

**COMMISSIONERS JOURNAL NO. 48 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD AUGUST 14, 2006**

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

Present: Glenn A. Evans, Kristopher W. Jordan, James D. Ward

**PUBLIC COMMENT**

**RESOLUTION NO. 06-1023**

**IN THE MATTER OF APPROVING THE RESOLUTIONS AND RECORDS OF THE PROCEEDINGS FROM REGULAR MEETING HELD AUGUST 10, 2006 AS CONTAINED IN THE COUNTY'S OFFICIAL ELECTRONIC RECORDINGS OF THE PROCEEDINGS:**

It was moved by Mr. Evans, seconded by Mr. Jordan to approve the resolutions and records of the proceedings from regular meeting held August 10, 2006 as contained in the county's official electronic recordings of the proceedings.

Vote on Motion                      Mr. Evans                      Aye                      Mr. Jordan                      Aye                      Mr. Ward                      Aye

**RESOLUTION NO. 06-1024**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, VOUCHERS AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0811 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR0811:**

It was moved by Mr. Jordan, seconded by Mr. Evans to approve payment of warrants in batch numbers CMAPR0811, memo transfers in batch numbers MTAPR0811 and Purchase Orders and Vouchers as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account Number</u>	<u>Amount</u>
<b>PO's</b>			
Case Construction & Demolition	Gwinner Ditch	40311410-5430	\$ 34,959.88
<b>Increases</b>			
Child Care Unlimited/Galena	Day Care	22411610-5348	\$ 2,900.00
Life Point Christian PreSchool	Day Care	22411610-5348	\$ 3,000.00
Kathy A. McKee	Day Care	22411610-5348	\$ 4,000.00
<b>Vouchers</b>			
Liberty Community Center	Day Care	22411610-5348	\$ 19,296.77
Global Protective Services	Security Services	10011102-5301	\$ 6,013.00
Poggemeyer Design Group	CHIP 2004 Project Administration	23011714-5365	\$ 311.89
Poggemeyer Design Group	CHIP Implementation	23011713-5365	\$ 3,756.81
Poggemeyer Design Group	CHIP/Rehab Down payment Asst.	23011714-5365	\$ 1,000.00
Precision Masonry Restoration	Limestone Repair	40111402-5410	\$ 7,900.00

Vote on Motion                      Mr. Jordan                      Aye                      Mr. Evans                      Aye                      Mr. Ward                      Aye

**RESOLUTION NO. 06 -1025**

**IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:**

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

The Child Support Enforcement Agency is requesting that Joyce Rhodes attend a Support Disbursement Bureau/County Work Group Seminar in Columbus, Ohio August 30, 2006, at the cost of \$12.00.

The Engineer's Office is requesting that Cathleen Paulus, Chris McGrew and Ron Ford attend a Tort Liability and Risk Management for Local Agencies Seminar in Columbus, Ohio November 2, 2006, at the cost of \$195.00.

The Clerk Of Courts Office is requesting that Jennifer Tubaugh attend a Maximus Training Client Conference in Akron, Ohio August 17-18, 2006, at the cost of \$91.22.

The Code Compliance Department is requesting that Duane Matlack and Fred Fowler attend an Ohio Floodplain Management Conference in Columbus, Ohio August 30-31, 2006, at the cost of \$320.00.

The Environmental Services Department is requesting that Brian McGinniss attend a Wastewater Certification Review in Columbus, Ohio October 16-17, 2006, at the cost of \$345.00.

Vote on Motion                      Mr. Ward                      Aye                      Mr. Jordan                      Aye                      Mr. Evans                      Aye

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**RESOLUTION NO. 06-1026**

**IN THE MATTER OF APPROVING PLATS FOR ESTATES AT CHESHIRE SECTION 1; A.D. FARROW-HARLEY DAVIDSON AT NORTHSTAR AND JERSEY ACRES SUBDIVISION SECTION 2 AND DITCH MAINTENANCE PETITION FOR ESTATES AT CHESHIRE SECTIONS 1 & 2:**

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

**Estates At Cheshire Section 1**

Situated In The State Of Ohio, County Of Delaware, Township Of Berkshire, Range Seventeen (17), Township Four (4), Section Two (2), Part Of Farm Lot 8, United States Military Lands And Containing A Total Of 36.282 Acres Of Which 4.000 Acres Are Dedicated Rights-Of-Way, And Being A Part Of The Land As Conveyed By Deed To South Galena Road Development Company, Llc., As Recorded In Deed Book 5458,Page 2274, Recorder’s Office, Delaware County, Ohio Cost \$57.00.

**A.D. Farrow-Harley Davidson At Northstar**

Situated In The State Of Ohio, County Of Delaware, Township Of Berkshire, Lying In Farm Lot 5, Section 2, Township 4 North, Range 17 West, United States Military District, Containing 18.030 Acres More Or Less, Including 0.630 Acres Of Right-Of- Way, Being All Of The 18.030 As Conveyed To AD Farrow Llc By Deed Of Record In Official Record 697, Page 1581, Records Of The Recorder’s Office, Delaware County, Ohio. Cost \$3.00.

**Jersey Acres Subdivision Section 2**

Situated In The Township Of Trenton, County Of Delaware, State Of Ohio And Being Part Of The Northwest Quarter Of Section 10, Quarter-Township 1, Township 4, Range 16 In The United States Military Lands. Being A Subdivision Of 31.551 Acres, Being Part Of An Original 201.84 Acre Tract Owned By Russel A. And Karen E. Fichtelman As Recorded In Deed Book 323, Page 674 In The Delaware County Record’s Office. Cost \$6.00

**Ditch Maintenance Petition- Estates At Cheshire Sections 1 & 2**

We the undersigned owners of 89.379 acres in Berkshire Township, Delaware County, Ohio propose to create a subdivision known as **Estates At Cheshire Sections 1 & 2** as evidenced by the attached subdivision plat (Exhibit “A” which is available at the County Engineer’s Office). These plats has been approved and signed by the Delaware County Regional Planning Commission and the Delaware County Engineer. Drainage improvements related to this subdivision have been constructed (or are bonded and will be constructed within a period of one year as evidenced by the Subdivider’s agreement Exhibit “B” available at the County Engineer’s Office). In accordance with Section 6137 of the Ohio Revised Code, we (I) hereby request that the improvements delineated on Exhibit “C” (available at the County Engineer’s Office), be accepted as part of the County Ditch Maintenance Program and that an annual maintenance assessment be collected with the Real Estate Taxes for each lot in the subject subdivision to cover the cost of current and future maintenance of the improvements.

We (I) represent 100% of the property owners to be assessed for maintenance related to this drainage improvement. We (I) hereby waive our rights to a public viewing and hearing and ask that your board approve this action in conjunction with the approval of the **Estates At Cheshire Sections 1 & 2** Subdivision.

The cost of the drainage improvements is \$93,285.00 and a detailed cost estimate is available at the County Engineer’s office in Exhibit “D”. The drainage improvements are being constructed for the benefit of the lots being created in this subdivision. 39 lots are created in this plat and each lot receives an equal share of the benefit (cost) of the project. The basis for calculating the assessment for each lot is therefore, \$2,391.90 per lot. An annual maintenance fee equal to 2% of this basis \$47.84 will be collected for each lot. I understand that the basis for calculating the maintenance assessment will be reviewed and possibly revised every 6 years. The first year’s assessment for all of the lots in the amount of \$1,865.70 has been paid to Delaware County.

Easements to provide for the maintenance of the improvements have been provided on the plat.

Vote on Motion                      Mr. Ward                      Aye                      Mr. Jordan                      Aye                      Mr. Evans                      Aye

**RESOLUTION NO. 06-1027**

**IN THE MATTER OF APPROVING SUBDIVIDER’S AGREEMENTS FOR GLEN OAK SECTION 6; DERBY GLEN FARMS SECTION 1; SAWMILL PARKWAY RIGHT TURN LANE – GETGO CONVENIENCE STORE #3527; JEWETT ROAD WIDENING FOR DERBY GLEN FARMS SECTION 1 AND VINMAR FARMS SECTION 3, PHASE B:**

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

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**Glen Oak Section 6**

**SUBDIVIDER'S AGREEMENT**

**THIS AGREEMENT** executed on this 14<sup>th</sup> day of August 2006, between **DOMINION HOMES**, as evidenced by the **GLEN OAK SECTION 6** 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 3/16/06, 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 **FORTY-THREE THOUSAND DOLLARS** estimated to be necessary to pay the cost of 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**

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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.

**Derby Glen Farms Section 1**

**SUBDIVIDER'S AGREEMENT**

**THIS AGREEMENT** executed on this 14<sup>th</sup> day of August 2006, between **JEWETT ROAD LLC** as evidenced by the **DERBY GLEN FARMS SECTION 1** 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 3/30/06, 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 **FORTY-TWO THOUSAND NINE HUNDRED DOLLARS** estimated to be necessary to pay the cost of 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

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**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.

**Sawmill Parkway Right Turn Lane – Getgo Convenience Store #3527**

**SUBDIVIDER'S AGREEMENT  
DITCH MAINTENANCE ITEMS INSPECTION**

**THIS AGREEMENT** made and entered into this 14<sup>th</sup> day of August 2006 by and between the **COUNTY OF DELAWARE** (acting by and through its **BOARD OF COUNTY COMMISSIONERS**), hereinafter called the **COUNTY**, and **GIANT EAGLE**, hereinafter called the **SUBDIVIDER**, as evidenced by the Engineering and Construction Plan entitled "**SAWMILL PARKWAY RIGHT TURN LANE – GETGO CONVENIENCE STORE #3527**" which was approved by the County Engineer, hereinafter called the **PLAN**, is governed by the following considerations, to wit:

1. The **SUBDIVIDER** is to construct, install or otherwise make all of the improvements 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** is to provide an irrevocable Letter of Credit or other approved financial warranties in the amount of **THIRTY-EIGHT THOUSAND SEVEN HUNDRED DOLLARS** payable to the Board of County Commissioners to insure the faithful performance of this agreement and the completion of all of the said improvements in accordance with the current "Delaware County Engineering and Surveying Standards for Subdivision Development" and the current "Subdivision Regulations for Delaware County, Ohio".
4. The **SUBDIVIDER** shall deposit **THREE THOUSAND ONE HUNDRED DOLLARS** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**.
5. The **SUBDIVIDER** is to complete all construction to the satisfaction of the **COUNTY** as evidenced by an approval letter from the **Delaware County Engineer**.
6. 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.
7. The **SUBDIVIDER** shall perform and complete all said improvements prior to **May 31, 2007**.
8. 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 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**".

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9. 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.

10. 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**.

11. 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**.

12. 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.

**Jewett Road Widening For Derby Glen Farms Section 1**

**SUBDIVIDER'S AGREEMENT**

**THIS AGREEMENT** made and entered into this 14<sup>th</sup> day of August 2006 by and between the **COUNTY OF DELAWARE** (acting by and through its **BOARD OF COUNTY COMMISSIONERS**), hereinafter called the **COUNTY**, and **JEWETT ROAD LLC**, hereinafter called the **SUBDIVIDER**, as evidenced by the Engineering and Construction Plan entitled "**JEWETT ROAD WIDENING FOR DERBY GLEN FARMS SECTION 1**" which was approved by the County Engineer, hereinafter called the **PLAN**, is governed by the following considerations, to wit:

1. The **SUBDIVIDER** is to construct, install or otherwise make all of the improvements 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** is to provide an irrevocable letter of credit or other approved financial warranties in the amount of **ONE HUNDRED FORTY-TWO THOUSAND FOUR HUNDRED DOLLARS** payable to the **BOARD OF COUNTY COMMISSIONERS** to insure the faithful performance of this **AGREEMENT** and the completion of all of the said improvements in accordance with the current "**Delaware County Engineering and Surveying Standards for Subdivision Development**" and the current "**Subdivision Regulations of Delaware County, Ohio**".

4. The **SUBDIVIDER** shall deposit **ELEVEN THOUSAND FOUR HUNDRED 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**.

5. The **SUBDIVIDER** is to complete all construction to the satisfaction of the **COUNTY** as evidenced by an approval letter from the **Delaware County Engineer**.

6. 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.

7. The **SUBDIVIDER** shall perform and complete all said improvements prior to **SEPTEMBER 30, 2006**.

8. 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 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**".

9. 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.

10. 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**.

11. 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**.

12. 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.

**Vinmar Farms Section 3, Phase B**

**SUBDIVIDER'S AGREEMENT**

**THIS AGREEMENT** executed on this 14<sup>th</sup> day of August 2006, between **DOMINION HOMES**, as evidenced by the **VINMAR FARMS SECTION 3, PHASE B** 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,

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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 5/5/06, 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 **TWENTY-FOUR THOUSAND FOUR HUNDRED DOLLARS** estimated to be necessary to pay the cost of 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**.

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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.

Vote on Motion            Mr. Evans            Aye    Mr. Jordan            Aye    Mr. Ward            Aye

**RESOLUTION NO. 06-1028**

**IN THE MATTER OF ACCEPTING ROADS AND APPROVING RECOMMENDED SPEED LIMITS FOR WALNUT GROVE ESTATES SECTION 1:**

It was moved by Mr. Jordan, seconded by Mr. Evans to release bonds and letters of credit and accept roads within the following:

**Walnut Grove Estates Section 1**

The roadways to be accepted are as follows:

- **Satinwood Drive**, to be known as **Township Road Number 1492**
- **Mahogany Drive**, to be known as **Township Road Number 1493**
- **Ingalls Court**, to be known as **Township Road Number 1494**
- **Nyah Court**, to be known as **Township Road Number 1495**

The Engineer also recommends that 25 mile per hour speed limits be established throughout the project.

He also request approval to return the Letter of Credit being held as maintenance surety to the developer, Romanelli and Hughes.

Vote on Motion            Mr. Jordan            Aye    Mr. Evans            Aye    Mr. Ward            Aye

**RESOLUTION NO. 06-1029**

**IN THE MATTER OF ESTABLISHING STOP CONDITIONS FOR WALNUT GROVE ESTATES SECTION 1:**

It was moved by Mr. Evans, seconded by Mr. Jordan to establish stop conditions for the following:

**Stop Conditions –Walnut Grove Estates Section 1**

- On Township Road Number 1494, Ingalls Court, at its intersection with Township Road Number 1493, Mahogany Drive
- On Township Road Number 1495, Nyah Court, at its intersection with Township Road Number 1493, Mahogany Drive

Vote on Motion            Mr. Ward            Aye    Mr. Jordan            Aye    Mr. Evans            Aye

**RESOLUTION NO. 06-1030**

**IN THE MATTER OF ACCEPTING MAINTENANCE BONDS FOR MANORS AT WILLOW BEND AND PRESERVES AT SELDOM SEEN:**

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

**Manors at Willow Bend**

The roadway construction has been completed for the referenced subdivision and, as the results of The Engineer's recent field review, he has determined that minor remedial work will be required during the 2007 construction season.

In accordance with the Subdivider's Agreement, The Engineer recommends that the maintenance bond be set at **\$21,400** for the duration of the one year maintenance period. A Bond in that amount is available. The Engineer also request approval to return the Bond being held as construction surety to the developer, Edwards Land Company.

**Preserves at Seldom Seen**



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The roadway construction has been completed for the referenced subdivision and, as the results of The Engineer's recent field review, he has determined that minor remedial work will be required during the 2007 construction season.

In accordance with the Subdivider's Agreement, The Engineer recommends that the maintenance bond be set at **\$108,000** for the duration of the one year maintenance period. A Letter of Credit in that amount is available. The Engineer also request approval to return the Letter of Credit being held as construction surety to the developer, Romanelli and Hughes.

Vote on Motion            Mr. Evans            Aye    Mr. Jordan            Aye    Mr. Ward            Aye

**RESOLUTION NO. 06-1031**

**IN THE MATTER OF ACCEPTING PERFORMANCE CONSTRUCTION BONDS FOR ESTATES AT CHESHIRE SECTION 1:**

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

**Estates at Cheshire Section 1**

The construction of the above referenced project was started without bonding, thereby not allowing the developer to file the plat. They are now at a point where they would like to file the plat. The Engineer has, therefore, estimated the remaining construction costs to be **\$89,320**, and funds totaling that amount have been deposited to cover the bonding of this project.

Vote on Motion            Mr. Jordan            Aye    Mr. Evans            Aye    Mr. Ward            Aye

**RESOLUTION NO. 06-1032**

**IN THE MATTER OF APPROVING THE RELEASE OF THE MAINTENANCE BONDS FOR BIG WALNUT ROAD WIDENING AT MANORS AT WILLOW BEND:**

It was moved by Mr. Jordan, seconded by Mr. Evans to release the maintenance bonds for Big Walnut Road Widening at Manors at Willow Bend.

**Big Walnut Road Widening at Manors at Willow Bend**

In August, 2005, your Board entered into agreement with Big Walnut Associates for the above referenced project. This project has been completed to the satisfaction of this office, therefore the Engineer request approval to release the Letter of Credit posted as surety back to Big Walnut Associates and that they be released from their responsibility to this project.

Vote on Motion            Mr. Evans            Aye    Mr. Jordan            Aye    Mr. Ward            Aye

**RESOLUTION NO. 06 -1033**

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

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

Permit #	Applicant	Location	Type of Work
U06109	American Electric Power	Harlem Road	Install overhead primary
U06110	American Electric Power	Red Bank Road	Install overhead primary
U06111	American Electric Power	Trenton Road	Install overhead primary
U06113	American Electric Power	Trenton Road	Install overhead primary
U06114	Columbia Gas	The Oaks Phase 2	Install gas main
U06115	Suburban Natural Gas	Olentangy Crossings	Install gas mains

Vote on Motion            Mr. Ward            Aye    Mr. Jordan            Aye    Mr. Evans            Aye

**RESOLUTION NO. 06-1034**

**IN THE MATTER OF APPROVING A CONTRACT OF SALE AND PURCHASE WITH MARILYN J. MACCREADY FOR THE LEWIS CENTER ROAD IMPROVEMENTS:**

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

CONTRACT OF SALE AND PURCHASE

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VACANT LAND/IMPROVEMENTS

This Agreement entered into on the below date by and between Marilyn J. MacCready, Widow (if more than one, collectively) called the OWNER (and, if applicable, the undersigned spouse(s) of the seller(s), which hereby agree(s) to relinquish and release to the purchaser herein all right, interest and expectancy of dower in the hereinafter described real property); and the Board of County Commissioners of Delaware County, hereinafter called the PURCHASER.

WITNESSETH: In consideration of the mutual promises, agreements and covenants herein contained:

1. Purchaser promises and agrees to pay to said Owner the total sum of Fifteen Thousand Dollars (\$15,000.00) which total sum to be paid the Owner pursuant to this Contract shall constitute the entire compensation for:
  - A. The real property to be conveyed.
  - B. For damages to any residual lands of the owner.
  - C. For owner's covenants herein; and,
  - D.
  - E. and for any supplemental instruments necessary for transfer of title.

It is understood and agreed that the owner is responsible for all delinquent taxes and assessments including penalties and interest and all other real estate taxes and assessments which are a lien on the closing date. The current calendar year's taxes are to be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever is the earlier date. Owner is also responsible for all future installments of special assessments levied and assessed against said real property, whether these special assessments have or have not been certified to the county auditor for collection, provided those installments are a lien on said real property at the date of transfer. The Purchaser may hold in escrow a sufficient amount of the purchase money to satisfy the above items. Any balance remaining after taxes, assessments, etc. are discharged, shall be refunded to the Owner and any deficiency shall be the responsibility of the Owner.

2. Owner agrees to sell and convey, upon the fulfillment of all the obligations and terms of this AGREEMENT, by a good and sufficient deed of general warranty of title, with full release of dower, to said PURCHASER, its successors and assigns, the real property in fee simple, or if otherwise specified, the rights or estate in the real property, as described in Exhibit A, attached hereto which is incorporated herein and made a part hereof as if fully rewritten herein, together with all the appurtenances and hereditaments thereunto belonging and improvements now located thereon and all fixtures of every nature now attached or used with said land and improvements.
3. Owner further agrees to release to said purchaser, its successors and assigns, any and all abutters rights, including access rights, appurtenant to any remaining lands of the Owner of which the above described real property now forms a part, in, over, from and to the real property described in Exhibit A hereof. (This paragraph applies to limited access parcels only.).
4. Owner further agrees to execute supplemental instruments necessary for the construction and maintenance of said highway project, over, across, and upon the real property described in Exhibit A.
5. Owner further agrees to convey said real property as herein set forth, with release of dower, warranting the same free and clear from all liens and encumbrances whatsoever, except zoning restrictions and public utility easements of record.
6. Owner further agrees to assist wherever possible to procure, record and deliver to the purchaser releases and cancellations of all interest in such title, including, but not limited to tenants, lessees or others now in possession, or in any manner occupying said premises, and all assessment claims against said real property.
7. Owner also agrees that he will not change the existing character of the land, in the event of any damage, change, alteration or destruction occurs to said real property thereon, resulting from any cause whatsoever, prior to the date the possession is surrendered to the Purchaser, the Owner agrees to restore it to the condition it was in at the time of the execution of this agreement by the Owner, or to accept the purchase price consideration, hereinabove stated, less the cost of such restoration. In case the Owner refuses to restore it to the condition it was in at the time of the execution of this Agreement by the Owner, or to accept the money consideration less the cost of such restoration as hereinabove stated, the Purchaser may, at its option after discovery or notification of such destruction, removal or injury, terminate this agreement by written notice to said Owner.
8. Prior to acceptance by the Purchaser, the execution of this Agreement by the Owner shall constitute an offer to sell which shall continue for a period of twenty (20) days from the date of such execution. Upon

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acceptance of this Agreement by the purchaser with said period, it shall constitute a valid and binding Agreement of Sale and Purchase.

9. Owner agrees that the Purchaser may designate an escrow agent who shall act on behalf of both parties in connection with the consummation and closing of this Agreement which shall be made at a time and place agreed upon between the parties, but no later than ten days after notification of the Owner by the Purchaser that Purchaser is ready to close.
10. Physical possession of vacant land shall be surrendered no later than the date payment is tendered.
11. This contract shall be binding upon Owner and Owner’s heirs, executors, administrators, successors and assigns, and shall inure to the benefit of the Purchaser, its successors and assigns.

**EXHIBIT A  
Parcel 8-WD**

Situated in the Township of Orange, County of Delaware and State of Ohio, and being part of Farm Lot 4, Section 1, Twp. 3 N, Range 18 W, of the United States Military Lands. Said parcel being part of Lot 2065 of the William R. and Marilyn J. MacCready tract as recorded in Vol. 315, Pg. 321 of the Deed Records of Delaware County, and further bounded and described as follows:

Beginning for reference at an iron pin found in the South line of the aforementioned MacCready tract and North line of the Donn L. Stimmel tract, as recorded in Vol. 40, Pg. 360 of the Official Records of Delaware County, said iron pin being N 85° 24’ 36’’ W, 31,74 ft from the centerline R/W, STA 15+38.03 of South Old State rd., said iron pin being the True Point of Beginning;

Thence, N 85° 24’ 36’’ W, 13.78 ft, along the MacCready and Stimmel line to an iron pin set at R/W STA 15+31.18, 45.00 ft, LT;

Thence, N 13° 14’ 24’’ E, 353.72 ft, to an iron pin set in the North Line of the MacCready tract and South line of the Edith E. Jones, Trustee, Parcel I, tract, as recorded in Vol. 210, Pg. 117 of the Official Records and at R/W, STA 18+84.90, 45.00 ft, LT;

Thence, S 86° 00’ 36’’ E, 45.58 ft, along the MacCready and Jones line, passing an iron pin found at 14.89 ft, to the centerline of South Old State Rd. R/W, STA 18+92.23;

Thence, S 13° 14’ 24’’ W, 354.20 ft, along the centerline R/W of South Old State Rd., to a point at R/W, STA 15+38.03;

Thence, N 85° 24’ 36’’ W, 31.74 ft, along the MacCready and Stimmel line to the True Point of Beginning.

Containing 0.366 acres of which 0.242 acres are Present R/W Occupied.

Bearings herein are based on assumed Meridian and Origin based on an alignment survey by R.D. Zande & Assoc., Inc.

Subject to all easements, rights of way, legal highways and zoning ordinances of record.  
Parcel No. 318-210-01-022-000  
Todd D. Willis, PS  
Reg. Surveyor No. 7996

Vote on Motion                      Mr. Evans                      Aye                      Mr. Jordan                      Aye                      Mr. Ward                      Aye

**RESOLUTION NO. 06-1035**

**IN THE MATTER OF THE DELAWARE COUNTY COMMISSIONERS CONCURRING WITH THE VILLAGE OF SUNBURY’S ACCEPTANCE AND AWARDING OF THE CONTRACT SUBMITTED BY W. E. STILSON CONSULTING GROUP, LLC FOR ENGINEERING SERVICES FOR THE KINTNER PARKWAY – US36/SR37 ROADWAY IMPROVEMENTS:**

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

WHEREAS, the Village of Sunbury and Delaware County have jointly pledged funding for the engineering and construction of the public improvements known as the Kintner Parkway – US36/SR37 Roadway Improvements Project as established per Resolution No. 06-344 in the amount of \$450,000 from a Community Development Block Grant (CDBG) Economic Development (ED) Program grant; as stated in Resolution 06-345 and as amended by Resolution 06-884 consisting of \$100,000 from CDBG-Formula funds; as stated in Resolution 06-346 consisting of \$175,000 from Delaware County Development Funds; and Resolution 06-347 consisting of \$250,000 in Delaware County Revolving Loan Funds; and the Village of Sunbury has committed to financing the project up to \$250,000

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supported by a special assessment district and Tax Increment Financing; and

WHEREAS, the Village of Sunbury, with the passage of Ordinance No. \_\_\_\_, passed on August \_\_\_\_, 2006, has selected W.E. Stilson Consulting Group, LLC as the firm best qualified to provide design and inspection services for the Kintner Parkway – US36/SR37 Roadway Improvements Project; and

WHEREAS, the Village of Sunbury is requesting Delaware County’s concurrence in the selection of W.E. Stilson Consulting Group, LLC for this project by virtue of the County’s financial grant assistance to the Village for the engineering and construction of this 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 Board of Commissioners concur with the selection of and executing an agreement with and in the awarding of a contract between the Village of Sunbury and W.E. Stilson Consulting Group, LLC. in the amount of up to \$209,500 for engineering services for the Kintner Parkway – US36/SR37 Roadway Improvements Project.

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

Vote on Motion                      Mr. Evans                      Aye                      Mr. Jordan                      Aye                      Mr. Ward                      Aye

**RESOLUTION NO. 06-1036**

**A RESOLUTION AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING AND ECONOMIC DEVELOPMENT AGREEMENT IN CONNECTION WITH THE AMERICAN SHOWA, INC. EXPANSION PROJECT IN THE VILLAGE OF SUNBURY, OHIO:**

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

WHEREAS, American Showa, Inc. (“*Showa*”) intends to make improvements to certain real property it owns (the “*Parcel*”) in the Village of Sunbury, Ohio (the “*Village*”), including, but not limited to, a 38,448 square foot expansion of an existing manufacturing facility (the “*Project*”); and

WHEREAS, the Village, by its Ordinance No. 2006-16 passed August 9, 2006 (the “*Ordinance*”), has authorized a 30-year 100% tax increment financing exemption for the improvements to the Parcel pursuant to Ohio Revised Code Section 5709.40 and has required Showa to make service payments in lieu of taxes in an amount equal to the real property taxes that Showa would have otherwise been required to pay absent that exemption; and

WHEREAS, to facilitate the development of the Project it is necessary to construct or to cause to be constructed certain Public Infrastructure Improvements (as defined in the Ordinance) directly benefiting the Project and the Parcel; and

WHEREAS, the Village and this County have determined to work cooperatively to finance and construct those Public Infrastructure Improvements; and

WHEREAS, this Board has determined to provide for the execution and delivery of a Tax Increment Financing and Economic Development Agreement to further define the terms of this cooperation;

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

Section 1.                      Tax Increment Financing and Economic Development Agreement. The form of Tax Increment Financing and Economic Development Agreement among this County, the Village and Showa (the “*TIF Agreement*”) as presented below, is hereby approved and authorized with changes therein and amendments thereto not inconsistent with this Resolution and not substantially adverse to this County, and which shall be approved by the County Administrator. The County Administrator, for and in the name of this County, is hereby authorized to execute the TIF Agreement, provided further that the approval of changes thereto by that official, and their character as not being substantially adverse to the County, shall be evidenced conclusively by the execution thereof.

Section 2.                      Open Meetings. This Board finds and determines that all formal actions of this Board and any of its committees concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board or any of its committees, and that all deliberations of this Board and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Ohio Revised Code Section 121.22.

Section 3.                      Effective Date. This Resolution shall be in full force and effect immediately upon its adoption.

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TAX INCREMENT FINANCING AND  
ECONOMIC DEVELOPMENT AGREEMENT

This Tax Increment Financing and Economic Development Agreement (the "*Agreement*"), made and entered into as of \_\_\_\_\_, 2006 by and among the Village of Sunbury, Ohio (the "*Village*"), a municipal corporation organized and existing under the constitution and the laws of the State of Ohio, the County of Delaware, Ohio (the "*County*") a county and political subdivision duly organized and validly existing under the Constitution and the laws of the State of Ohio, and American Showa, Inc. (the "*Owner*").

WITNESSETH:

WHEREAS, the Owner has acquired certain real property located in the Village, a depiction of such real property is attached hereto as Exhibit A attached hereto, with such real property referred to herein as the "*Parcel*"; and

WHEREAS, the Owner contemplates making or having made private improvements to the Parcel, including, but not limited to, a 38,448 square foot expansion of an existing manufacturing facility (the "*Project*"); and

WHEREAS, it is necessary to construct or to cause to be constructed certain public infrastructure improvements (as described in Exhibit B attached hereto and referred to herein as the "*Public Infrastructure Improvements*"), which the Village and the Owner agree will directly benefit the Project and the Parcel; and

WHEREAS, the Village, by its Ordinance No. \_\_\_-\_\_\_ passed \_\_\_\_\_ (the "*Ordinance*"), has declared that 100% of the increase in the assessed value of the Parcel subsequent to the effective date of the Ordinance (such increase hereinafter referred to as the "*Improvement*" as further defined in Ohio Revised Code Section 5709.40 and the Ordinance) is a public purpose and is exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement attributable to a new structure first appears on the tax list and duplicate of real and public utility property for the Parcel and ending on the earlier of (a) thirty (30) years after such commencement or (b) the date on which the Village can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Statutes (the "*TIF Exemption*"); and

WHEREAS, the Village has determined that it is necessary and appropriate and in the best interests of the Village to provide for the owner of the Parcel to make service payments in lieu of taxes with respect to the Parcel (the "*Service Payments*"), which Service Payments will be used to pay costs of construction of the Public Infrastructure Improvements and distributed to the Big Walnut Local School District (the "*School District*"), all pursuant to and in accordance with Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the "*TIF Statutes*"); and

WHEREAS, the Village and the County have determined to work cooperatively to finance and construct the Public Infrastructure Improvements and thereby facilitate the development of the Project; and

WHEREAS, to provide for the collection of the Service Payments and to enable the Project and Public Infrastructure Improvements to be developed, the parties desire to enter into this Agreement on the terms as hereinafter provided;

NOW, THEREFORE, in consideration of the premises and covenants contained herein and to induce the Village to proceed with the construction of the Public Infrastructure Improvements, the parties hereto agree to the foregoing and as follows:

**Section 1. Service Payments.** The Owner hereby agrees to make Service Payments attributable to its period of ownership of the Parcel, all pursuant to and in accordance with the requirements of the TIF Statutes, the Ordinance and any subsequent amendments or supplements thereto.

Service Payments will be made semiannually to the County Treasurer of Delaware County, Ohio (or to such County Treasurer's designated agent for collection of the Service Payments) on or before the date on which real property taxes would otherwise be due and payable for the Parcel. Any late payments will bear penalties and interest at the then current rate established under Ohio Revised Code Sections 323.121 and 5703.47 or any successor provisions thereto, as the same may be amended from time to time.

Service Payments will be made in accordance with the requirements of the TIF Statutes and the Ordinance and will be in the same amount as the real property taxes that would have been charged and payable against the Improvement (after credit for any other payments received by the Village under Ohio Revised Code Sections 319.302, 321.24, 323.152 and 323.156, or any successor provisions thereto, as the same may be amended from time to time, and are referred to herein as the "*Property Tax Rollback Payments*") had the TIF Exemption not been granted, including any penalties and interest and taking into account any tax abatements applicable to the Parcel granted pursuant to Ohio Revised Code sections 3735.65 through 3735.70 and 5709.61 through 5709.69. The Owner will not

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under any circumstances, be required for any tax year to pay both real property taxes and Service Payments with respect to the Improvement, whether pursuant to Ohio Revised Code Section 5709.42 or this Agreement. The Village and the Owner agree that the American Showa Project Municipal Public Improvement Tax Increment Equivalent Fund created in Section 4 of the Ordinance (the "*Fund*") will receive all Property Tax Rollback Payments and Service Payments made with respect to the Parcel that are payable to the Village.

**Section 2. Declaration of Covenants; Priority of Lien.** It is intended and agreed, and it will be so provided by the Owner in a declaration relating to the Parcel (the "*Declaration*") that the covenants provided in Sections 1, 2, 3 and 6 of this Agreement are covenants running with the land and that they will, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit and in favor of and enforceable by the Village and the School District against any owner of the Parcel with respect to that owner's period of ownership of the Parcel, whether or not this Agreement remains in effect or whether or not such provision is included by an owner in any deed to such owner's successors and assigns. It is further intended and agreed that these agreements and covenants will remain in effect for the full period of exemption permitted in accordance with the requirements of the TIF Statutes and the Ordinance enacted pursuant thereto.

Such covenants running with the land will have priority over any other lien or encumbrance on the Parcel and any improvements thereon, except for such title exceptions as are approved in writing by the Village, and the Owner will, upon the Village's request, cause any and all holders of mortgages or other liens existing on the Parcel as of the time of recording of the Declaration to subordinate such mortgage or lien to those covenants running with the land. The parties acknowledge that the provisions of Ohio Revised Code Section 5709.91, which specify that the Service Payments will be treated in the same manner as taxes for all purposes of the lien described in Ohio Revised Code Section 323.11 including, but not limited to, the priority of the lien and the collection of Service Payments, will apply to this Agreement and to the Parcel and any improvements thereon.

At the Village's option and at its request, the Owner hereby agrees to provide such title evidence, at no cost to the Village, as is necessary to demonstrate to the Village's satisfaction that the covenants running with the land provided in the Declaration are prior and superior to any other liens, encumbrances or other title exceptions, except for those which are approved in writing by the Village.

Upon satisfaction of the Owner's obligations under this Agreement and termination of the Owner's obligation to make the Service Payments, the Village will, upon the request of the Owner, execute an instrument in recordable form evidencing such termination and releasing the covenants running with the land set forth in the Declaration.

**Section 3. Exemption Applications.** The Village and the Owner agree to cooperate in the preparation, execution and filing of all necessary applications and supporting documents to obtain from time to time the TIF Exemption and to enable the Village to collect Service Payments with respect to the Parcel. The Village will perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain the TIF Exemption and collect the Service Payments including, without limitation, joining in the execution of all documentation and providing any necessary certificate required in connection with the TIF Exemption or the Service Payments. The Owner authorizes the Village to file any applications necessary to obtain from time to time the TIF Exemption as provided in the TIF Ordinance. The Owner agrees to file the initial applications necessary to obtain the TIF Exemption by December 31, 2006 unless the Village consents to a later date.

**Section 4. Estoppel Certificate.** Within thirty (30) days after a request from any owner of a portion of the Parcel, the Village will execute and deliver to that owner or any proposed purchaser, mortgagee or lessee of such portion of the Parcel, a certificate stating that with respect to such portion of the Parcel, if the same is true: (a) that this Agreement is in full force and effect; (b) that the requesting owner is not in default under any of the terms, covenants or conditions of this Agreement, or, if that owner is in default, specifying same; and (c) such other matters as that owner reasonably requests.

**Section 5. Representations of Owner.** The Owner hereby represents that it owns the Parcel and has full power and authority to enter into this Agreement and carry out its terms.

**Section 6. Provision of Information.** The Owner agrees to cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated Tax Incentive Review Council to enable that Tax Incentive Review Council to review and determine annually during the term of this Agreement the compliance of the Owner with the terms of this Agreement.

The Owner further agrees to cooperate in all reasonable ways with, and provide necessary and reasonable information to the Village to enable the Village to submit the status report required by Ohio Revised Code Section 5709.40(I) to the Director of the Ohio Department of Development on or before March 31 of each year.

**Section 7. Public Infrastructure Improvements and Financing.** The Village and the County agree that the cost of the Public Infrastructure Improvements will be financed from the following sources:

Community Development Block Grant (CDBG) Economic	\$450,000
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Development (ED) Program Grant	
County Revolving Loan Fund	250,000
County Development Fund	175,000
Village Contribution (Projected Debt Issue) *	250,000
County CDBG Formula Grant**	100,000
 Total	 \$1,225,000
 *Special Assessments to partially reimburse estimated Village debt of \$250,000	 \$176,000
*Village TIF to partially reimburse estimated Village debt of \$250,000	\$74,000
**Original CDBG Formula Grant Request Amount was \$75,000 – request increased to \$100,000 to address potential cost overruns over the original \$1,200,000 total project cost estimate.	\$100,000

Subject to the Village issuing general obligation debt for its contributions referenced above, the Village and the County agree to work cooperatively to finance and construct the Public Infrastructure Improvements in a timely manner to facilitate the development of the Project. The Village and County agree to adhere to all CDBG-ED requirements and guidelines as established by the Ohio Department of Development – Office of Housing and Community Partnerships and the County, including but limited to, project bidding, procurement, construction, prevailing wage rates, and environmental permitting. For purposes of the CDBG-ED grant, and consistent with past County CDBG-ED grant funded projects in the Village, the County shall be considered the owner of the Public Infrastructure Improvements. However, the Village and County agree to work cooperatively to complete the Public Infrastructure Improvements consistent with the requirements and guidelines. The Village shall enter into an agreement with an acceptable engineering firm to design and provide construction inspection services for the Public Infrastructure Improvements after receiving the County's concurrence.

It is understood by all parties to this agreement that the original estimate for the cost of the Public Infrastructure Improvements is \$1,200,000. The County and the Village agree that whenever payments for these \$1,200,000 of costs are due, the County will pay 80% of those costs and the Village will pay 20% of those costs. In the event that the cost of the Public Infrastructure Improvements rises to \$1,400,000 (comprised of \$100,000 for design, \$1,200,000 for construction, and \$100,000 for inspection of the project improvements) additional funding (up to a maximum of \$200,000) shall be provided in the following order:

- 1) Additional Delaware County CDBG Formula Grant (up to a maximum of \$25,000).
- 2) County Development Fund or Revolving Loan Fund contributions (up to a maximum of \$75,000) and additional Village contributions (up to a maximum of \$100,000), provided that whenever payments for these additional costs are due, the County shall pay for 3/7ths of the additional costs and the Village will pay 4/7ths of the additional costs.

In the event the costs of the Public Infrastructure Improvements exceed \$1,400,000, the Village and County agree to work cooperatively to provide the additional funding necessary to successfully complete the Public Infrastructure Improvements.

The Village and County agree that monies deposited in the Fund shall be used *first* to reimburse the Village for all Village contributions (excluding legal fees) referenced above, including, but not limited to, the payment of debt service on the debt issued to finance those contributions and expenditures from the Village's general fund to make those contributions, *second* to reimburse the County for the County Revolving Loan Fund contributions and *third* to reimburse the Village and the County, pro rata, for legal fees paid pursuant to the engagement letter dated March 28, 2006 between the Village, County and Squire, Sanders & Dempsey L.L.P.

**Section 8. Community Development Block Grant (CDBG) Commitments.**

American Showa, Inc. affirms that, as part of their expansion project, it is committed to create 48 new full-time jobs, with a minimum of 26 such jobs (54.16%) being filled by individuals considered low-moderate income per HUD Section 8 income guidelines, consistent with and within the timeframes established within Exhibit 2 - Business/Developer Investment Job Creation Commitment Letter (the "*Commitment Letter*"), executed by American Showa, Inc. on March 10, 2006 in the Financial Assistance Application and Attachments submitted to the Ohio Department of Development (ODOD) – Office of Housing and Community Partnerships to secure the CDBG-ED grant funding as stated in Section 7 above, and as established in the CDBG-ED Grant Agreement between the County and ODOD (the "*Grant Agreement*"). As of January 1, 2006, American Showa, Inc. had a total of 643 full-time equivalent jobs at the project site at 707 W. Cherry Street in Sunbury, Ohio, and that as a result of the expansion project, American Showa, Inc. shall have a total of 691 full-time equivalent jobs at the project site by December 31, 2008. American Showa, Inc. further affirms that it will abide by all other commitments agreed to in the Financial Assistance Application and Attachments submitted to the Ohio Department of Development – Office of Housing and Community Partnerships to secure the CDBG-ED grant funding as stated in Section 7 above.

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American Showa, Inc. further affirms the commitments agreed to in the Enterprise Zone Agreement (the “*Enterprise Zone Agreement*”) and School Compensation Agreement (the “*School Compensation Agreement*”) executed by American Showa, Inc. on March 10, 2006 and March 22, 2006 respectively, including minimum investment levels of new real property improvements of at least \$2,206,000 and new machinery and equipment of at least \$12,681,000, all within the timeframes established within the Commitment Letter, Grant Agreement, Enterprise Zone Agreement and School Compensation Agreement.

**Section 9. Notices.** All notices or other correspondence relating to this Agreement must be in writing (including e-mail or facsimile) and must be delivered or sent guaranteed overnight delivery, by facsimile or e-mail (to be followed by personal or overnight guaranteed deliver, if requested) or by postage prepaid registered or certified mail, return receipt requested, and will be deemed to be given for purposes of this Agreement on the date such writing is received by the intended recipient. Unless otherwise specified in a notice sent in accordance with this section, all communications in writing must be given to the parties at the following addresses:

If to the Village:

Village of Sunbury, Ohio  
9 East Granville Street  
Sunbury, Ohio 43074  
Attention: Village Administrator

If to the County:

Delaware County, Ohio  
101 North Sandusky Street  
Delaware, Ohio 43015  
Attention: Director of Economic Development

If to the Owner:

American Showa, Inc.  
707 West Cherry Street  
Sunbury, Ohio 43074  
Attention: \_\_\_\_\_

**Section 10. Successors; Assignment; Amendments, Changes and Modifications.** This Agreement will be binding upon the Owner and its successors and assigns and the Village and its successors and assigns. The parties may only assign this Agreement with the consent of all parties hereto, provided, however, that nothing in this Agreement prevents the Owner from transferring any or all of its interest in the Project or the Parcel to another person or entity. This Agreement may only be amended by written instrument executed by all parties to this Agreement, provided, however, that the County and the Village may amend Section 7 of this Agreement as it pertains to their respective rights and obligations without the consent of the Owner.

**Section 11. Extent of Covenants; No Personal Liability.** All covenants, stipulations, obligations and agreements of the parties contained in this Agreement are effective and enforceable to the extent authorized and permitted by applicable law. The obligations of the Village may be enforced to the extent permitted by law by mandamus or any suit or proceeding in law or equity. No such covenant, stipulation, obligation or agreement will be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent, or employee of any of the parties hereto in their individual capacity.

**Section 12. Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable, said provision will be fully severable. This Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible that is and will be legal, valid and enforceable.

**Section 13. Separate Counterparts.** This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered will be an original, but all such counterparts will together constitute one and the same instrument.

**Section 14. Entire Agreement.** Except as provided in the Commitment Letter, the Grant Agreement, the Enterprise Zone Agreement and the School Compensation Agreement, this Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes prior agreements and understandings between the parties.



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**Section 15. Governing Law and Choice of Forum.** This Agreement will be governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the Village, its employees, contractors, subcontractors and agents, and the Owner, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within the State of Ohio.

**Section 16. Nondiscriminatory Hiring Policy.** The Owner will comply with the Village’s nondiscriminatory hiring policy adopted pursuant to Ohio Revised Code Section 5709.832. The City will provide a copy of that policy and any updates to that policy to the Owner.

EXHIBIT A  
PARCEL

The shaded area on the following map specifically identifies and depicts the Parcel and constitutes part of this Exhibit A. The Parcel includes the following tax parcel: 41713401006000.  
(Copy available in the Delaware County Economic Development Department)

EXHIBIT B  
PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements include the construction of the following improvements and all related costs of permanent improvements (including, but not limited to, those costs listed in Ohio Revised Code Section 133.15(B)):

- improvements to Kintner Parkway from US-36/SR-37 to Steltzer Court,
- improvements to US-36/SR-37 from Kintner Parkway to Miller Drive, and
- improvements to the intersection of Kintner Parkway and US-36/SR-37,

together, in each case, public utilities which include, storm sewer and protection of existing water mains and sanitary sewer; stormwater improvements; burial of utility lines; protection of existing gas, electric and communications service facilities (including fiber optics); street lighting and signs; sidewalks, and landscaping; traffic signs and signalization; design and other related costs; any right-of-way or real estate acquisition; erosion and sediment control measures, grading, drainage and other related work; survey work; soil engineering; inspection fees; construction staking; maintenance of traffic; and all other costs and improvements necessary and appurtenant thereto.

Vote on Motion            Mr. Jordan            Aye            Mr. Evans            Aye            Mr. Ward            Aye

**RESOLUTION NO. 06-1037**

**IN THE MATTER OF APPROVING A GRANT RENEWAL APPLICATION FOR AN OHIO DEPARTMENT OF YOUTH SERVICES GRANT FOR JUVENILE COURT:**

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

Title:	ODYS Youth Subsidy Grant
Source:	ODYS
Grant Period:	July 1, 2006 to June 30, 2007
RECLAIM Amount:	\$ 299,774.06
Youth Services Amount:	\$ 180,596.00
Match:	\$ 0.00
Total Grant Amount:	\$ 480,370.06

This grant provides funding for the following program areas: Residential Treatment, Sex Offender, Substance Abuse, Wraparound Services, Family Preservation/Home Based Services, Diversion, Work Detail, and Transportation. These programs allow the Juvenile Court to provide services to a wide array of juvenile offenders and their families. Services provided range from short-term intervention with low-risk first-time minor misdemeanor offenders through to long-term residential treatment for high-risk repeat misdemeanor and felony offenders. All staff members paid from this grant are aware that their positions are contingent upon continued grant funding. No match funding is required for this grant.

Vote on Motion            Mr. Ward            Aye            Mr. Jordan            Aye            Mr. Evans            Aye

**RESOLUTION NO. 06-1038**

**IN THE MATTER OF APPROVING THE CONTRACT BETWEEN THE DEPARTMENT OF JOB AND**

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**FAMILY SERVICES, THE DELAWARE COUNTY COMMISSIONERS AND CHILD CARE PROVIDER SANDRA MCCONNELL:**

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

**BASIC RATES**

**Full-time Week for Licensed Center and Type A Providers: 25 to 60 hours**

Hourly: Paid after 60 hours

**Part-time Week for Center and Type A Providers: 8 hours to 24.9 hours**

Hourly Paid for .1 hour to 7.9 hours

**Full-time Week for Certified Type B Home Providers: 25 hours to 50 hours**

Hourly: Paid after 50 hours

**Part-time Week for Home Providers: 8 hours to 24.9 hours**

Hourly Paid for .1 hour to 7.9 hours

Child Care Provider	Infants	Toddlers	Preschool	School
Sandra McConnell	\$132.08 Full	\$124.52 Full	\$118.78 Full	\$104.96 Full
15680 Lewis Center Road	\$ 86.16 Part	\$ 82.62 Part	\$ 76.94 Part	\$ 70.82 Part
Sunbury, Ohio 43074	\$ 5.09 Hourly	\$ 4.88 Hourly	\$ 4.63 Hourly	\$ 3.37 Hourly

(A Copy of this contact is available in the Commissioners' Office until no longer of Administrative Value).

Vote on Motion            Mr. Evans            Aye    Mr. Jordan            Aye    Mr. Ward            Aye

**RESOLUTION NO. 06-1039**

**IN THE MATTER OF APPROVING TRANSFER OF APPROPRIATIONS FOR THE HUMAN RESOURCES DEPARTMENT:**

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

Transfer of Appropriation	To	AMOUNT
<b>From</b> 10011108-5450 Human Resources/Machinery & Equipment	10011108-5201 Human Resources/Office Supplies	\$428.52
10011108-5305 Human Resources/Training & Development	10011108-5201 Human Resources/Office Supplies	\$1,071.48

Vote on Motion            Mr. Evans            Aye    Mr. Jordan            Aye    Mr. Ward            Aye

**RESOLUTION NO. 06-1040**

**IN THE MATTER OF EXECUTING A RENEWAL AGREEMENT WITH THE COUNTY COMMISSIONERS ASSOCIATION OF OHIO SERVICE CORPORATION (CCAOSC) FOR PARTICIPATION IN THE COUNTY COMMISSIONERS ASSOCIATION OF OHIO WORKERS COMPENSATION GROUP RATING PLAN:**

It was moved by Mr. Jordan, seconded by Mr. Evans to execute the renewal agreement:

Whereas,            The Board of Commissioners of Delaware County has participated in the County Commissioners Association of Ohio Workers Compensation Group Rating Plan since 1994, and

Whereas,            Delaware County has realized significant savings annually, and estimates savings of \$70,843 in plan year 2007,

Therefore be it resolved, by the Board of Commissioners of Delaware County, State of Ohio, to execute a renewal agreement with the County Commissioners Association of Ohio Service Corporation for participation in the County Commissioners Association Of Ohio Workers Compensation Group Rating Plan for plan year 2007.

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**WORKERS' COMPENSATION GROUP RATING PLAN AGREEMENT**

THIS AGREEMENT, dated as of July 1, 2006, is between CCAO Service Corporation ("CCAOSC"), an Ohio corporation, and the DELAWARE COUNTY ("Participant"), a political subdivision of the State of Ohio.

**Section I: INTRODUCTION**

Section 4123.29 of the Ohio Revised Code (ORC), and the rules promulgated thereunder, permit the establishment of employer group rating plans in order to group the experience of employers for workers' compensation rating purposes. The County Commissioners' Association of Ohio ("CCAO") acting through CCAOSC, its Service Corporation, as sponsoring organization within the meaning of Section 4123.29 and the regulations associated with same, hereby establishes a group for the benefit of its membership for the purpose of obtaining a group rating pursuant to Section 4123.29, ORC. The terms and conditions for participation in the CCAO group rating plan are herein established.

A participating employer is hereafter referred to individually as a "Participant". Participating employers are collectively referred to as the "Group".

**Section II: NAME**

The name of the plan shall be the CCAO Worker's Compensation Group Rating Plan, hereafter referred to as the "CCAO Group Rating Plan" or the "Plan". The principal office of the CCAO Group Rating Plan shall be located at 37 West Broad Street, Suite 650, Columbus, Ohio 43215.

**Section III: PURPOSE OF GROUP PLAN**

The CCAO Group Rating Plan is intended to: (1) achieve lower workers' compensation rates for the Group, and (2) result in the establishment of safer working conditions and environments for each Participant.

**Section IV: REPRESENTATIONS AND WARRANTIES CONCERNING ELIGIBILITY**

1. CCAOSC, for itself and on behalf of CCAO, represents and warrants as follows:

- (1) CCAO was created more than two years prior to the date of application for Group coverage.
- (2) CCAO was formed for the purposes other than obtaining Group Workers' Compensation under Section 4123.29, ORC; rather it was formed for the purpose of, among other things, uniting the county commissioners of Ohio into an association to promote the best practices and policies in the administration of county government for the benefit of the people of the State of Ohio.
- (3) The business of the Group is substantially similar such that the policies which are grouped are substantially homogeneous.
- (4) The aggregate workers' compensation premiums of Group members are expected to exceed \$150,000 during the rating period covered by this Agreement.

2. The Participant represents and warrants as follows:

- (1) It has an Ohio Bureau of Workers' Compensation ("OBWC") policy number for counties and its account with OBWC is in good standing such that no outstanding premiums, penalties or assessments are due from it.
- (2) It is not a member of any other group for the purpose of obtaining workers' compensation coverage under Section 4123.29, ORC.
- (3) That its 2001 calendar year payroll does not exceed \$50,000,000. Counties with a 2001 calendar year payroll of \$50,000,000 or more will not be eligible for membership in the Rating Plan. The maximum annual payroll amount shall be established annually by the CCAO Workers' Compensation Group Rating Plan Executive Committee, to reflect inflation and prevailing Ohio county payroll trends.

**Section V: BASIC OBLIGATIONS OF PARTIES**

Pursuant to Section I, hereof, CCAO, acting through CCAOSC, has established the CCAO Group Rating Plan.

CCAOSC shall:

- (1) coordinate and administer the CCAO Group Rating Plan in accordance with this agreement.
- (2) file or cause to be filed all necessary applications with OBWC to obtain membership for the Participants in the CCAO Group Rating Plan; and
- (3) perform such additional duties as are required of it by this Agreement.

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The Participant shall:

- (1) join and participate in the CCAO Group Rating Plan; and
- (2) perform such additional duties and pay such fees and expenses as are required of it by this Agreement.

**Section VI: PENALTY RATED PARTICIPANTS**

Additionally, the participant recognizes that the inclusion of group members with a penalty modification detrimentally affects the group rate. Each year, CCAOSC, in cooperation with the administrator, shall analyze the projected experience modification of all prior year plan members. CCAOSC, in its sole discretion, may determine that a plan participant is not eligible for any subsequent year group plan and not renew said participant. Alternatively, CCAOSC, in its sole discretion, may create additional allocations or contributions of such participants, including the formation of a "Premium Discount Pool".

Effective June 1, 1999, a penalty rated county that has not previously participated in the Plan will not be eligible for membership in the Plan.

**Section VII: PREMIUM DISCOUNT POOL PARTICIPANTS**

Effective for the policy year commencing January 1, 1998, CCAOSC created a Premium Discount Pool. Prior year Participants projected to be in a penalty rating **must participate** in the CCAOSC Premium Discount Pool in order to remain in the Group Rating Plan. CCAOSC Premium Discount Pool participants are required to implement the **CCAO 10 Step Safety Plan for County Government**, and must submit an annual progress report to CCAOSC. However, enrollment in the Bureau of Workers' Compensation's Premium Discount Program (PDP) shall be at the discretion of the Participant. To enroll in the BWC's PDP, the Participant shall complete and submit directly to the BWC a "UA-5 Application For Premium Discount Program", and shall meet all requirements of the Bureau of Workers' Compensation for continued participation in the PDP.

The savings for participants in the Premium Discount Pool shall be determined as follows: A savings calculation will be made as if all Premium Discount Pool members had been included in the Group as filed with the OBWC, without deducting any discounts from the BWC's PDP program. Premium Discount Pool participants will receive the difference between a 10% reduction to their individual premium rate and the amount calculated as if the Participant was included in the Group program filed with the OBWC.

A penalty rated Participant who became penalty rated prior to January 1, 2002 will be eligible to participate in the Premium Discount Pool for a total of four years within a seven year period, during which they remain penalty rated or otherwise ineligible for Group membership. A penalty rated Participant who became penalty rated after January 1, 2002, may remain in the Premium Discount Pool for not more than three years within a five year period during which they remain penalty rated or otherwise ineligible for Group membership. A participant who is predicted to be penalty rated and is therefore removed from the Group and placed in the Premium Discount Pool, but their actual premium rate comes in as a credit ratio, will not have that year counted toward their maximum years of Premium Discount Pool eligibility.

**Section VIII: RATE CONTRIBUTION AND REBATES**

The participant understands that the group rate must be estimated in advance of the experience period and is based upon the most recent experience period, and that the actual group rate will vary depending upon multiple factors. The participant is solely responsible for any assessment of premiums owed to the OBWC. In no event shall CCAO, CCAOSC, the third party administrator, or other group members be held liable for premiums owed by the participant to the OBWC.

The participant understands the group rate is subject to change during and subsequent to the policy period, and all debit and credit adjustments processed by the OBWC will be the premium responsibility of the individual participant. In no event will CCAO, CCAOSC, the third party administrator, or the other group members be held liable for premiums owed by the participant to the OBWC resulting from subsequent rate revisions.

It is understood that in forming a group the OBWC will calculate a group rate for the CCAO Group Rating Plan which shall be applied uniformly to the members of the Group regardless of each Participant's individual rate. It is further understood that OBWC shall calculate premiums, as provided by law, multiplying the group rate (as described above) times each Participant's individual payroll.

In order to allocate the savings derived by formation of the Group, and to maximize the number of Participants in the Group, it is hereby agreed that annually the CCAOSC shall estimate the total savings which shall accrue to the Group through its formation which shall include the amount of savings for participants in the Premium Discount Pool (Section VII of this agreement). The CCAOSC shall notify each Participant of the estimated savings as well as the estimated rebates and/or additional billings required so that yearly budgeting may be facilitated on a timely basis for the Participants.

Upon receipt of the actual year-end payroll figures from each Participant, the CCAOSC shall calculate the total realized savings which shall accrue to the Group through its formation and collect rate contributions from and pay rate equalization rebates to the Group's various Participants. The Participants determined to be eligible for the group filing shall receive the share of the group savings which shall be equal to the total savings of all group members less Premium Discount reimbursements multiplied by the percentage found by dividing the Participants' individual payroll by the total payroll of all participating group members.

Premium Discount Pool participants shall receive the difference between a 10% reduction in their

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individual premium rate the amount determined as if the participant was included in the group program filed with the Ohio Bureau of Workers' Compensation. Individual payroll divided by the payroll of all plan members will be applied to the plan savings as if the participants were included in the group filing.

CCAOSC shall bill any rate contributions due from individual Participants no later than sixty (60) days following receipt by CCAOSC of the payroll report submitted by Participants to the OBWC. Bills for contributions are due and payable to CCAOSC within thirty (30) days of receipt. All rebate checks shall be paid to those Participants due rebates no later than ten (10) days from the date of receipt of all contributions due from individual Participants.

**Section IX: ADMINISTRATIVE SERVICES**

CCAOSC, with approval of the Group Executive Committee, shall retain the services of a third party administrator ("TPA") specializing in the administration of workers' compensation claims. Such designated TPA shall assist CCAOSC staff in the day to day management of the plan, prepare and file necessary reports for both OBWC and members, assist with loss control program, and other duties, (*excluding* claims-related matters, which shall be the responsibility of each individual Participant, as provided in the second paragraph of this Section IX) relating to the Plan's activities. The cost of these services shall be borne by the Participant in proportion to its payroll to the total payroll of the group. CCAOSC shall bill the Participant for such services at such times as are determined by the Group Executive Committee, and the Participant shall remit payment to CCAOSC within thirty (30) days of its receipt of such bill.

Each Participant may at its sole expense, engage the services of an attorney, or other qualified TPA, or representative for claims-related matters, such as hearings before the respective state agencies.

In any event, the Participant agrees to inform CCAOSC, the Group, and the Group's TPA, at all times, of all claims which will affect the rating of the Group.

**Section X: RISK MANAGEMENT SERVICES**

The Participant acknowledges that one of the statutory requirements for a group rating program is a substantial improvement in accident prevention and safety training by the Group. The Participant shall make a good faith effort to maintain a safe working environment for its employees and to implement the Group's model safety and claims management program, which is attached hereto as Exhibit A. In addition, each Participant shall participate in and comply with any safety program or claims management procedure adopted by the Group Executive Committee. The costs for risk management services shall be allocated, billed and paid in the same manner as described in Section IX, above. The Participant may provide supplementary training and risk management consulting services to its employees at the Participant's sole expense.

CCAOSC reserves the right to require the participant to undergo an occupational safety and health audit of its premises. For such audits, the Participant shall have the option of (1) using a qualified private safety consultant of the Participant's choice, subject to CCAOSC's approval; or (2) requesting CCAOSC to arrange for an audit performed by the Ohio Division of Safety and Hygiene ("ODSH"). It is understood that the ODSH will perform an audit at no additional cost. However, if the Participant chooses to utilize a private safety consultant it shall do so at its own cost. A copy of the audit results and safety recommendations shall be provided to CCAOSC upon CCAOSC's request. The Participant and CCAOSC agree that if a private consultant is engaged by the Participant to perform an audit, the consultant will act as an independent agent, not subject to the direction and control of CCAOSC.

**Section XI: GENERAL MANAGEMENT FEES**

The Participant agrees to pay anticipated general management fees during the term of the Agreement, if any, as described and in the manner specified in Section IX, above.

**Section XII: GROUP EXECUTIVE COMMITTEE**

There is hereby established a Group Executive Committee, which shall consist of nine members. Two of said members shall be the President and the Treasurer of CCAOSC; the remaining seven members shall be representatives of the Participants, elected for the ensuing year by the Participants. No Participant shall have more than one member of the Group Executive Committee in any year, and each elected official shall be a county commissioner. However, any member may by written instrument appoint a designee, who need not be a county commissioner but shall be an officer or employee of the member county. A designee shall have the same powers as the appointing member.

The duties of the Group Executive Committee shall be:

- (1) to approve the selection of a TPA, as provided in Section IX hereof;
- (2) to review and approve proposed TPA fees, fees for risk management services, and general management fees, and to provide for the billing and collection thereof;
- (3) to determine ongoing eligibility of each Participant for continued participation in the Group; and
- (4) to perform such other acts and functions as may be delegated to it from time to time by the Group.

**Section XIII: TERM OF AGREEMENT**

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Subject to the approval of the CCAO Group Rating Plan by the OBWC, the term of this Agreement shall commence on the date of execution hereof and shall be continuing and shall be applicable to all rating periods beginning January 1, 2007 and thereafter. CCAOSC may terminate this Agreement upon sixty (60) days written notice to the Participant. The Participant may terminate this Agreement so as not to be included in the CCAO Group Rating Plan for the next annual rating period provided sixty (60) days written notice of intent to withdraw from the CCAO Group Rating Plan is given to CCAOSC prior to the prescribed application deadline of OBWC, currently the last business day in August of the year prior to the applicable annual rating period. In any event, a Participant shall not be relieved of the obligation to pay any amounts owed for participation in the CCAO Group Rating Plan prior to withdrawal therefrom.

**Section XIV: APPLICATIONS BY PARTICIPANT**

Initial application of a Participant shall include: (1) properly signed and authorized copy of this Agreement; (2) properly executed OBWC Form AC-26, allowing CCAOSC or its TPA to represent the CCAO Group Rating Plan before OBWC. A Participant's initial application shall also include a one-time membership fee in the amount of \$2,000. In order to remain in good standing, a Participant shall provide to CCAOSC annually, prior to the group rating deadline: (1) properly signed and authorized copy of this Agreement; (2) properly executed OBWC Form AC-26, allowing CCAOSC or its TPA to represent the CCAO Group Rating Plan before OBWC.

**Section XV: GENERAL PROVISIONS**

CCAOSC shall strictly account for all funds collected and disbursed relating to the Group Rating Plan. All Group Rating Plan funds shall be strictly segregated from all CCAOSC activities relating to the operations and activities of CCAO's property/casualty insurance pool or pools.

The Participant is solely responsible for any assessment of premiums levied by OBWC against it. Neither the CCAO Group Rating Plan nor its TPA shall be liable for any such charges.

If the Participant leaves the group, it will allow representatives of the Group to access its loss experience for a period of three (3) years following the last year of participation.

The Participant acknowledges that Group rate setting is solely the function of the OBWC. It is understood that such considerations as the "TM Calculation", "Credibility Factor", and "Loss Value Limitation", shall be assigned by OBWC at the group, rather than the individual, level.

Vote on Motion                      Mr. Jordan              Aye              Mr. Evans              Aye              Mr. Ward              Aye

**RESOLUTION NO. 06-1041**

**IN THE MATTER OF APPROVING THE WORKER'S COMPENSATION SERVICE AGENCY AGREEMENT WITH COMP MANAGEMENT, INC.:**

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

**Worker's Compensation Service Agency Agreement**

This Agreement is entered into as of August 14<sup>th</sup>, 2006 between COMP MANAGEMENT, INC. (CMI) an Ohio corporation with a mailing address of P.O. Box 884, Dublin, Ohio 43017-0884 and Delaware County (the Client), Policy No. 32100001-0 with a mailing address of 10 Court Street, Floor 2, Delaware, OH 43015. The Client has insured its employees for Workers' Compensation coverage as demanded by any and all federal or state statute(s). **The administrator of the plan(s) requires the services of an organization to process and analyze the claims filed on behalf of its employees.**

CMI administers and processes claims on behalf of employers subject to Workers' Compensation requirements within the Ohio statute(s).

The Client desires to have CMI administer, process and analyze the claims submitted against its Workers' Compensation risk, and CMI is agreeable to providing such services.

**Statement of Agreement**

Now, therefore, it is agreed as follows:

**Appointment as Exclusive Authorized Representative.**

CMI is hereby appointed as the Client's exclusive agent to receive, process, analyze and examine claims filed against the Client's risk. The client hereby grants to CMI, on its behalf, the necessary authority to execute action on any documents which may be required to carry out the obligations of this agreement. A copy of the necessary "Letter of Authority" is attached hereto as Exhibit A. CMI shall use commercially reasonable efforts to contact the client regarding matters which require a client decision. However, if CMI is unable to do so, the client authorizes CMI to use its own discretion in determining the appropriate action on behalf of the client. The client agrees to hold CMI harmless concerning any actions taken in such circumstances.

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**Independent Contractor.**

In performing services herein specified, CMI is acting as an independent contractor.

**Services.**

In administering and processing claims submitted under this plan, CMI shall provide the following services ("Standard Services" herein):

- 3.1 Upon request, survey the Client's operations and make recommendations to improve procedures relative to pre-employment verification, injury investigations, personnel training and claim processing policies as they relate to workers' compensation;
- 3.2 Upon request, provide the Client with an adequate supply of claim forms, which the Client shall distribute to employees and medical suppliers as necessary;
- 3.3 Upon receipt from Client of all claim applications, supporting documentation, and follow-up correspondence it receives pertaining to a claim filed against its risk, examine all such materials for accuracy, completeness, and eligibility, and forward correspondence to the appropriate agency for further processing;
- 3.4 Confer with the Client's designated representative(s) in those cases where a dispute occurs, and, when appropriate, contact the claimant, medical provider(s), and/or state agency;
- 3.5 Review all lost time claims to determine if all awards and reserves are made within the rules and regulations of the governing Workers' Compensation program, and request corrections in those cases where overpayments or incorrect reserves have been established, but only to the extent that such errors, when corrected, will result in rate changes and/or refunds;
- 3.6 Review all claims to determine if "handicap refund", "second injury fund", or other cost relief is due the Client resulting from a pre-existing condition or injury,
- 3.7 Maintain, within its offices, such records as are necessary to verify the Client's assigned rate(s), including, but not limited to data processing files, individual claim records, payroll records, actuarial records, and manual assignments; and
- 3.8 Report to the Client, through personal contact or special bulletins, any changes in procedures produced by legislative or administrative revisions, as deemed necessary.
- 3.9 Records accumulated and maintained by CMI during the period of this Agreement shall be the property of CMI. Upon termination of this Agreement, and all terms herein, said records will be the property of the Client. Client will have full access to all records accumulated and maintained by CMI during the period of this agreement.
- 3.10 Make contact to discuss the Client's position on the issue(s) in disputed claims, when appropriate. Additional investigation and supporting documentation may be requested at this time.
- 3.11 Upon notification of a scheduled administrative hearing, arrange for a qualified representative to attend on behalf of the Client as permitted by law, or notify the Client that representation is not deemed necessary;
- 3.12 Upon notification of a scheduled administrative hearing, contact the Client and arrange for witness attendance, as necessary;
- 3.13 Notify the Client when a claimant has exceeded the normal period of recovery for a particular type of injury or disease, and recommend appropriate action;
- 3.14 Upon authorization by the Client, arrange for an employer or independent medical examination of claimant(s). The cost of such examination shall be the responsibility of the Client.
- 3.15 Analyze, on an individual claim basis, claims to determine if rehabilitation intervention is appropriate. Any cost relating to such intervention must be pre-authorized by the Client, and shall be the Client's responsibility.
- 3.16 Upon request, meet annually with the Client to review and discuss the past, current, and future Workers' Compensation rate assignments, and all relevant account activity.

**Reports**

For the purpose of continued Client awareness of the status of individual claims and the overall condition of the risk, the following forms of reporting shall be provided:

- 4.1 Upon request, periodic visits shall be made to the Client's offices by CMI staff to discuss individual claims, processing requirements, suggested amendments of the Client's internal program, and other topics as requested by the Client.
- 4.2 Upon request of the Client, CMI shall provide special reports pertaining to individual claims.
- 4.3 Upon request, CMI shall provide the Client with reports concerning the feasibility of self-insurance versus current method of funding.
- 4.4 CMI shall provide, on an annual basis, a report summarizing those claims affecting the current Workers' Compensation rating period.

**Loss Prevention.**

For the purpose of initial and continuing improvement in the cost effectiveness of the Client's Workers' Compensation plan, the following services are offered:

- 5.1 Upon request, CMI shall review the Client's internal procedures to evaluate accident control requirements, and recommend appropriate changes to enhance the current safety program.

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- 5.2 Upon request, CMI shall assist in the development of a consistent program to insure the quality control aspects of medical treatment for the injured employee, and to insure the full disclosure of medical facts for the determination of compensability.
- 5.3 CMI shall provide verbal consultation with respect to Accident Prevention, Safety Practices, Specific Code Requirements, and other matters relating to Workers' Compensation in order to assist the Client in the reduction of work-related injuries and diseases.

**Term**

This Agreement shall be effective for a two-year term beginning the **1st day of July 2006** to the **1st day of July 2008**.

**Payment for Services**

- 7.1 The Client shall pay for Services, Additional Services, Reports and Loss Prevention an annual fee of **\$11,200**, payable in **2 (two)** installment(s).
- 7.2 The Client shall pay all invoices (charges billed in advance) within thirty (30) days of receipt of such invoice.

**Non-Standard Services**

Non-standard services shall include any service not described above. Non-standard services may be requested by the Client, and CMI shall promptly thereafter advise whether or not CMI is able and desirous of providing such service and the fee required therefor.

**Confidentiality/Non-Solicitation**

- 9.1 All statistical, financial and personnel data relating to the Client and any of its employees provided to CMI by the Client, or any employee thereof, pursuant to this Agreement is confidential, and CMI and its employees shall keep such information in the strictest confidence except to the extent necessary to perform the services to be rendered hereunder.
- 9.2 The parties agree that they will not employ any person employed by the other during the term of this Agreement and for a period of one (1) year following its termination, without the prior consent of the other party, except in instances in which this provision is otherwise overridden by Ohio law.

**Waiver**

The failure of any party to this Agreement to object to, or take affirmative action with respect to, any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver thereof or of any future breach or subsequent wrongful conduct.

**Penalties**

All penalties or fines assessed by any federal, state or local regulator shall be paid by the party responsible for the assessment of the penalty or fine.

**Notices**

All notices and communications hereunder shall be addressed to the Client and CMI at their current respective addresses, or to such other addresses as either party may instruct in writing.

**Practice of Law.**

CMI shall not provide any services to the Client which may be construed as the practice of law.

**Applicable Law and Binding Effect.**

This Agreement shall be governed by the laws of the State of Ohio, and shall be binding upon and inure to the benefit of the parties and their respective successors and assigns and may not be changed orally but only in writing signed by the parties. The Client may not assign this Agreement without the prior written consent of CMI. The parties to this Agreement hereby designate the Court of Common Pleas of Delaware County, Ohio, as a court of proper jurisdiction and venue of and for any and all actions and proceedings relating to this Agreement; hereby irrevocably consent to such designation, jurisdiction, and venue; and hereby waive any objections or defenses relating to jurisdiction or venue with respect to any action or proceeding initiated in the Court of Common Pleas of Delaware County, Ohio.

**Miscellaneous.**

The Client acknowledges and agrees that no representations or warranties were made by CMI to induce Client to enter into this Agreement, except for those representations and warranties contained in this Agreement. If any provision of this Agreement shall be held invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions hereof shall not be affected thereby, and there shall be deemed substituted for the provision at issue a valid, legal and enforceable provision as similar as possible to the provision at issue. This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed an original, but all of which together shall constitute one and the same instrument. The Sponsoring Organization and the other Participating Members shall be deemed to be third party beneficiaries of this Agreement, and as such, the Sponsoring Organization and the other Participating Members shall have all rights and benefits accruing to them as set forth in this Agreement. Except as set forth



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in the preceding sentence, nothing contained in this Agreement shall be construed as creating any rights or benefits in or to any other party.

**Entire Agreement.**

This Agreement, including the Attached Exhibit(s) if any, constitutes the entire understanding between the parties concerning its subject matter. All prior negotiations and agreements of the parties with respect to any of the duties and obligations set forth in this Agreement are merged into this Agreement. There are not other agreements or understandings between the parties, express or implied, written or oral, that are not reduced to writing herein.

Vote on Motion            Mr. Ward            Aye    Mr. Jordan            Aye    Mr. Evans            Aye

**RESOLUTION NO. 06-1042**

**IN THE MATTER OF APPROVING THE SANITARY SEWER IMPROVEMENT PLANS FOR PRESIDENTIAL POINT SANITARY EXTENSION; PROJECT BUCKEYE – DATA CENTER; OLENTANGY CROSSING - EASTSIDE COMMERCIAL ACCESS AND UTILITY PLAN; EAGLE’S RIDGE, SECTION 1, 2 & 3; NORTHSTAR GOLF RESORT 16” FORCE MAIN; SELDOM SEEN ACRES, PHASE 2 AND TOWNES AT OLENTANGY CROSSINGS:**

It was moved by Mr. Jordan, seconded by Mr. Evans to approve sanitary sewer plans for Presidential Point Sanitary Extension; Project Buckeye – Data Center; Olentangy Crossing - Eastside Commercial Access and Utility Plan; Eagle’s Ridge, Section 1, 2 & 3; Northstar Golf Resort 16” Force Main; Seldom Seen Acres, Phase 2 And Townes At Olentangy Crossings for submittal to the Ohio EPA for their approval as per recommendation of the County Sanitary Engineer.

Vote on Motion            Mr. Ward            Aye    Mr. Jordan            Aye    Mr. Evans            Aye

**RESOLUTION NO. 06-1044**

**IN THE MATTER OF AMENDING THE RESOLUTION AS PRESENTED FOR APPROVING AN EASEMENT AGREEMENT BETWEEN PERRY ROAD LLC; HAVENS FARM ACCOUNT PARTNERSHIP AND THE DELAWARE COUNTY COMMISSIONERS FOR THE PERRY TAGGART SEWER PROJECT TO INCLUDE APPROVING A PURCHASE ORDER REQUEST AND VOUCHER TO HAVENS FARM ACCOUNT PARTNERSHIP IN THE AMOUNT OF \$8,858.00:**

It was moved by Mr. Evans, seconded by Mr. Jordan to approve amending the resolution as presented for approving an easement agreement between Perry Road Llc; Havens Farm Account Partnership and the Delaware County Commissioners for the Perry Taggart Sewer Project to include approving a purchase order request and voucher to Havens Farm Account Partnership in the amount of \$8,858.00.

Vote on Motion            Mr. Evans            Aye    Mr. Jordan            Aye    Mr. Ward            Aye

**RESOLUTION NO. 06-1043**

**IN THE MATTER OF APPROVING THE RESOLUTION AS AMENDED FOR AN EASEMENT AGREEMENT BETWEEN PERRY ROAD LLC; HAVENS FARM ACCOUNT PARTNERSHIP AND THE DELAWARE COUNTY COMMISSIONERS FOR THE PERRY TAGGART SEWER PROJECT:**

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

AGREEMENT

BY THIS AGREEMENT, made at Delaware, Ohio, this 14<sup>th</sup> day of August, 2006, Perry Road LLC, an Ohio limited liability company, and Havens Farm Account Partnership, an Ohio general partnership, collectively SELLERS, and the Delaware County Commissioners, BUYER, in consideration of the promises and covenants herein contained, which consideration the parties acknowledge is sufficient for all purposes, do hereby recite and agree as follows:

Recitals

Whereas: SELLERS are the owner and lessee of certain real estate located in Liberty Township, Delaware County, Ohio, across which BUYER desires to and is in the process of constructing a sanitary sewer line; and

Whereas: SELLERS and BUYER previously entered into two Agreements dated April 12, 2004 (the “Prior Agreements”) and SELLERS previously granted BUYER a Sanitary Sewer Easement which is recorded in the Delaware County records as Volume 495, Page 2604 (the “Prior Easement”); and

Whereas: When they entered into the Prior Agreements and the Prior Easement, the parties contemplated that

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the sewer line would cross the Olentangy River at the north end of SELLERS' property by means of an underground tunnel, which would minimize the cutting of trees and other disruption to the river banks and adjoining lands; now, however, BUYER has determined that a tunnel under the river is not feasible and desires to now cross the river by means of an open ditch, which will increase the disruption of the river bank and adjoining lands of SELLERS; and

Whereas: To accommodate the change in plans for the river crossing, the parties desire to enter into this Agreement and a new easement granting a Temporary Construction Easement, and to amend the Prior Agreements and the Prior Easement.

Agreements

1. SELLERS agree to sell and convey and the BUYER agrees to purchase and to pay for Temporary Construction Easements across the real estate described in the document attached hereto as Exhibit A (the "New Easement"). BUYER agrees to pay SELLERS the purchase price of Eight Thousand Eight Hundred and Fifty-Eight Dollars (\$8,858.00), to be paid upon the execution of the New Easement.

2. This transaction involving the grant of the New Easement is to be closed at the SELLERS' convenience, on or before July 31, 2006 at which time the SELLERS will execute and deliver to the BUYER the New Easement and BUYER will pay the SELLERS the amount described above.

3. The Prior Agreements granted Perry Road LLC an option to acquire up to 15 sanitary sewer taps, according to the terms set forth in the Prior Agreements, which option continued for a term of 10 years from the completion date of the sanitary sewer line subject to the Prior Easements. The parties hereto do hereby amend the Prior Agreements as follows:

(a) the option to acquire sewer taps shall be held by both SELLERS, so that SELLERS, jointly, shall have the option to acquire a total of up to but not more than a total of 15 sanitary sewer taps;

(b) the term of SELLERS' option shall be extended until the 25<sup>th</sup> anniversary of the date when the sanitary sewer line subject to the Prior Easement first begins regular service; and BUYER agrees to provide written notice to SELLERS of that date of first service;

(c) BUYER shall reserve to SELLERS' benefit sufficient capacity in the said sewer line, any downstream sewer lines, and BUYER's sewer treatment plant, so that SELLERS shall have the right to acquire and use said sewer taps without any capacity restrictions or restraints; and

(d) SELLERS may exercise their option to acquire such sewer taps at any time during the term of said option and may acquire such taps one or more at a time; that is to say, all taps need not be acquired at the same time.

4. BUYER agrees it will not object to the placement by SELLERS of fill in the area on SELLERS' land located between Perry Road and the Olentangy River, provided that such fill does not unreasonably interfere with BUYER's rights pursuant to the Prior Easement and the New Easement and Delaware County Floodplain Regulations.

5. The individuals executing this Agreement warrant and represent to all parties that they are fully and lawfully authorized to sign this Agreement on behalf of the entities for which they sign, and that, when so executed, this Agreement shall be binding upon each such entity.

6. The BUYER shall guarantee plantings and trees as stated in the approved OEPA Water Quality Certification (401 permit) (OEPA ID #052345) after the initial restoration is completed, and will replant and/or reseed as needed to ensure proper restoration pursuant to the attached plan and approved OEPA 401 permit.

(Exhibits available in the Sanitary Engineer's Department until no longer of Administrative value).

Further Be It Resolved, that the Commissioners approve A Purchase Order Request and Voucher to Havens Farm Account Partnership in the amount of \$8,858.00

Vote on Motion            Mr. Evans            Aye            Mr. Jordan            Aye            Mr. Ward            Aye

**RESOLUTION NO. 06-1045**

**IN THE MATTER OF APPROVING AN EASEMENT AGREEMENT BETWEEN THE ESTATE OF AUSTIN E. KNOWLTON AND THE DELAWARE COUNTY COMMISSIONERS FOR THE PERRY TAGGART SEWER PROJECT:**

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

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AGREEMENT

THIS AGREEMENT made at Delaware, Ohio, and this 14<sup>th</sup> day of August 2006, by and between The Estate of Austin E. Knowlton, SELLER, and the Delaware County Commissioners, BUYER;

WITNESSETH:

In consideration of the promises and covenants herein after contained, the SELLER agrees to sell and convey and the BUYER agrees to purchase and to pay for an Easement across the real estate described on attached Plat (Exhibit A).

The purchase price of said Easement is Eight Thousand Seven Hundred and Forty One Dollars (\$8,741.00) to be paid and credited upon the execution of the Deed of Easement.

This transaction is to be closed at the SELLERS convenience, on or before July 31, 2006 at which time the SELLER will execute and deliver to the BUYER the attached Deed of Easement for the above-described real estate.

Furthermore, the BUYER agrees to backfill the proposed sewer line in accordance with the Delaware County Engineer's Office Standard Drawing R-100 for the support of a potential future public roadway within the limits as detailed on Exhibit B.

(Exhibits available in the Sanitary Engineer's Department until no longer of Administrative value).

**Further Be It Resolved**, that the Commissioners approve A Purchase Order Request and Voucher to The Estate of Austin E. Knowlton in the amount of \$8,741.00

Vote on Motion            Mr. Jordan            Aye            Mr. Evans            Aye            Mr. Ward            Aye

**RESOLUTION NO. 06-1046**

**IN THE MATTER OF APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND TIME WARNER TELECOM FOR INTERNET AND TELEPHONE SERVICES FOR THE OLENTANGY ENVIRONMENTAL CONTROL CENTER AND THE ALUM CREEK WATER RECLAMATION FACILITY:**

It was moved by Mr. Evans, seconded by Mr. Jordan to approve a contract between The Delaware County Commissioners And Time Warner Telecom for internet and telephone services for The Olentangy Environmental Control Center and The Alum Creek Water Reclamation Facility.

(A Copy of the Contract is available in the Commissioners office until no longer of Administrative Value).

Vote on Motion            Mr. Ward            Aye            Mr. Jordan            Aye            Mr. Evans            Aye

**RESOLUTION NO. 06-1047**

**IN THE MATTER OF APPROVING A TRANSFER OF FUNDS FOR UNCLAIMED MONIES :**

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

<b>Transfer of Funds</b>		Amount
10110107-5801	10011102-4601	\$355.77
Unclaimed Monies	Commissioners General/Interfund Revenue	

Vote on Motion            Mr. Jordan            Aye            Mr. Evans            Aye            Mr. Ward            Aye

**RESOLUTION NO. 06-1048**

**IN THE MATTER OF APPROVING SUPPLEMENTAL APPROPRIATIONS:**

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

<b>Supplemental Appropriation</b>		Amount
10011201-5001	Law Library/Compensation	4,505.00
10011201-5120	Law Library/PERS	480.00
10030301-5101	Coroner/Hospital Insurance	12,880.00

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Vote on Motion            Mr. Ward            Aye    Mr. Jordan            Aye    Mr. Evans            Aye

**RESOLUTION NO. 06-1049**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT, EMPLOYMENT, DISMISSAL, DISCIPLINE, PROMOTION, DEMOTION OR COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL AND LAND ACQUISITION:**

It was moved by Mr. Jordan, seconded by Mr. Evans to adjourn into Executive Session at 9:50AM.

Vote on Motion            Mr. Jordan            Aye    Mr. Evans            Aye    Mr. Ward            Aye

**RESOLUTION NO. 06-1050**

**IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:**

It was moved by Mr. Jordan, seconded by Mr. Evans to adjourn out of Executive Session at 10:30AM.

Vote on Motion            Mr. Ward            Aye    Mr. Jordan            Aye    Mr. Evans            Aye

There being no further business the meeting adjourned.

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Glenn A. Evans

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Kristopher W. Jordan

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James D. Ward

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Letha George, Clerk to the Commissioners