,000 for each occurrence.
- (d) Professional Liability Insurance, with a limit of \$1,000,000 annual aggregate.

HNTB shall, upon written request, furnish Owner certificates of insurance which shall include a provision that such insurance shall not be canceled without at least thirty days' written notice to Owner. Owner shall require all Project contractors to include Owner, HNTB, and its parent company, affiliated and subsidiary entities, directors, officers and employees, as additional insured on their General and Automobile Liability insurance policies, and to indemnify both Owner and HNTB, each to the same extent.

HNTB and Owner waive all rights against each other and their directors, officers, partners, commissioners, officials, agents, and employees for damages covered by property insurance during and after the completion of the Services. If the Services result in a construction phase of the Project, a similar provision shall be incorporated into all construction contracts entered into by Owner and shall protect Owner and HNTB to the same extent.

ARTICLE 10 - LIMITATIONS OF RESPONSIBILITY

HNTB shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project; (b) the failure of any contractor, subcontractor, vendor, or other Project participant, not under contract to HNTB, to fulfill contractual responsibilities to Owner or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to HNTB in Attachment A, Scope of Services.

In the event the Owner requests HNTB to execute any certificates or other documents, the proposed language of such certificates or documents shall be submitted to HNTB for review at least 15 days prior to the requested date of execution. HNTB shall not be required to execute any certificates or documents that in any way would, in HNTB's sole judgment, (a) increase HNTB's legal or contractual obligations or risks; (b) require knowledge, services or responsibilities beyond the scope of this Agreement; or (c) result in HNTB having to certify, guarantee or warrant the existence of conditions whose existence HNTB cannot ascertain.

ARTICLE 11 - OPINIONS OF COST AND SCHEDULE

Because HNTB has no control over the cost of labor, materials, or equipment furnished by others, or over the resources provided by others to meet Project schedules, HNTB's opinion of probable costs and of Project schedules shall be made on the basis of experience and qualifications as a practitioner of its profession. HNTB does not guarantee that proposals, bids, or actual Project costs will not vary from HNTB's cost estimates or that actual schedules will not vary from HNTB's projected schedules.

ARTICLE 12 - REUSE OF DOCUMENTS

All documents, including, but not limited to, drawings, specifications, and computer software prepared by HNTB pursuant to this Agreement are instruments of service in respect to the Project. They are not intended or represented to be suitable for reuse by Owner or others on modifications or extensions of the Project or on any other project. Any reuse without prior written verification or adaptation by HNTB for the specific purpose intended will be at Owner's sole risk and without liability or legal exposure to HNTB. Owner shall indemnify and hold harmless HNTB and its subconsultants against all judgments, losses, damages, injuries, and expenses, including reasonable attorneys' fees, arising out of or resulting from such reuse. Any verification or adaptation of documents will entitle HNTB to additional compensation at rates to be agreed upon by Owner and HNTB.

ARTICLE 13 - OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided herein, documents, drawings, and specifications prepared by HNTB and furnished to Owner as part of the Services shall become the property of Owner; provided, however, that HNTB shall have the unrestricted right to their use. HNTB shall retain its copyright and ownership rights in its design, drawing details, specifications, data bases, computer software, and other proprietary property. Intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of HNTB.

ARTICLE 14 - TERMINATION AND SUSPENSION

This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement; provided, however, the nonperforming party shall have 14 calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

Owner may terminate or suspend performance of this Agreement for Owner's convenience upon written notice to HNTB. HNTB shall terminate or suspend performance of the Services on a schedule acceptable to Owner,

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and Owner shall pay HNTB for all the Services performed plus termination or suspension expenses. Upon restart of suspended Services, an equitable adjustment shall be made to HNTB's compensation and the Project schedule.

ARTICLE 15 - DELAY IN PERFORMANCE

Neither Owner nor HNTB shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and delay in or inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either Owner or HNTB under this Agreement. HNTB shall be granted a reasonable extension of time for any delay in its performance caused by any such circumstances.

Should such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

ARTICLE 16 - NOTICES

Any notice required by this Agreement shall be made in writing to the address specified below: Owner:
Delaware County Engineer's Office

Ryan J. Mraz
Chief Deputy Design Engineer
50 Channing Street
Delaware, Ohio 43015

HNTB: HNTB Ohio, Inc.
Brent Downing
330 West Spring Street, Suite 310
Columbus, Ohio 43215

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Owner and HNTB.

ARTICLE 17 - DISPUTES

In the event of a dispute between Owner and HNTB arising out of or related to this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. If the parties cannot thereafter resolve the dispute, each party shall nominate a senior officer of its management to meet to resolve the dispute by direct negotiation or mediation.

Should such negotiation or mediation fail to resolve the dispute, either party may pursue resolution of the dispute by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association; provided, however, in the event the parties are unable to reach agreement to arbitrate under terms reasonably acceptable to both parties, either party may pursue resolution in any court having jurisdiction.

During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder.

ARTICLE 18 - EQUAL EMPLOYMENT OPPORTUNITY

HNTB hereby affirms its support of affirmative action and that it abides by the provisions of the "Equal Opportunity Clause" of Section 202 of Executive Order 11246 and other applicable laws and regulations. HNTB affirms its policy to recruit and hire employees without regard to race, age, color, religion, sex, sexual preference/orientation, marital status, citizen status, national origin or ancestry, presence of a disability or status as a Veteran of the Vietnam era or any other legally protected status. It is HNTB's policy to treat employees equally with respect to compensation, advancement, promotions, transfers and all other terms and conditions of employment.

HNTB further affirms completion of applicable governmental employer information reports including the EEO-1 and VETS-100 reports, and maintenance of a current Affirmative Action Plan as required by Federal regulations.

ARTICLE 19 - WAIVER

A waiver by either Owner or HNTB of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

ARTICLE 20 - SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if it did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace

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SANITARY ENGINEER, \$115,050.00, representing the payment of fifty percent (50%) of the capacity charges then in effect for 39 equivalent single family residential connections.

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 (\$138,945.00) 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 \$10,00.00, 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 \$70.00
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 \$20,000.00, 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 \$0.75 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 a CD-ROM in Autocad DWG files. Additionally, the SUBDIVIDER will submit in MS Excel format detailed attributes of the improvements, including manhole locations in Ohio North State Plane Coordinates.

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

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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.

Avonlea

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

THIS AGREEMENT executed on this 6th day of December 2004, by and between PLANNED COMMUNITIES, as evidenced by the AVONLEA 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 \$59,000, representing the payment of fifty percent (50%) of the capacity charges then in effect for each single family residential connection, for 20 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 (\$124,500) 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 (\$9,960), 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 \$70.00
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

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\$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 \$0.75 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.

Summerwood Pump Station Relocation

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

THIS AGREEMENT executed on this 6th day of December 2004, by and between CHARLIE VINCE, SUBDIVIDER, as evidenced by the SUMMERWOOD PUMP STATION RELOCATION project 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 (\$254,900) 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 bond, certified check, irrevocable letter of credit, or other approved financial warranty shall remain in effect until released by the COUNTY at the completion of construction.

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.

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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 \$10,000, 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 \$70.00
CAMERA TRUCK \$150.00

per hour for time spent by said SANITARY ENGINEER or his staff has been depleted, the SUBDIVIDER shall make an additional deposits 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 \$0.75 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:

- (1) "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.
- (2) an itemized statement showing the cost of IMPROVEMENTS
- (3) a waiver of lien from all Contractors associated with the project 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. Jordan Aye Mrs. Martin Aye Mr. Ward Aye

RESOLUTION NO. 04-1483

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**7:30 PM FINAL HEARING FOR THE HIGHLAND LAKES EAST SECTION 4 PARTS 2, 3, 4, & 5
SUBDIVISION DITCH PROJECT (LAKE FOREST WAY RESIDENTS ASSOCIATION):**

It was moved by Mr. Ward, seconded by Mr. Jordan to open the Hearing at 7:35PM.

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

RESOLUTION NO. 04-1484

**IN THE MATTER OF CLOSING THE PUBLIC HEARING TO ADDRESS THE HIGHLAND LAKES EAST
SECTION 4 PARTS 2, 3, 4, & 5 SUBDIVISION DITCH PROJECT (LAKE FOREST WAY RESIDENTS
ASSOCIATION):**

It was moved by Mr. Jordan, seconded by Mr. Ward to close the Hearing at 7:43PM.

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

RESOLUTION NO. 04-1485

**IN THE MATTER OF COMMISSIONERS FINDING AFFIRMING ORDER AND CONFIRMING THE
ASSESSMENTS FOR THE HIGHLAND LAKES EAST SECTION 4 PARTS 2, 3, 4, & 5 SUBDIVISION
DITCH PROJECT:**

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

In the matter of the Highland Lakes East Section 4 Parts 2, 3, 4, & 5 Subdivision Ditch Project filed by Patricia E. Rudolph for The Lake Forest Way Residents Association on August 11, 2003.

WHEREAS, this being the day fixed by said Board in the order dated the 6th day of December 2004, for the final hearing on the Reports and on the assessments, of the County Engineer, for the Highland Lakes East Section 4 Parts 2, 3, 4, & 5 subdivision to be placed on maintenance.

WHEREAS, The Board finds that due and legal notice of this final hearing has been given as required by law; and

WHEREAS, The Board has heard all the evidence offered in the proceedings and received and considered the assessments filed by the County Engineer:

THEREFORE BE IT RESOLVED, that the Board hereby approves the assessments prepared by the Delaware County Engineer, and

FURTHER BE IT RESOLVED, That assessments will be placed yearly on the real estate tax bill until at which time a balance equal to 20% of the base amount of the project's cost is established. Collection of assessments will stop until the balance falls below 20% at which time assessment collection will resume. Any cost incurred from the petition project process will be paid from the annual ditch maintenance assessments.

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

RESOLUTION NO. 04-1486

7:45 PM FINAL HEARING FOR THE ORCHARD LAKES PHASES 1-2-3 SUBDIVISION DITCH PROJECT:

It was moved by Mr. Ward, seconded by Mr. Jordan to open the Hearing at 7:47PM.

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

RESOLUTION NO. 04-1487

**IN THE MATTER OF CLOSING THE PUBLIC HEARING TO ADDRESS THE ORCHARD LAKES PHASES
1-2-3 SUBDIVISION DITCH PROJECT:**

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

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

RESOLUTION NO. 04-1488

COMMISSIONERS JOURNAL NO. 46 - DELAWARE COUNTY
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IN THE MATTER OF COMMISSIONERS FINDING AFFIRMING ORDER AND CONFIRMING THE ASSESSMENTS FOR THE ORCHARD LAKES PHASES 1-2-3 SUBDIVISION DITCH PETITION PROJECT:

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

In The Matter Of The Orchard Lakes Phases 1-2-3 Subdivision Ditch Petition Project filed By Richard Palmer (Trustee) On October 22, 2003.

WHEREAS, this being the day fixed by said Board in the order dated the 6th day of December 2004, for the final hearing on the Reports and on the assessments, of the County Engineer, for the Orchard Lakes Phases 1-2-3 subdivision to be placed on maintenance.

WHEREAS, The Board finds that due and legal notice of this final hearing has been given as required by law; and

WHEREAS, The Board has heard all the evidence offered in the proceedings and received and considered the assessments filed by the County Engineer:

THEREFORE BE IT RESOLVED, that the Board hereby approves the assessments prepared by the Delaware County Engineer, and

FURTHER BE IT RESOLVED, That assessments will be placed yearly on the real estate tax bill until at which time a balance equal to 20% of the base amount of the project's cost is established. Collection of assessments will stop until the balance falls below 20% at which time assessment collection will resume. Any cost incurred from the petition project process will be paid from the annual ditch maintenance assessments.

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

RESOLUTION NO. 04-1489

IN THE MATTER OF APPROVING TRANSFER OF APPROPRIATIONS FOR JUVENILE COURT:

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

Transfer of Appropriation		Amount
From	To	
26226302-5101 Juvenile Diversion/Health Insurance	26226302-5001 Juvenile Diversion/Compensation	\$2,830.00
26226302-5101 Juvenile Diversion/Health Insurance	26226302-5120 Juvenile Diversion/PERS	390.00
26226302-5101 Juvenile Diversion/Health Insurance	26226302-5131 Juvenile Diversion/Medicare	35.00
26226302-5101 Juvenile Diversion/Health Insurance	26226302-5215 Juvenile Diversion/Program Supplies	275.00
26326204-5342 Juvenile Drug Court/Medical & Health	26326204-5001 Juvenile Drug Court/Compensation	7,380.00
26326204-5348 Juvenile Drug Court/Medical & Health	26326204-5001 Juvenile Drug Court/Compensation	1,076.50
26326204-5215 Juvenile Drug Court/Program Supplies	26326204-5001 Juvenile Drug Court/Compensation	1,743.50
26326204-5215 Juvenile Drug Court/Program Supplies	26326204-5101 Juvenile Drug Court/Health Insurance	1,820.00
26326204-5215 Juvenile Drug Court/Program Supplies	26326204-5120 Juvenile Drug Court/PERS	1,400.00

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26326204-5215		26326204-5131				
Juvenile Drug Court/Program Supplies		Juvenile Drug Court/Medicare				150.00
Vote on Motion	Mrs. Martin	Aye	Mr. Jordan	Aye	Mr. Ward	Aye

There being no further business the meeting adjourned.

Kristopher W. Jordan

Deborah B. Martin

James D. Ward

Letha George, Clerk to the Commissioners