

St. Clairsville, Ohio

May 6, 2009

The Board of Commissioners of Belmont County, Ohio, met this day in regular session. Present: Charles R. Probst, Jr., Matt Coffland and Ginny Favede, Commissioners and Jayne Long, Clerk of the Board.

MEETINGS ARE NOW BEING RECORDED
ALL DISCUSSIONS ARE SUMMARIZED. FOR COMPLETE PROCEEDINGS
PLEASE SEE CORRESPONDING CD FOR THIS MEETING DAY.

IN THE MATTER OF ALLOWANCE OF BILLS
AS CERTIFIED IN THE AUDITOR'S OFFICE

"BILLS ALLOWED"

The following bills having been certified in the Auditor's office, on motion by Mrs. Favede, seconded by Mr. Probst, all members present voting YES, each bill was considered and it is hereby ordered that the County Auditor issue his warrant on the County Treasurer in payment of bills allowed.

<u>Claim of</u>	<u>Purposes</u>	<u>Amount</u>
A-ALLTEL	Cell phone service-Auditor/General Fund	74.31
A-Al Parkhurst and others	Travel expenses-Veterans/General Fund	737.30
A-AT&T	Misc. service/General Fund	344.33
A-Card Member Services (Elan)	Travel exp.-M. Coffland/General Fund	38.83
A-Card Member Services (Elan)	Travel exp.-G. Favede/General Fund	37.00
A-Card Member Services (Elan)	Travel exp.-C. Henry/General Fund	199.21
A-Card Member Services (Elan)	Travel exp.-C. Probst/General Fund	68.60
A-Treasurer of State	Audit Fees/General Fund	22,975.79
B-American Electric Power	April service/Dog and Kennel Fund	454.10
J-Thomas S. Schirack, A.S.A.	Contract services/Real Estate Assessment Fund	19,845.00
M-AT&T Business	Utilities-Juvenile Ct./Title IV-E Reimb. Fund	106.40
M-AT&T Business	Utilities-Juvenile Ct./Title IV-E Reimb. Fund	106.85
M-Kroll Laboratory	Testing/Intake Coordinator-Juvenile Court Fund	32.00
P-DiCarlo's Pizza	Haz-mat Awareness lunch/Special Emergency Planning Fund-LEPC	114.00
S-Comcast	Internet/Northern Div. Ct. Computer Fund	105.04
S-Digital Data Communications	Labelwriter/Probate Court Computer Fund	108.96
S-Lilitenthal/Southeastern	Certificates of Title/Cert. of Title Admin. Fund	310.00

IN THE MATTER OF APPROVING RECAPITULATION
OF VOUCHERS FOR THE VARIOUS FUNDS

Motion made by Mrs. Favede, seconded by Mr. Probst to approve the Recapitulation of Vouchers dated for May 6, 2009 as follow:

<u>FUND</u>	<u>AMOUNT</u>
A-GENERAL	\$362.34; \$473.67; \$6,119.22; \$21,724.25
A-GENERAL/EMA	\$1,250.80
A-GENERAL/SHERIFF	\$14,559.28; \$645.11
A-GENERAL/911	\$56,615.53
E-911	\$872.08
H-County Home, Park Health	\$9,445.51
H-Job & Family, CSEA	\$14,596.09; \$76,047.49
H-Job & Family, Public Assistance	\$18,360.89; \$1,040.55; \$250.00; \$443.98
H-Job & Family, WIA	\$49,000.00; \$130,269.42
K-Engineer MVGT	\$24,586.08; \$1,279.72
P-Oakview Admn. Bldg.	\$2,287.12
S-District Detention Home	\$4,727.42
S-Job & Family, Children Services	\$122,332.79; \$28,350.10; \$225,671.12; \$19,564.38
S-Juvenile Ct. – Gen. Special Projects	\$331.09
S-Oakview Juvenile Residential Center	\$25,976.61

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Probst	Yes
Mr. Coffland	Yes

IN THE MATTER OF TRANSFER WITHIN FUND FOR
THE PORT AUTHORITY FUND

Motion made by Mr. Probst, seconded by Mrs. Favede to approve the following transfer within fund for the Port Authority Fund.

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
E-9799-S012-S07.000 Professional Services	E-9799-S012-S09.004 Workers Comp	\$ 997.25

Upon roll call the vote was as follows:

Mr. Probst	Yes
Mrs. Favede	Yes
Mr. Coffland	Yes

IN THE MATTER OF APPROVING
THEN AND NOW CERTIFICATE/AUDITOR'S

Motion made by Mr. Coffland, seconded by Mr. Probst to execute payment of Then and Now Certification dated May 6, 2009, presented by the County Auditor pursuant to O.R.C. 5705.41(d) 1, and authorizing the drawing of warrant(s) in payment of amounts due upon contract or order.

Upon roll call the vote was as follows:

Mr. Coffland	Yes
Mr. Probst	Yes
Mrs. Favede	Yes

IN THE MATTER OF REQUEST FOR CERTIFICATION OF MONIES BY THE BUDGET COMMISSION

Motion made by Mr. Coffland, seconded by Mr. Probst to request the Belmont Co. Budget Commission certify the following monies. **CDBG- \$32,725.00** paid into R-9702-T011-T01.501 CDBG – Grant FORMULA on May 4, 2009. Draw #390, Grant #B-F-07-007-1

Upon roll call the vote was as follows:

Mr. Coffland	Yes
Mr. Probst	Yes
Mrs. Favede	Yes

IN THE MATTER OF GRANTING PERMISSION FOR COUNTY EMPLOYEES TO TRAVEL

Motion made by Mr. Probst, seconded by Mr. Coffland granting permission for county employees to travel as follows:

COMMISSIONERS – Jayne Long, Cindi Henry and Mike Kinter to travel to Salt Fork Conference Center, Cambridge, OH, on May 11, 2009, to attend a CCAO Seminar. Estimated expenses: \$25.00 per person. A county vehicle will be used.

ENGINEER – Fred Bennett, Don Pickenpaugh, Ruth Graham and Richard Oberdick to travel to Columbus, OH, on May 19, 2009, to attend CEAO 2009 Ohio Land Records Modernization Conference. Estimated expenses: \$85.00 per person.

Michael Wahl and Shereza O’Hara to travel to Coshocton, OH, on May 11, 2009, to attend CCAO-CEAO Southeast District Spring/Summer Quarterly Meeting. Estimated expenses: \$20.00 per person.

SANITARY SEWER DISTRICT- Mike Murray to travel to Columbus, OH, on May 13, 2009 to take the Ohio EPA Water Test. A county vehicle will be used.

TREASURER – Joseph A. Gaudio to travel to Columbus, OH, on May 12-14, 2009, to attend County Treasurer’s Association of Ohio Conference. Estimated expenses: \$700.00.

Upon roll call the vote was as follows:

Mr. Probst	Yes
Mr. Coffland	Yes
Mrs. Favede	Yes

OPEN PUBLIC FORUM – John Lysien, York Township Trustee, thanked the board for their efforts in acquiring funding regarding the Mt. Victory Waterline Project.

Richard Hord suggested holding a Town Hall type meeting in the Ohio Valley Mall regarding economic development with representatives of the Cafaro Company present. Commissioner Probst responded that the board could not speak on behalf of the Cafaro Company and what they are doing regarding development. He said it is a sensitive issue and developers usually prefer to keep information confidential until all paperwork is signed. Commissioner Coffland advised Mr. Hord that the board is in contact with the Cafaro Company on a weekly basis along with other developers. Port Authority Director Larry Merry explained that you can’t do development publicly. He also stated there are people working every day in this community to make this area better. He further stressed the Cafaro Company has a major investment in the mall and they are doing everything possible to make it successful.

Mr. Hord said he doesn’t see many ads and promotions for Belmont County. Eugene “Doc” Householder, Belmont County Tourism Director, was present and advised that approximately \$50,000.00 is spent yearly promoting the county in magazines and other outside advertising promoting tourism and Belmont County.

Sue Douglass, Executive Director, of the Department of Development was also present and stated Belmont County is “popping off the map” due to its location. She advised the county is advertised on the websites of the Development Office, Port Authority, Tourism and Commissioners. “We are noticeable,” she stated.

IN THE MATTER OF QUARTERLY REPORT FOR BELMONT COUNTY TOURISM COUNCIL

Eugene “Doc” Householder, Executive Director, Belmont Co. Tourism Council presented his quarterly report for the months of January, February and March, 2009. He reported they have a new board member, Bill Goff, Manager of America’s Best Value Inn of St. Clairsville. Tourism Board is supplying funds for two barns at the new fairgrounds at a cost of \$109,000.00. Brochures have been shipped to the Ohio Travel Pavilion in Columbus to be distributed at various shows. A display promoting the Carnes Center was set up at the Bridal Show in the Ohio Valley Mall. Doc advised his office continues to be very busy and receives numerous calls from billboard and advertising in out-of-town magazines.

IN THE MATTER OF BID OPENING FOR ENGINEER’S PROJECT 09-2 APPLYING LIQUID BITUMINOUS MATERIAL FOR DUST CONTROL ON VARIOUS COUNTY HIGHWAYS

This being the day and 11:00 a.m. being the hour that bids were to be on file in the Commissioners’ Office for the Belmont County Engineer’s Project 09-2 “Applying Liquid Bituminous Material for dust control on various County Highways” they proceeded to open the following bids: (Engineer’s Estimate: \$101,200.00)

NAME	BID BOND	BID AMOUNT
Lash Paving, Inc. PO Box 296 Colerain, OH 43916	X	\$ 99,450.00

Present for the bid opening were Engineer Fred Bennett, David Lash of Lash Paving and Eric Ayres of The Times Leader.

Motion made by Mr. Probst, seconded by Mrs. Favede to turn over all bids received for the Belmont County Engineer’s Project 09-2 Furnishing and Applying Liquid Bituminous Material to County Engineer Fred Bennett for review and recommendation.

Upon roll call the vote was as follows:

Mr. Probst	Yes
Mrs. Favede	Yes
Mr. Coffland	Yes

IN THE MATTER OF APPROVING MINUTES OF REGULAR BOARD OF COMMISSIONERS MEETING

Motion made by Mrs. Favede, seconded by Mr. Probst to approve the minutes of the Belmont County Board of Commissioners regular meeting of: April 16 and April 22, 2009.

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Probst	Yes
Mr. Coffland	Yes

**IN THE MATTER OF APPROVING MINUTES OF
EMERGENCY BOARD OF COMMISSIONERS MEETING**

Motion made by Mrs. Favede, seconded by Mr. Probst to approve the minutes of the Belmont County Board of Commissioners Emergency Meeting of: April 24, 2009.

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Probst	Yes
Mr. Coffland	Yes

<u>IN THE MATTER OF</u>		[Belmont Co. Commissioners
<u>HUNTER'S RIDGE</u>		[Courthouse
<u>1st ADD'N</u>		[St. Clairsville, Ohio 43950
<u>COLERAIN TOWNSHIP, SEC. 24, T-6, R-3</u>		[Date <u>May 6, 2009</u>

Motion made by Mrs. Favede, seconded by Mr. Probst to authorize the Clerk of the Board to establish a date and time for the Subdivision Hearing in regards to the Plat of Hunter's Ridge 1st Addition, Colerain Township Sec 24, T6, R3, pursuant to the Ohio Revised Code Section 711.05 and to proceed with the required notifications.

NOTICE OF NEW SUB-DIVISION
 Revised Code Sec. 711.05
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To: William Nagel, F.O., Colerain Township Trustees, 53979 Colerain Pike, Martins Ferry, OH 43935

You are hereby notified that the 20th day of May, 2009, at 11:15 o'clock A. M., has been fixed as the date, and the office of the Commissioners, in the Courthouse, St. Clairsville, Ohio, as the place where the Commissioners will act on the above stated matter.

By order of the Belmont County Commissioners.

Jayne Long /s/
Clerk of the Board

- Mail by certified return receipt requested
- cc: Colerain Township Trustees
 Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Probst	Yes
Mr. Coffland	Yes

**IN THE MATTER OF ENTERING INTO THE
SHARED DRIVEWAY EASEMENT AGREEMENT
WITH PRESBYTERIAN HOMES, INC./PARK HEALTH CENTER**

Motion made by Mrs. Favede, seconded by Mr. Probst to enter into the Shared Driveway Easement Agreement with Presbyterian Homes, Inc. (PHI), to allow ingress and egress to Belmont County Park Health Center.

SHARED DRIVEWAY EASEMENT AGREEMENT

THIS SHARED DRIVEWAY EASEMENT AGREEMENT (the "Agreement"), is by and between PRESBYTERIAN HOMES, INC., a corporation incorporated under the laws of the State of Pennsylvania (hereinafter referred to as "PHI"), and BELMONT COUNTY, OHIO BOARD OF COUNTY COMMISSIONERS (hereinafter referred to as "Belmont") and is on the following terms and conditions:

WITNESSETH:

WHEREAS, PHI is the owner, in fee, of a certain approximate tract of real estate located in Belmont County, Ohio, and described in Exhibit "A", attached hereto and made a part hereof (hereinafter the "PHI Parcel");

WHEREAS, Belmont is the owner, in fee, of a certain tract of real estate located in Belmont County, Ohio, described in Exhibit "A", attached hereto and made a part hereof (hereinafter the "Belmont Parcel");

WHEREAS, the Belmont Parcel is contiguous and adjacent to the PHI Parcel; and

WHEREAS, PHI and Belmont desire to grant certain easements for reciprocal access as hereinafter set forth.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I - DEFINITIONS

In addition to the definitions set forth elsewhere in this Agreement, the following terms shall be defined as follows:

1.1 The term "Occupant" as used herein, is hereby defined as the fee owner of the PHI Parcel or the Belmont Parcel, as the case may be, his heirs and assigns, and any person or entity who shall, from time to time, be entitled to the use and occupancy of all or any part of the PHI Parcel or the Belmont Parcel, as the case may be, under any lease, sublease, license or concession agreement, or other instrument or arrangement under which such rights of use and occupancy are acquired.

1.2 The term "Permittee" as used herein, is hereby defined as the lessees, customers, employees, agents, licensees and business invitees of the Occupant of the PHI Parcel or the Belmont Parcel, as the case may be.

1.3 The term "PHI Parcel Ingress-Egress Easement Area" as used herein, is hereby defined as that portion of the PHI Parcel designated for access and not encumbered by permanent structures as designated on Exhibit A.

1.4 The term "Belmont Parcel Ingress-Egress Easement Area", as used herein, is hereby defined as that portion of the Belmont Parcel designated for access and not encumbered by permanent structures as designated on Exhibit A.

ARTICLE II - GRANT OF EASEMENTS

2.1 Subject to the limitations and conditions set forth in Section 2.2, hereof, the following easements are hereby declared, granted and established:

(a) PHI hereby grants to Belmont, its successors and assigns, and all Occupants and Permittees of the Belmont Parcel, a nonexclusive perpetual easement for the purpose of pedestrian and vehicular ingress, egress, passage and traffic upon, over, across and through all portions of the PHI Parcel Ingress-Egress Easement Area, as well as the installation and maintenance of all utilities upon, over, under, across and through the PHI Parcel Ingress-Egress Easement Area.

(b) Belmont hereby grants to PHI, his heirs and assigns, and all Occupants and Permittees of the PHI Parcel, a nonexclusive perpetual easement for the purpose of pedestrian and vehicular ingress, egress, passage and traffic upon, over, across and through all portions of the Belmont Parcel Ingress-Egress Easement Area, as well as the installations and maintenance of all utilities upon, over, under, across and through the Belmont Parcel Ingress-Egress Easement Area.

2.2 It is specifically agreed that the easements granted in Section 2.1 above are granted upon the conditions that:

(a) Free access between dedicated streets or private roads and both the PHI Parcel and Belmont Parcel (sometimes referred to in this Section 2.2 collectively as the "Parcels") shall not be impeded and shall at all times be maintained. In order to insure such free access, both PHI and Belmont agree that no planter, hedge, curb, improvement, fence, wall or other barrier or obstruction shall be constructed or placed across all or any part of the easement portion of the Parcels without the prior written consent of the other party.

(b) PHI and Belmont shall have the right to sell, lease, build upon or otherwise develop portions of the real estate comprising the Parcels provided that any such sale, lease, building or development does not unreasonably interfere with the easements granted to the other party herein.

(c) PHI and Belmont shall have the right to erect and maintain at each party's sole expense such signage as desired by PHI and Belmont in such location and size as reasonably agreed to between PHI and Belmont.

(d) If either Belmont or PHI undertakes to have the PHI Parcel Ingress-Egress Easement Area and the Belmont Parcel Ingress-Egress Easement Area dedicated as a City Street, the remaining party will cooperate with that effort, short of incurring any expense, but the remaining party may also assist or incur expense at its sole option.

ARTICLE III - MAINTENANCE

3.1 It is hereby agreed that Belmont, or its successors or assigns as the then current owner of the Belmont Parcel, assumes and agrees to pay the entire cost of plowing, patching, improving, constructing and maintaining the shared driveway over the respective easements herein granted, except that any damage, other than ordinary wear and tear, caused by either party shall be paid by that party. Any cost to install, maintain or repair utility services on the Parcels shall be borne by the party desiring same, except that any damage caused by either party shall be repaid by such party at its sole cost. The cost to install and maintain shared utility lines, if any, shall be paid equally by Belmont and PHI. Whenever costs are to be shared as provided herein, PHI and Belmont shall agree in advance to incurring such expenses. Agreement to incur any such expenses by either party shall not be unreasonably withheld.

3.2 In addition to any other rights or remedies provided hereunder or at law or in equity, in the event either party hereunder shall be in default with respect to his obligations to pay for any agreed upon maintenance or repair obligation hereunder, the other party shall pay for the defaulting party's portion of such repairs or maintenance and, in such case, the costs incurred therefor, together with interest thereon at the rate of twelve percent (12%) per annum, shall be forthwith reimbursed to such party by the defaulting party hereunder. A party shall be in default with respect to his obligation to pay for agreed upon maintenance and repairs if he fails to provide his share of the expense within ten (10) days of receiving notice of the amount due.

3.3 Except in the event of emergency, the party granting the easements described in Section 2.1 above shall not carry on any major construction, major maintenance, major replacement, major removal, or major repair activity at any time in any such easement area unless such party shall have given at least ten (10) days advance written notice to the other party of his intention to do so.

3.4 Promptly upon the completion of any such construction, maintenance, replacement, removal or repair activity, the party granting such easement shall, at its expense, restore such easement area as nearly as possible to its former condition and appearance.

3.5 All improvements located within easement areas created by this Agreement shall be constructed, maintained, replaced and repaired in a good and workmanlike manner, in full compliance with all building codes and other applicable laws and governmental rules and regulations.

3.6 Each party shall maintain, at its sole cost and expense, general liability insurance, in reasonable amounts, against any claims for injuries to persons or damages to property occurring in, about or upon the parcel which said party owns.

ARTICLE IV - NATURE OF EASEMENTS AND RIGHTS GRANTED

4.1 Unless otherwise provided herein, the easements and each and all of the rights, obligations, covenants and provisions contained herein are made for the direct benefit of the respective parcel of real estate benefitted thereby, constitute covenants running with the land and shall bind every person or entity having any fee, leasehold or other interest in all or any portion of the PHI Parcel and/or the Belmont Parcel at any time from and after the date hereof.

ARTICLE V - NOT A PUBLIC DEDICATION

5.1 Nothing contained herein shall, or shall be deemed to constitute a gift or dedication of all or any portion of the PHI Parcel and/or the Belmont Parcel to the general public or for any public purpose whatsoever, it being the intention of the parties hereto that this Agreement be strictly limited to and for the uses and purposes expressed herein.

ARTICLE VI - ENFORCEMENT

6.1 In the event of any violation by any party hereto or by any Permittee or Occupant of any parcel of real estate subject hereof, of any terms, restrictions, covenants and conditions provided for herein, any of the parties hereto, or their respective heirs or assigns, as the case may be, shall have all rights available under the law including, but not limited to, the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Prior to the commencement of any such action to enjoin such violation or threatened violation, written notice of such violation or threatened violation shall be given to all parties to this Agreement in the manner as required by Section 6.2 below.

6.2 Except for any default under Paragraph 3.2, a party shall not be in default under any of the terms, restrictions, covenants or conditions hereof, unless and until such party shall have been served with written notice specifying the nature of such default and shall thereafter fail to cure such default within thirty (30) days after the receipt of such written notice, or, if such default cannot reasonably be cured within said thirty (30) day period, said party shall be given such additional time as is necessary to cure such default so long as such party has commenced to cure such default and is proceeding diligently to complete the curing thereof.

6.3 A party who is in default of any of the terms, restrictions, covenants or conditions hereof, shall indemnify the other party, his respective heirs or assigns, as the case may be, from and against any and all costs, damages, and expenses and attorney's fees, (exclusive, however, of consequential damages and lost profits) incurred by that party as a result of the defaulting party's failure to abide by the terms of this Agreement.

ARTICLE VII - MISCELLANEOUS

7.1 Relationship of the Parties. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that no provision contained herein or any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto, other than the relationship of easement grantor and easement grantee.

7.2 Notices. All notices required or permitted to be given pursuant to the terms of this Agreement shall be in writing and shall be deemed to have been properly given if hand delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses set forth below, or to such other addresses as the parties may specify, from time to time, in writing, sent to the other party. Notices shall be effective upon delivery, in the case of hand delivery, and otherwise, upon receipt or refusal of receipt.

AS TO PHI: Attn: Presbyterian Senior Living
One Trinity Drive East, Suite 201
Dillsburg, PA 17019

AS TO BELMONT: Attn: Clerk to the Board of Commissioners
101 West Main Street
St. Clairsville, Ohio 43950
With a copy to: Belmont County Prosecutor's Office
147-A West Main Street
St. Clairsville, Ohio 45320

7.3 Waiver. Except to the extent that a party may have otherwise agreed in writing, no waiver by such party of any breach by the other party of any of his obligations, agreements or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or of any other covenants, agreements or obligations, nor shall any forbearance by a party to seek a remedy for any breach by the other party be deemed a waiver of any rights or remedies with respect to such breach or any similar breach in the future.

7.4 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

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7.5 Captions and Pronoun Usage. The captions and section numbers in this Agreement are for convenience only and shall not be deemed to be a part hereof. The pronouns used herein shall be considered as meaning the person, number and gender appropriate under the circumstances at any given time.

7.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

7.7 Modification. This Agreement, or any easement, covenant or restriction set forth herein, except as set forth herein, may not be amended, terminated, rescinded or otherwise modified, in whole or in part, except by a written instrument executed by the parties who are the owners of the PHI Parcel and the Belmont Parcel and recorded with the Belmont County Recorder.

7.8 Counterparts. This Agreement may be executed in any number of counterparts, with each such counterpart being deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

7.9 Benefit. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set below each such party's signature.

PRESBYTERIAN HOMES, INC.
By: _____
Print Name: _____
Its: _____
Dated: April _____, 2009

STATE of _____)

)ss:

COUNTY of _____)

The foregoing instrument was acknowledged before me, a Notary Public, in and for said County and State, by PRESBYTERIAN HOMES, INC., a corporation incorporated under the laws of the State of Pennsylvania, by _____, its _____ who stated that the signing of this instrument is his free act and deed individually and as a duly authorized officer of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, _____, this _____ day of April, 2009.

Notary Public

BELMONT COUNTY, OHIO BOARD OF COUNTY COMMISSIONERS
By: Matt Coffland /s/ _____
Commissioner
By: Ginny Favede /s/ _____
Commissioner
By: Charles R. Probst, Jr. /s/ _____
Commissioner
Dated: May 6, 2009

Approved as to form:

David K. Liberati /s/ Assistant Belmont County Prosecutor 4-29-09 Date

STATE of OHIO)

)ss:

COUNTY of BELMONT)

The foregoing instrument was acknowledged before me, a Notary Public, in and for said County and State, by Matt Coffland by Ginny Favede by Charles R. Probst, Jr. for and on behalf of the Belmont County, Ohio Board of County Commissioners who stated that the signing of this instrument is their free act and deed individually and as a duly authorized County Commissioner.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Belmont County, Ohio, this 6th day of May, 2009.

Jayne Long /s/ _____
Notary Public

This instrument prepared by:

Bud Vetter, Esq.
Vetter Law Offices, Ltd.
Mansfield, Ohio

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Probst	Yes
Mr. Coffland	Yes

IN THE MATTER OF ENTERING ANNUAL SOFTWARE MAINTENANCE AGREEMENT WITH MAXIMUS ON BEHALF OF BCDJFS FOR THE QuIC+ AND COUNTY RANDOM MOMENT SAMPLING SYSTEM (RMS)

Motion made by Mrs. Favede, seconded by Mr. Probst to enter into an annual Software Maintenance Agreement with MAXIMUS Consulting Services, Inc., Columbus, Ohio, on behalf of Belmont County Department of Job & Family Services, in the amount of \$3,225.00, effective July 1, 2009 through June 30, 2010, for the Quarterly Information Consolidation System Plus (QuIC+) and County Version Random Moment Sampling System (RMS).

SOFTWARE MAINTENANCE AGREEMENT

This Software Maintenance Agreement ("Agreement") is made and entered into between MAXIMUS Consulting Services, Inc., a wholly owned subsidiary of MAXIMUS, Inc. (MAXIMUS) a Virginia corporation ("MAXIMUS"), on July 1, 2009 (effective date) and Belmont County DJFS ("Licensee") under the Software License Agreement (SLA) dated 2/3/1992. The terms and conditions of the Master Agreement are incorporated herein by reference. In the event of any conflict between the Master Agreement and this Agreement, the SLA shall prevail.

MAXIMUS and Licensee are sometimes referred to herein as the "Parties" or individually as a "Party".

WHEREAS: Licensee has acquired the use of **Quarterly Information Consolidation System Plus (QuIC+) and County Version Random Moment Sampling System (RMS)** (the "System") in accordance with the Software License Agreement between MAXIMUS and Licensee and any amendments thereto, and Licensee desires to acquire on-going maintenance in accordance with the terms set forth in this agreement;

NOW, THEREFORE, for and in consideration of the foregoing recitals, the agreements and undertakings hereinafter provided and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by MAXIMUS and Licensee, MAXIMUS hereby agrees to provide software maintenance services to the Licensee under the following terms and conditions.

1. SOFTWARE MAINTENANCE FEES.

(a) Licensee shall pay MAXIMUS a fee of **\$3,225.00** for the 12 month period specified herein. The fee shall be payable on the execution of this agreement for the period from **July 1, 2009 through June 30, 2010**.

- (b) In the event Licensee fails to renew this agreement for any year, the fee set forth herein shall not apply to any subsequent agreement for software maintenance. MAXIMUS shall determine the applicable fee which shall not be less than the then annual fee plus seventy-five percent (75%) of the fee charged for each year that a maintenance agreement was not in effect.
- 2. TERM. The minimum term for this agreement shall be from **July 1, 2000 through June 30, 2010**. Licensee shall have the option to extend this agreement on a year-to-year basis by paying the current annual fee of **\$3,225.00** or, if the fee is raised by the MAXIMUS, the then current annual fee. Failure to pay the annual renewal fee within thirty (30) days prior to the beginning of the fiscal year or within thirty (30) days of execution hereof if for a partial year shall constitute cancellation of the Agreement by the Licensee. In addition, MAXIMUS may terminate the Agreement at the end of any period, with or without cause.
- 3. SERVICES UNDER THIS AGREEMENT. MAXIMUS agrees to provide the Licensee with any updates or modifications to the System and to correct any problems with the System software that are made generally available to Licensees of the System pursuant to an applicable Maintenance Agreement. Under the terms of this maintenance agreement, Licensee is entitled to telephone advice concerning questions on the System's operation. In the event additional services are requested by Licensee outside the foregoing scope of services, additional training and professional assistance shall be billed at then current professional fees plus expenses. This agreement does not cover problems outside of the System. Expenses associated with the Licensee's attendance at the group meetings are at the sole responsibility of the Licensee.
- 4. WARRANTIES. MAXIMUS GRANTS NO WARRANTIES, EITHER EXPRESS OR IMPLIED, IN RESPECT TO THE SYSTEM. ALL IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXPRESSLY EXCLUDED.
- 5. TERMINATION. In the event of termination for any reason, Licensee agrees to provide written certification that the original and any copies of all or any portion of the System affected by the termination have been destroyed or, if MAXIMUS provides notice to Licensee, Licensee shall deliver the original and any copies of the System to MAXIMUS within ten (10) days of Licensee's receipt of such notice. Either party may terminate this Agreement if the other party has breached any of its material obligations hereunder, and such breach has not been cured within thirty (30) days of receipt of written notice specifying the nature of the breach.
- 6. AMENDMENTS.
 - (a) Agreement. Any modification or amendment of this Agreement must be in writing and signed by the parties.
 - (b) License. MAXIMUS reserves the right to modify or amend the System. Licensee shall have no right to modify or amend the System, or to merge it into another work, without prior written consent of the MAXIMUS.
- 7. LIMITATION OF LIABILITY. MAXIMUS total aggregate liability hereunder shall not exceed fees paid under this Agreement. In no event shall MAXIMUS be liable for indirect, special, incidental, punitive and consequential damages.
- 8. NOTICE. Any notice or consent required to be given in accordance with this Agreement shall be in writing and shall be either (i) actually delivered to the party thereto entitled or (ii) mailed, with first class postage prepaid, to the address of the party entitled thereto hereinafter set forth, by certified mail, return receipt requested.

MAXIMUS:
 MAXIMUS, INC.
 700 Ackerman Road, Suite 150
 Columbus, OH 43202
 Attn: Mitch McGraw

LICENSEE:
Belmont County DJFS
310 Fox Shannon Place
St. Clairsville, OH 43950

A notice shall be deemed to be received (i) on the date of its actual receipt by the party thereto and (ii) on the date as reflected on the United States Postal Service return receipt form and if said return receipt form is not signed by the party to whom notice is to be given, upon the date of the first attempted delivery as reflected thereon.

- 9. COMPLETE AGREEMENT. This Agreement and the License Agreement represent the entire and integrated agreement between the parties and supersede all prior negotiations, proposals, communications, understandings, representations or agreements, either written or oral, express or implied. All amendments or modifications of this Agreement shall be binding upon the parties despite any lack of consideration so long as the same shall be in writing and executed by the parties hereto.

IN WITNESS WHEREOF, the parties have set their hand and seal the date and year first above written.

Belmont County DJFS
 BY: Dwayne Pielech /s/
Dwayne Pielech
 Director

MAXIMUS, INC.
 BY: Adam Polatnick /s/
Adam Polatnick
 Vice President of Contracts Administration

BOARD OF COUNTY COMMISSIONERS
 Department Official Charles R. Probst, Jr.
 Signature Charles R. Probst, Jr.
 Title: Commissioner
 Signature Charles R. Probst, Jr. /s/
 Title: President, Board of Belmont County Commissioners
 Date: 5/06/09

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Probst	Yes
Mr. Coffland	Yes

BREAK 11:09

IN THE MATTER OF RESOLUTION
DECLARING STATE OF EMERGENCY
RE: BRIDGE ON CR 56 OVER WHEELING CREEK/ENGINEER'S

Motion made by Commissioner Favede, seconded by Commissioner Probst to adopt the following:

RESOLUTION
DECLARING STATE OF EMERGENCY

WHEREAS, the Belmont County Engineer Annual Bridge Inspection resulted in the need to lower the load limit on the bridge over CR 56 over Wheeling Creek from 16 tons to 4 tons; and
 WHEREAS, this has created an emergency situation in the community of Maynard as fire trucks, emergency vehicles, school buses and other heavy vehicles can no longer use the bridge; and
 WHEREAS, it will take several months to replace this bridge; and
 WHEREAS, the Belmont County Commissioners, in accordance with O.R.C. 307.86, declare that an actual physical disaster to the structure exists.
 NOW, THEREFORE, BE IT RESOLVED, that the Belmont County Commissioners authorize bypassing the competitive bidding requirements of the Ohio Revised Code for the purpose of providing and installing a temporary bridge over Wheeling Creek, based upon the recommendation of County Engineer Fred Bennett.

Adopted May 6, 2009

Upon roll call the vote was as follows:

Mrs. Favede	Yes
Mr. Probst	Yes
Mr. Coffland	Yes

OPEN PUBLIC FORUM - Mike Bianconi reiterated his requests for the need to spend more monies on roads and bridges. Commissioner Probst stated the county is working with the County Engineer on bridges and road issues. Commissioner Coffland noted a lot has been spent on water and sewer with no matching funds. Four bridges will be bid this year with the county crew doing ten themselves.

May 6, 2009

BREAK –

Commissioner Probst stated the meeting will be left open until the Board checks with Consultant Mark Lucas on the status of the Management Agreement for Park Health Center.

RECONVENED, THURSDAY, MAY 14, 2009, AT 10:50 A.M. WITH ALL COMMISSIONERS PRESENT.

**IN THE MATTER OF ADJOURNING
COMMISSIONERS MEETING AT 10:51 A.M.**

Motion made by Mr. Probst, seconded by Mrs. Favede to adjourn the meeting at 10:51 a.m.

Upon roll call the vote was as follows:

Mr. Probst	Yes
Mrs. Favede	Yes
Mr. Coffland	Yes

Read, approved and signed this 13th day of May, 2009.

_____ COUNTY COMMISSIONERS

We, Charles R. Probst, Jr., and Jayne Long, President and Clerk respectively of the Board of Commissioners of Belmont County, Ohio, do hereby certify the foregoing minutes of the proceedings of said Board have been read, approved and signed as provided for by Sec. 305.11 of the Revised Code of Ohio.

_____ PRESIDENT

_____ CLERK