

RESOLUTION APPROVING A PERFORMANCE AGREEMENT AND AN ESCROW ACCOUNT FOR THE HARPER VALLEY SUBDIVISION 2 LOCATED IN HARPERSFIELD TOWNSHIP

WHEREAS, Jake Brand, Director of Planning and Development, has submitted an agreement for the approval of the Board, as follows:

This agreement is entered into between the **BOARD OF COUNTY COMMISSIONERS OF ASHTABULA COUNTY, OHIO, Old Courthouse, 2nd Floor, 25 West Jefferson Street, Jefferson, Ohio 44047-1092, Jeff Jenks** (the "Developer"), whose mailing address is 5449 Bishop Rd. Geneva, Ohio 44041, the developer of a proposed 38.8 acre **Major Subdivision of Parcel 22-013-00-017-00** (the "Subdivision"), a subdivision located in Harpersfield Township, and **Curry & Pasqualone** (the "Escrow/Bond Agent"); and

WHEREAS, the Developer agrees to establish an Escrow (the "Account") with an Escrow agent acceptable to the Board in the amount of \$ 978,739.62, as determined by the Board, upon the recommendation of the Ashtabula County Engineer, to cover the estimated cost of construction of the improvements, plus 10% required for any contingencies, in accordance with the Subdivision Regulations (the "Improvements"). Said Account shall be effective for the Term of Agreement and shall be in favor of the Board to be withdrawn by the Board if necessary for the purposes set forth hereunder; and

WHEREAS, the Escrow/Bond agent agrees to hold in the Account the amount of \$ 978,739.62, as determined by the Board, to cover the estimated cost of construction of the Improvements for the Term of Agreement, said funds to be disbursed only upon mutual agreement of the Developer, the Escrow agent, and the Board; and

WHEREAS, the Board agrees to accept this Agreement in lieu of cash or other surety for the guarantee of satisfactory construction and installation of all required improvements as determined by the Board, upon the recommendation of the County Engineer under the Term of Agreement. The Board shall draw on the \$ 978,739.62 if the Developer fails or refuses to construct and install all required improvements, or otherwise, by the developer's own action or in action, causes any breach of this agreement. Any amount drawn on the \$978,739.62 shall be limited to the minimum amount needed to complete Improvements in accordance with the Subdivision Regulations; and

WHEREAS, funds due for the payment in the amount of \$978,739.62 shall be deposited into the IOLTA Trust Account in the name of Curry & Pasqualone, Andover Bank Account No. 1333219, with Gary L. Pasqualone of Curry & Pasqualone as the Escrow/Bond agent. Said funds are to be deposited upon signing of this agreement; now

THEREFORE, BE IT RESOLVED, By the Board of Commissioners of Ashtabula County, Ohio, that the escrow funds for the project described above will be placed in an account at Andover Bank until such time a notice of release is received and the account would be closed.

**ASHTABULA COUNTY COMMISSIONERS
CERTIFICATION PAGE**

Resolution No. 2023-495

October 03, 2023

**RESOLUTION APPROVING A PERFORMANCE AGREEMENT AND AN ESCROW
ACCOUNT FOR THE HARPER VALLEY SUBDIVISION 2 LOCATED IN
HARPERSFIELD TOWNSHIP**

Upon the motion of Kathryn L. Whittington, seconded by J.P. Ducro IV.

VOTE:

Casey R. Kozlowski
Kathryn L. Whittington
J.P. Ducro IV

Aye
Aye
Aye

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



Lisa Hawkins, Clerk of the Board
Board of County Commissioners
Ashtabula County, Ohio

SUBDIVISION PERFORMANCE AGREEMENT

for

Harper Valley Preserve - Subdivision No. 2

COUNTY OF ASHTABULA, OHIO

THIS AGREEMENT made at Jefferson, County of Ashtabula (the "County"), Ohio, commencing October 3, 2013 (the "Date of Commencement"), and continuing for a period of twelve (12) months (the "Term of Agreement") from the Date of Commencement, by and between the following parties: (1) **Jeff Jenks, Harper Valley Preserve, Inc.** (the "Developer"), whose mailing address is 5449 Bishop Rd., Geneva, Ohio 44041, the developer of **Harper Valley Preserve – Subdivision No. 2** (the "Subdivision"), a subdivision located in Harpersfield Township; (2) _____ (the "Bond Agent"), an Escrow agent whose mailing address is _____; and (3) **the Ashtabula County Board of County Commissioners** (the "Board") on behalf of Ashtabula County whose mailing address is 25 West Jefferson Street, Jefferson, Ohio 44047.

THE ABOVE PARTIES AGREE to the following conditions of this Agreement, which are hereby established in accordance with the requirements of the Ashtabula County Subdivision Regulations sections 482, 486, and 490 (the "Subdivision Regulations").

A. The Developer Agrees:

1. To establish an Escrow (the "Account") with an Escrow agent acceptable to the Board in the amount of \$ 978,739.62, as determined by the Board, upon the recommendation of the Ashtabula County Engineer, to cover the estimated cost of construction of the improvements, plus 10% required for any contingencies, in accordance with the Subdivision Regulations (the "Improvements"). Said Account shall be effective for the Term of Agreement and shall be in favor of the Board to be withdrawn by the Board if necessary for the purposes set forth hereunder.

2. To cause the Improvements of the Subdivision to be constructed within the Term of Agreement.

3. To use funds in the Account solely for construction of the Improvements; said funds are to be disbursed only upon mutual agreement of the Developer, the Escrow agent, and the Board.

4. To notify the County Engineer not less than two (2) days prior to construction of any and all Improvements.

5. To request other payments on a basis of the percentage of work satisfactorily constructed and installed within the Term of Agreement; said percentage to be determined by the County Engineer based on the itemized cost figures cited in Section D of this Agreement.

B. The Escrow agent Agrees:

1. To hold in the Account the amount of \$ 978,739.62, as determined by the Board, to cover the estimated cost of construction of the Improvements for the Term of Agreement, said funds to be disbursed only upon mutual agreement of the Developer, the Escrow agent, and the Board.

2. To allow funds in the Account to be used solely for construction of the Improvements, in accordance with the approved Improvement Plan as approved by the Ashtabula County Engineer, including those required improvements that have been fully installed and tested satisfactorily at the determination of the Ashtabula County Engineer, said funds to be disbursed only upon mutual agreement of the Developer, the Escrow agent, and the Board, according to a work schedule submitted by the Developer and approved by the Ashtabula County Engineer.

3. To hold not less than ten percent (10%) of funds in the Account until the last payment is requested by the Developer and until the Escrow agent receives written notice of release of funds by the Board.

4. To disburse other payments on a basis of the percentage of work satisfactorily constructed and installed within the Term of Agreement, said percentage to be determined by the County Engineer based on the itemized cost figures cited in Section D of this Agreement.

C. The Board Agrees:

1. To accept this Agreement in lieu of cash or other surety for the guarantee of satisfactory construction and installation of all required improvements as determined by the Board, upon the recommendation of the County Engineer under the Term of Agreement. The Board shall draw on the \$ 978,739.62 if the Developer fails or refuses to construct and install all required improvements, or otherwise, by the developer's own action or inaction, causes any breach of this agreement. Any amount drawn on the \$ 978,739.62 shall be limited to the minimum amount needed to complete Improvements in accordance with the Subdivision Regulations.

2. To promptly notify the Developer in writing upon a determination by the Board that the Developer has breached its obligation hereunder. The Developer shall have thirty (30) days after receipt of such notice to cure the breach(es) specified therein or, if such breach(es) cannot be completely cured within thirty (30) days, to commence such cure and diligently pursue it to a reasonably prompt conclusion. The Board may only draw on the amount of funds held in the account if the Developer fails to timely cure the breach(es).

3. To order the County Engineer, periodically inspect the Improvements while under construction, and inspect any or all of the Improvements within seven (7) days after receiving written notice from the Developer or Director of Planning that any or all of the Improvements have been completed. Within ten (10) days after receiving written notice from the County Engineer, that all of the Improvements have been completed in accordance with the Subdivision Regulations, the Board shall notify the Escrow agent and the Developer that this agreement may be terminated.

D. Cost Itemization of Improvements, as determined by the County Engineer*:

Scope of Work Totals, see following pages for detailed breakdown

Item no	Description	Scope Totals
1	Miscellaneous	\$5,500.00
2	Dirtwork/SWPP	\$174,493.75
3	Storm Sewer	\$925,440.44
4	Sanitary Sewer	None
5	Waterline	\$128,059.40
6	Pavement	\$228,675.70
7	Electrical Trenching	\$27,154.00
8	Pavement Repair	\$2,500.00
9	Concrete Curbs	None
10	Permit/Tap/Usage Fees	Excluded
11	Staking/SWPP Inspections	Excluded
12	Inspection Fees	Excluded
13	Soil Testing	Excluded
14	Undercutting/Soil Modification/Dewatering	Excluded

Miscellaneous

Item no	Description	Quantity	Unit	Total Unit	Extended Total
Misc-1	Mobilization	1	LS	\$3,000.00	\$3,000.00
Misc-2	GPS (Staking Excluded)	1	LS	\$2,500.00	\$2,500.00
Misc-3	Permits/Tap Fees/Usage Fees	excluded	LS	excluded	excluded
Misc-4	Inspection Fees	excluded	LS	excluded	excluded
Misc-5	Soil Testing	excluded	LS	excluded	excluded
Misc-6	Bonding	excluded	LS	excluded	excluded
Misc-7	Subgrade Undercutting/Replacement	excluded	LS	excluded	excluded
Misc-8	Subgrade Soil Modification/Stabilization	excluded	LS	excluded	excluded
Misc-9	Harley Raking/Rock Rounding Topsoil Respread	excluded	LS	excluded	excluded
Misc-10	Major Dewatering	excluded	LS	excluded	excluded
Misc-11	SWPP Inspections/Maintenance	excluded	LS	excluded	excluded
Misc-12	Locate Existing Utilities	1	LS	\$5,000.00	if req'd

Misc Tot \$5,500.00

SWPP

Item no	Description	Quantity	Unit	Total Unit	Extended Total
SP1	Earthwork (Excavation) (Includes Topsoil) (See Breakdown)	11872	CY	\$5.00	\$59,360.00
SP2	Earthwork (Embankment) (Includes Topsoil) (See Breakdown)	11872	CY	\$5.50	\$65,296.00
SP3	Permanent Seeding & Mulching	2.7	AC	\$6,900.00	\$18,630.00
SP4	Clearing & Grubbing	excluded		\$0.00	excluded
SP5	Silt Fence or 12" Filter Sock	1526	FT	\$2.50	\$3,815.00
SP6	Orange Construction Fencing (Define Wetlands)	498	FT	\$3.50	\$1,743.00
SP7	Inlet Protection	20	EA	\$170.00	\$9,400.00
SP8	Concrete Washout	1	LS	\$1,250.00	\$1,250.00
SP9	Erosion Control Matting (Slopes greater than 3:1)	537	SY	\$1.75	\$939.75
SP10	Maintenance & Inspection of Erosion Control Devices	excluded		\$0.00	excluded

SP11	Dig Sediment traps/Install Check Dams/Initial Site Cleanup	1 LS		\$20,000.00	\$20,000.00
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**Hallmark shows about 4,000 excess CY of material, assumed to stay on-site (haul off excluded)

**Hallmark is not responsible for existing roadway Sub-Tot \$174,433.75

Storm Sewer

Item no	Description	Quantity	Unit	Total Unit	Extended Total
ST1	12" HDPE Storm Sewer	723	FT	\$98.25	\$71,654.75
ST2	15" HDPE Storm Sewer	382	FT	\$45.07	\$17,216.74
ST3	18" HDPE Storm Sewer	667	FT	\$52.17	\$35,840.79
ST4	24" HDPE Storm Sewer	120	FT	\$71.97	\$8,564.40
ST5	30" HDPE Storm Sewer	181	FT	\$101.96	\$18,454.76
ST6	48" Dia. Storm Manhole	7	EA	\$3,014.00	\$21,098.00
ST7	48" Dia. "Cut In" Storm MH (Include Pmnt Replace)	1	EA	\$3,605.00	\$3,605.00
ST8	ODOT 2-2B Catch Basin	16	EA	\$1,460.00	\$23,360.00
ST9	ODOT 2-3 Catch Basin	5	EA	\$2,390.00	\$11,950.00
ST10	ODOT 2-3 O.S. (Include all piping & basin conversion)	1	EA	\$4,886.00	\$4,886.00
ST11	30" HW-1 Headwall	2	EA	\$3,250.00	\$6,500.00
ST12	24" HW-1 Headwall	1	EA	\$2,200.00	\$2,200.00
ST13	12" HW-1 Headwall	1	EA	\$1,070.00	\$1,070.00
ST14	Elliptical Pipe instead of box	88	FT	\$1,310.00	\$115,280.00
ST15	Adjust Ex. CB R/m to Pmnt Grade (Near Ex. Out-de-sac)	1	EA	\$650.00	\$650.00
ST16	Emergency Overflow Spillway	58	CY	\$150.00	\$8,700.00
ST17	ODOT Type 'C' Rip Rap	42	CY	\$150.00	\$6,300.00
ST18	Storm Connections PVC Sch.40 (281 FT)	5	EA	\$2,422.00	\$12,110.00
ST19	Televise, Jet, & Test Storm Sewer	2093	FT	\$0.00	\$0.00

**Credit of \$200.00 EA if SDR 35 is acceptable (ST18)

Sub-Tot \$325,440.44

Waterline

Item no	Description	Quantity	Unit	Total Unit	Extended Total
W1	6" PVC C-909 Water Main w/ Tracer Wire* may change to 6	1596	FT	\$43.90	\$70,064.40
W2	1" Waterline Conn. w/Curb Valve (383 FT)	8	EA	\$1,988.75	\$15,910.00
W3	Removal of Existing Blow Off Assembly	1	EA	\$560.00	\$560.00
W4	11.25° 8" Horizontal Bend	9	EA	\$560.00	\$1,880.00
W5	22.5° 8" Horizontal Bend	7	EA	\$560.00	\$3,920.00
W6	45° 8" Horizontal Bend	2	EA	\$560.00	\$1,120.00

W7	Hydrant Assembly	5	EA	\$6,561.00	\$32,805.00
**20 ft of insulation Included at box, no spec included - budget \$8,000.00					
				Sub-Tot	\$126,059.40

Pavement

Item no	Description	Quantity	Unit	Total Unit	Extended Total
P1	ODOT 448 (1 1/2" Asphalt Concrete Type 1)	168	CY	\$280.00	\$47,040.00
P2	ODOT 901 (3 1/2" Bituminous Aggregate Base)	388	CY	\$233.45	\$90,578.60
P3	ODOT 304 (8" Aggregate Base)	911	CY	\$56.50	\$51,471.50
P4	ODOT 617 (4" Compact Aggregate Shoulder)	299	CY	\$0.00	non-perform
P5	ODOT 203 & 204 Subgrade Preparation	9888	SY	\$1.00	\$9,888.00
P6	ODOT 605 - 4" Shallow Underdrain	2981	FT	\$7.95	\$25,698.95
P7	ODOT 712 - Filter Fabric	3877	SY	\$1.65	\$6,997.05
P8	Monument Boxes	13	EA	\$350.00	\$4,550.00
P9	ODOT 407 Prime Coat (0.40 Gal/SY), check?	2698	Gall	\$5.50	if req'd
P10	ODOT 407 Tack Coat (0.06 Gal / SY)	299	Gall	\$4.40	\$1,051.60
P11	SWM Basin Access Drive	256		\$0.00	non-perform

Sub-Tot \$228,675.70

Miscellaneous

Item no	Description	Quantity	Unit	Total Unit	Extended Total
M1	Utility Trenching and Ducts for Electric, Cable, Phone	3003	FT	\$8.00	\$24,024.00
M2	Utility Ducts for Electric, Cable, Phone	2	EA	\$1,565.00	\$9,190.00
M2	Replacement of Drive Apron, Mailbox, & Drive Culvert	1	LS	\$2,500.00	\$2,500.00

**No Conduit for M2

Sub-Tot \$29,654.00

Total \$889,763.29

Lots (8) \$111,220.41

110% Amount \$ 978,739.62

10% Minimum Balance \$ 88,976.33

*Amount (110%) as determined by the County Engineer based upon Page 86, Section 486.02 of the Ashtabula County Subdivision Regulations

IN WITNESS WHEREOF, the Developer, the Escrow agent, and the Board have caused this Agreement to be duly signed in their respective names by their duly authorized officers as of the date hereinbefore written.

Executed on this 28th day of August in the year 2023.

Name of Developer

Harper Valley Preserve

Name and Signature of Owner

Jeffrey P. Jenks

State of Ohio, County of Ashtabula

The foregoing instrument was acknowledged before me this 28th day of August 2023 the owner of Harper Valley Preserve Subdivision, and that the same was their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my name and official seal at Geneva, Ohio.

Notary Public

My Commission Expires

My Residence County

Kimberly D. Riddell

SEAL

KIMBERLY D. RIDDELL, Notary Public
State of Ohio (Ashtabula Cty.)
My Commission Expires May 13, 2025

Name of Escrow agent/Escrow Agent

Curry & Pasqualone

Name & Signature of Authorized Officer

Gary L. Pasqualone

State of Ohio, County of Ashtabula

August 2023

The foregoing instrument was acknowledged before me this 28th day of 1, by Gary L. Pasqualone
the owner of Curry & Pasqualone ~~XXXXXXXXX~~ Subdivision, and that the same was their free act and deed. IN TESTIMONY

WHEREOF, I have hereunto set my name and official seal at Geneva, Ohio.

Kimberly D. Riddell
Notary Public

SEAL

My Commission Expires

My Residence County

KIMBERLY D. RIDDELL, Notary Public
State of Ohio (Ashtabula Cty.)
My Commission Expires May 13, 2025

County of Ashtabula, Board of County Commissioners

J.P. Ducro J.P. Ducro

Casey R. Kozlowski Casey R. Kozlowski

Kathryn L. Whittington Kathryn L. Whittington

Executed before me on 6th Day of October, 2023, by J.P. Ducro, Casey R. Kozlowski and Kathryn L. Whittington, who, under penalty of perjury in violation of Section 2921.11 of the Revised Code, represented to me to be said persons.

Lisa Hawkins, Notary Public
Lisa Hawkins, Clerk, Board of Ashtabula County Commissioners

Comm. exp 7/14/2025

SIGNATURE PAGE

RE: An agreement with _____

Approved as to Legal Form Only:

By: Colleen O'Toole
Colleen O'Toole 2023 - WN - 0170
Ashtabula County Prosecutor

Date: _____

AGREEMENT FOR ESCROW AGENT

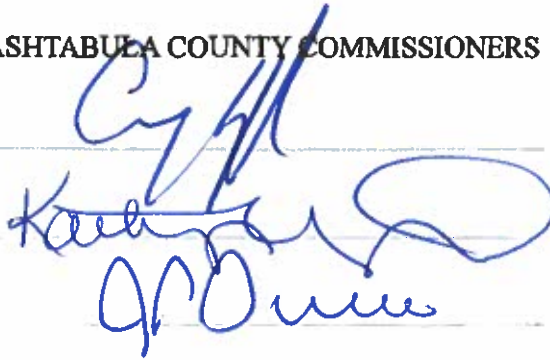
THIS AGREEMENT is entered into between the **BOARD OF COUNTY COMMISSIONERS OF ASHTABULA COUNTY, OHIO**, Old Courthouse, 2nd Floor, 25 W. Jefferson St., Jefferson, OH 44047-1092, and **HARPER VALLEY PRESERVE, INC.**, (the "Developer"), whose mailing address is 5449 Bishop Road, Geneva, OH 44041, the developer of a proposed 38.8 acre **Major Subdivision of Parcel 22-013-00-017-00** (the "Subdivision"), a subdivision located in Harpersfield Township.

Funds due for the payment in the amount of \$978,739.62 shall be deposited in the IOLTA Trust Account in the name of Curry & Pasqualone, Andover Bank Account No. 1333219, with Gary L. Pasqualone of Curry & Pasqualone as the Escrow Agent. Said funds are to be deposited upon the signing of this Agreement.

The Escrow Agent shall hold the escrowed principal and interest until the receipt of notice from Ashtabula County that a significant area has been officially accepted and designated, or that a Payment in Lieu will be required; or until receipt of an arbitration order or an order of the county of claims specifying the amount of the escrow to be released and the person to whom it is to be released. Upon receipt of the notice or order, the agent shall promptly release the retained principal and pay it to the Developer in the event a significant area is accepted, or to Ashtabula County Significant Area Fund-8040. A notice releasing said retained principal will be issued to the Escrow Agent by the Ashtabula County.

Date: 10-3-23

ASHTABULA COUNTY COMMISSIONERS



Date: _____

HARPER VALLEY PRESERVE, INC.




BY: JEFFREY P. JENKS

Signature Page

Agreement Title: Harper Valley 2 Subdivision - Performance Agreement and Escrow Agreement Review

Approved as to Legal Form Only:

By: 

Colleen M. O'Toole,
Ashtabula County Prosecutor

Contact: Lisa Hawkins, Clerk

Dated: _____, 2023

