

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
MAY 22, 2007 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Resolution Accepting Public Improvements - Banchory Woods Subdivision	<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Motion <input type="checkbox"/> Discussion Only	David H. Barber, P.E. Director of Public Works

SYNOPSIS

A resolution has been prepared to accept the public improvements for Banchory Woods, a 9-lot subdivision, located at the northeast corner of Chicago Avenue and Lee Avenue completed by Joel Anderson Homes, Inc. of Downers Grove, Illinois and to authorize the execution of a Release Agreement.

FISCAL IMPACT

No immediate fiscal impact is anticipated. However, from the date of acceptance, the Village will take over routine maintenance including street sweeping and snow removal. Two years after acceptance, the Village will assume all maintenance responsibility for public improvements.

RECOMMENDATION

Adoption on the June 5, 2007 consent agenda.

BACKGROUND

The Banchory Woods Subdivision was completed by Joel Anderson Homes, Inc. and the development included improvements that would become part of the Village's infrastructure when completed. These improvements included the street, curbs & gutters, sidewalks, street lights, water main and storm sewers. The sanitary sewers are also being accepted and will become the responsibility of the Downers Grove Sanitary District. Acceptance of these public improvements is in accordance with Section 20-406 of the Village Code.

At the time of approval of this project a public improvement security in the amount of \$450,711.46 (covering 100% of the costs of the improvements) was retained by the Village to guarantee completion of these improvements. In accordance with the Village Code, at the time of acceptance the developer will provide a 2-year maintenance guarantee in the amount of \$79,346.29 (20% of the cost of the improvements) and the Village will return the original public improvement security.

Staff has also prepared a release agreement due to the fact that one of the subcontractors was not able to provide a final lien waiver since it has filed for bankruptcy. This agreement provides that Joel Andersen Homes will indemnify the Village against any mechanic lien claims that may result from the lack of the final lien waiver.

The Public Works Department has certified that all required public improvements are substantially complete. The following documents were reviewed and approved in support of this request:

- Downers Grove Sanitary District letter of acceptance
- Final waivers of lien for subcontractors
- Final inspection memo
- As-built survey dated 04-26-07
- Release Agreement

ATTACHMENTS

Location Map

Resolutions

Engineer's certification letter

Downers Grove Sanitary District Acceptance Letter

Final Waivers of Lien & Release Agreement



Banchory Woods Subdivision Location Map



RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING ACCEPTANCE OF
PUBLIC IMPROVEMENTS – BANCHORY WOODS SUBDIVISION**

WHEREAS, The Village Council has previously approved final plats for the Banchory Woods Subdivision; and,

WHEREAS, David H. Barber, Director of Public Works, has recommended acceptance of these public improvements with certain conditions, as well as modifications of the existing security.

NOW, THEREFORE, BE IT RESOLVED by the Village Council of The Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the Village hereby accepts those municipal public improvements constructed as part of the Banchory Woods Subdivision located northeast of the intersection of Chicago Avenue and Lee Street, in accordance with the approved plans and specifications.
2. That the Construction Security letter of credit, in the original amount of \$450,711.46, submitted by Joel Andersen Homes, Ltd. may be released provided a Maintenance Security in the amount of \$79,346.29 is furnished.
3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.
4. That all resolutions or parts of resolutions in conflict with the provisions of the Resolution are hereby repealed.
5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____
Village Clerk

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION OF A RELEASE
AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE
AND JOEL ANDERSEN HOMES, LTD.**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Agreement (the "Agreement"), between the Village of Downers Grove (the "Village") and Joel Andersen Homes, Ltd. ("Andersen"), for the release of public and private improvement bonds in connection with the Banchory Woods Subdivision, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____
Village Clerk



C. M. Lavoie & Associates, Inc.

**Consulting Civil Engineering
Land Planning & Surveying**

1050 State Route 126 • Plainfield, IL 60544
815.254.0505 • Fax: 815.436.5158

March 29, 2007

Mr. Joel Andersen
President
Joel Andersen Homes, Ltd.
5726 Carpenter Street
Downers Grove, IL 60516

RE: Banchory Woods
Downers Grove, IL
CML #03-148

Dear Mr. Andersen,

C. M. Lavoie & Associates has recently completed a Final As-Built survey for Banchory Woods, including Final Grading and Utility As-Built drawings. These indicate that the required utility infrastructure and grading have been completed in conformance with the approved plans.

If you should have any questions or comments regarding the above mentioned information, please do not hesitate to give me a call.

Sincerely yours,
C.M. Lavoie & Associates, Inc.

A handwritten signature in black ink, appearing to read 'Brad L. Hartjes', is written over the typed name.

Brad L. Hartjes, P.E.
Project Manager

Board of Trustees

Donald E. Eckmann
President

Wallace D. Van Buren
Vice President

Edward C. Richard
Clerk

Legal Counsel

Michael C. Wiedel

Downers Grove

Sanitary District

2710 Curtiss Street
P.O. Box 1412
Downers Grove, IL 60515-0703
Phone: 630-969-0664
Fax: 630-969-0827
www.dgsd.org

Staff

Lawrence C. Cox
General Manager

Nicholas J. Menninga
Assistant General Manager

Ralph E. Smith, Jr.
Operations Director

Sheila K. Henschel
*Administrative Services
Director*

Providing a Better Environment for South Central DuPage County

March 30, 2007

Mr. Joel Andersen
Joel Andersen Homes
PO Box 845
Downers Grove, IL 60515

RE: Banchory Woods Subdivision

Dear Mr. Andersen:

The Downers Grove Sanitary District hereby accepts the sanitary sewer system installed within the above referenced project and said system shall hereafter be controlled, operated, maintained and owned by the Downers Grove Sanitary District. Specifically, this sanitary sewer system consists of the following sewers and appurtenances:

Two (2) four foot diameter manholes

260 lineal feet of 8-inch diameter PVC sewer main

In accordance with Section 6.6 of "Standard Specifications for Sanitary Sewer Construction" of the Downers Grove Sanitary District, the subject sanitary sewer system must be guaranteed by the contractor and the surety against defective workmanship and material of any nature for a period of two (2) years from the date of this final acceptance.

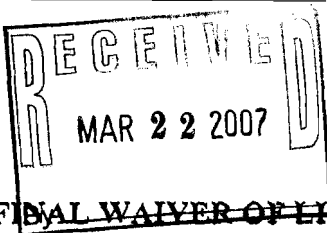
If we can be of further assistance in this matter, please advise.

Sincerely,
DOWNERS GROVE SANITARY DISTRICT



Ted Cherwak
Sewer Construction Supervisor

CC: Jon Hall VDG Public Works Dept.



FINAL WAIVER OF LIEN AND CONTRACTOR'S AFFIDAVIT

State Of Illinois
County of DuPage

Escrow #:
Project: Banchory Wood Subdivision

THE UNDERSIGNED BEING duly sworn, deposes and says that he/she is _____ Joel Andersen
(name)
of _____ Owner _____, Joel Andersen Homes, Ltd P.O. Box 845 Downers Grove, IL 60515 _____ and has
(position) (company name and address)

been employed by _____ Joel Andersen Homes, Ltd. _____ to furnish _____ All Improvements _____ located at _____ Banchory Woods Subdivision: Downers Grove, IL 60515 _____ for which _____ Joel Andersen Homes, Ltd _____ is the Owner. That the total amount of the contract including extras is \$ _____ 602,310.75 _____ on which he has received payment of \$ _____ 602,310.75 _____ prior to this payment. That all waivers are true, correct and genuine and delivered unconditionally and that there is no claim either legal or equitable to defeat the validity of said waivers. That the following are the names of all parties who have furnished material or labor, or both for said work and all parties having contracts or sub contract (s) for specific portions of said work or for material entering into construction thereof and the amount due or become due to each, and that the items mentioned include all labor and material required to complete said work according to plans and specifications.

Name	What for	Contract Price	Amount Paid	This Payment	Balance Due
All materials taken from fully paid stock					00000000

That there are no other contracts for said work outstanding, and there is nothing due or to become due to any person for material, labor or other work of any kind or to be done upon or in connection with said work other than above stated.

THE UNDERSIGNED, for and in consideration of \$ _____ -0- _____, and other good and valuable consideration, the receipt whereof is hereby acknowledged, do(es) hereby waive and release any and all lien or claim of, or right to, lien, under the Statutes of the State of Illinois, relating to mechanic's liens, with respect to and on said above described premises, and the improvement thereon, and on the material, fixtures, apparatus or machinery furnished and on the moneys, funds or other considerations due or to become due from the Owner, on account of labor, services material, fixtures, apparatus or machinery, heretofore furnished, or which may be furnished at any time hereafter, by the undersigned for the above described premises, including extras as heretofore described.

NOTE: All waivers must be for the full amount paid. If waiver is for a corporation, the corporate name should be used and the title of the officer signing the waiver should be set forth; if waiver is for a partnership, the partnership name should be used and a partner should sign and designate himself as "Partner."

Signed this 22nd day of March, 2007
Signature _____

Subscribed and sworn to before me this 22nd day of March, 2007

Notary Signature: Margaret M Andersen (Notary Seal)
Notary Public



FINAL WAIVER OF LIEN

State of Illinois }
 County of Dupage }

TO WHOM IT MAY CONCERN:

WHEREAS the undersigned has been employed by JOEL ANDERSON HOMES, LTD.
 to furnish THE INSTALLATION OF FOUR (4) DECORATIVE STREETLIGHTS.
 for the premises known as BANCHORY WOODS
 of which JOEL ANDERSON HOMES, LTD. is the owner.

THE undersigned, for and in consideration of TWO THOUSAND & TWO HUNDRED & FIFTY & 0/00 CENTS.
 (\$2,250.00) Dollars, and other good and valuable considerations, the receipt whereof is hereby acknowledged, do(es) hereby waive and
 release any and all lien or claim of, or right to, lien, under the statutes of the State of Illinois, relating to mechanics' liens, with respect to
 moneys, funds or other considerations due or to become due from the owner, on account of labor, services, material, fixtures, apparatus
 or machinery, furnished to this date by the undersigned for the above-described premises.

Given under my hand and seal on this 12th day of SEPTEMBER, 2006

Signature & Seal: 
 Corinne J. Kehoe, President

CORPORATE
 SEAL

State of Illinois }
 County of Dupage }

CONTRACTOR'S AFFIDAVIT

TO WHOM IT MAY CONCERN:

The undersigned, being duly sworn, deposes and says that she is President of the Fulton Contracting Co. who is the contractor for the
 INSTALLATION OF FOUR DECORATIVE STREETLIGHTS work at the premises owned by JOEL ANDERSON HOMES, LTD.
 That the total amount of the contract, including extras is: \$22,250.00 on which she has received payment of
 \$20,000.00 prior to this payment. That all waivers are true, correct and genuine and delivered unconditionally and
 that there is no claim either legal or equitable to defeat the validity of said waivers. That the following are the names of all parties who have
 furnished material or labor, or both, for said work and all parties having contracts or subcontracts for specific portions of said work or for
 material entering into the construction thereof and the amount due or to become due to each, and that the items mentioned include all labor
 and material required to complete said work according to plans and specifications

NAMES	WHAT FOR	CONTRACT PRICE	AMOUNT PAID	THIS PAYMENT	BALANCE DUE
FULTON CONTRACTING CO.	MATERIAL TAKEN	\$22,250.00	\$20,000.00	\$2,250.00	\$0.00
180 NORTH GARDEN AVENUE	FROM FULLY PAID				
ROSELLE, IL 60172	FOR STOCK.				

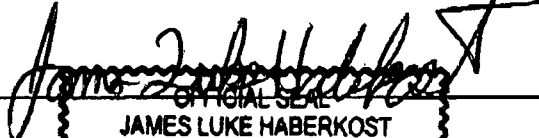
That there are no other contracts for said work outstanding, and that there is nothing due or to become due to any person for material, labor
 or other work of any kind done or to be done upon or in connection with said work other than above stated.

Signed this 12th day of SEPTEMBER, 2006

Signature & Seal: 
 Corinne J. Kehoe, President

CORPORATE
 SEAL

Subscribed and sworn to before me on this 12th day of SEPTEMBER, 2006


 OFFICIAL SEAL
JAMES LUKE HABERKOST
 NOTARY PUBLIC - STATE OF ILLINOIS
 MY COMMISSION EXPIRES 07/12/09



STATE OF ILLINOIS
COUNTY OF } SS

WAIVER OF LIEN TO DATE

City # _____

Escrow # _____

TO WHOM IT MAY CONCERN:

WHEREAS the undersigned has been employed by Joel Andersen Homes, Ltd
to furnish Concrete sidewalk + concrete curbs
for the premises known as Banbury and Lee Dowher's Grave, IL 60415
of which Joel Andersen Homes, Ltd is the owner.

THE undersigned, for and in consideration of Four thousand and seventy dollars
(\$ 4070.00) Dollars, and other good and valuable considerations, the receipt whereof is hereby acknowledged, do(es)
hereby waive and release any and all lien or claim of, or right to, lien, under the statutes of the State of Illinois, relating to mechanics' liens,
with respect to and on said above-described premises, and the improvements thereon, and on the material, fixtures, apparatus or machinery
furnished, and on the moneys, funds or other considerations due or to become due from the owner, on account of all labor, services, material,
fixtures, apparatus or machinery, furnished to this date by the undersigned for the above-described premises, INCLUDING EXTRAS.*

DATE 11/29/06 COMPANY NAME Carrera Concrete
ADDRESS 10512 Nevada Ave Melrose Park, IL 60110

SIGNATURE AND TITLE Norma Davalos, manager

*EXTRAS INCLUDE BUT ARE NOT LIMITED TO CHANGE ORDERS, BOTH ORAL AND WRITTEN, TO THE CONTRACT.

STATE OF ILLINOIS }
COUNTY OF } SS

CONTRACTOR'S AFFIDAVIT

TO WHOM IT MAY CONCERN:

THE UNDERSIGNED, (NAME) Norma Davalos BEING DULY SWORN, DEPOSES
AND SAYS THAT HE OR SHE IS (POSITION) Manager OF
(COMPANY NAME) Carrera Concrete WHO IS THE
CONTRACTOR FURNISHING Concrete sidewalk + concrete curbs WORK ON THE BUILDING
LOCATED AT Banbury and Lee Dowher's Grave, IL 60415
OWNED BY Joel Andersen Homes, Ltd

That the total amount of the contract including extras* is \$ 4070.00 on which he or she has received payment of
\$ 0 prior to this payment. That all waivers are true, correct and genuine and delivered unconditionally and that
there is no claim either legal or equitable to defeat the validity of said waivers. That the following are the names and addresses of all parties
who have furnished material or labor, or both, for said work and all parties having contracts or sub contracts for specific portions of said work
or for material entering into the construction thereof and the amount due or to become due to each, and that the items mentioned include all
labor and material required to complete said work according to plans and specifications:

NAMES AND ADDRESSES	WHAT FOR	CONTRACT PRICE INCLD EXTRAS*	AMOUNT PAID	THIS PAYMENT	BALANCE DUE
<u>Carrera Concrete</u>	<u>material + labor</u>	<u>4070.00</u>	<u>0</u>	<u>4070.00</u>	<u>0</u>
TOTAL LABOR AND MATERIAL INCLUDING EXTRAS* TO COMPLETE.					

That there are no other contracts for said work outstanding, and that there is nothing due or to become due to any person for material, labor or other work of any kind done or to be done upon or in connection with said work other than above stated.

DATE 11/29/06 SIGNATURE Norma Davalos
SUBSCRIBED AND SWORN TO BEFORE ME THIS 29th DAY OF November, 2006

*EXTRAS INCLUDE BUT ARE NOT LIMITED TO CHANGE ORDERS, BOTH ORAL AND WRITTEN, TO THE CONTRACT.

OFFICIAL SEAL
JEFFREY LANDSNE
NOTARY PUBLIC - STATE OF ILLINOIS

NOTARY PUBLIC



STATE OF ILLINOIS
COUNTY OF } SS

WAIVER OF LIEN TO DATE

City # _____

Escrow # _____

TO WHOM IT MAY CONCERN:

WHEREAS the undersigned has been employed by Joel Andersen Homes, Ltd.
to furnish Asphalt parking lot
for the premises known as Banchoy and Lee Downers Grove, Illinois 60115
of which Joel Andersen Homes, Ltd. is the owner.

THE undersigned, for and in consideration of eighteen thousand five hundred dollars
(\$ 18,500.00) Dollars, and other good and valuable considerations, the receipt whereof is hereby acknowledged, do(es)
hereby waive and release any and all lien or claim of, or right to, lien, under the statutes of the State of Illinois, relating to mechanics' liens,
with respect to and on said above-described premises, and the improvements thereon, and on the material, fixtures, apparatus or machinery
furnished, and on the moneys, funds or other considerations due or to become due from the owner, on account of all labor, services, material,
fixtures, apparatus or machinery, furnished to this date by the undersigned for the above-described premises, INCLUDING EXTRAS.*

DATE 11/29/06 COMPANY NAME A.R.P. Asphalt paving

ADDRESS Wau S. County Line Rd
SIGNATURE AND TITLE Norma Douglas Manager

*EXTRAS INCLUDE BUT ARE NOT LIMITED TO CHANGE ORDERS, BOTH ORAL AND WRITTEN, TO THE CONTRACT.

STATE OF ILLINOIS }
COUNTY OF } SS

CONTRACTOR'S AFFIDAVIT

TO WHOM IT MAY CONCERN:

THE UNDERSIGNED, (NAME) Norma Douglas BEING DULY SWORN, DEPOSES
AND SAYS THAT HE OR SHE IS (POSITION) manager OF
(COMPANY NAME) A.R.P. Asphalt company WHO IS THE
CONTRACTOR FURNISHING asphalt parking lot WORK ON THE BUILDING
LOCATED AT Banchoy and Lee Downers Grove, IL 60115
OWNED BY Joel Andersen Homes, Ltd.

That the total amount of the contract including extras* is \$ 18,500.00 on which he or she has received payment of
\$ 0 prior to this payment. That all waivers are true, correct and genuine and delivered unconditionally and that
there is no claim either legal or equitable to defeat the validity of said waivers. That the following are the names and addresses of all parties
who have furnished material or labor, or both, for said work and all parties having contracts or sub contracts for specific portions of said work
or for material entering into the construction thereof and the amount due or to become due to each, and that the items mentioned include all
labor and material required to complete said work according to plans and specifications:

NAMES AND ADDRESSES	WHAT FOR	CONTRACT PRICE INCLG EXTRAS*	AMOUNT PAID	THIS PAYMENT	BALANCE DUE
<u>A.R.P. Asphalt paving</u>	<u>MAINTENANCE Labor</u>	<u>18,500.00</u>	<u>0</u>	<u>18,500.00</u>	<u>0</u>
TOTAL LABOR AND MATERIAL INCLUDING EXTRAS* TO COMPLETE.					

That there are no other contracts for said work outstanding, and that there is nothing due or to become due to any person for material, labor
or other work of any kind done or to be done upon or in connection with said work other than above stated.

DATE 11/29/06 SIGNATURE: Norma Douglas
SUBSCRIBED AND SWORN TO BEFORE ME THIS 29th DAY OF November 2006

*EXTRAS INCLUDE BUT ARE NOT LIMITED TO CHANGE ORDERS, BOTH ORAL AND WRITTEN, TO THE CONTRACT.
OFFICIAL SEAL
JEFFREY LANDSNE
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES: 02-28-07
NOTARY PUBLIC

RELEASE AGREEMENT

THIS AGREEMENT, made this ___ day of _____, 2007, between the VILLAGE OF DOWNERS GROVE, a municipal corporation, (hereinafter referred to as the "VILLAGE") and JOEL ANDERSEN HOMES, LTD., an Illinois corporation (hereinafter referred to as "ANDERSEN"),

WITNESSETH:

WHEREAS, February 17, 2004, the Village approved a Resolution No. 2004-14, approving the Final Plat of Subdivision for the Banchory Woods Subdivision for the property located at the Northeast corner of Lee Avenue and Chicago Avenue, Downers Grove, Illinois 60515 ("Subdivision");

WHEREAS, as part of the Subdivision Andersen agreed to construct both private and public improvements;

WHEREAS, on or about April of 2007 all of the public and private improvements were substantially completed;

WHEREAS, as part of the Subdivision Andersen posted a bond with the Village in the amount of \$450,711.46 (the "Bond");

WHEREAS, Andersen has requested a release of said Bond and has presented the Village with final lien waivers from all of his subcontractors, except for Comstock, Inc. ("Comstock");

WHEREAS, Comstock has filed for bankruptcy, which is currently pending in the Illinois Northern District Court, and therefore, Comstock has indicated that it will not execute a final lien waiver for the work it performed in relation to the Subdivision;

WHEREAS, neither the Village nor Andersen have ever received a notice of lien from Comstock and Comstock has not filed a Mechanic's Lien action against the Village or Andersen as of the date of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements herein set forth, and other good and valuable consideration, the parties hereto agree as follows:

1. The provisions of the preamble are hereby incorporated into and made a part of this

Agreement.

2. The Village agrees to release to Andersen the full amount of the Bond.
3. Andersen agrees to provide the Village with a maintenance letter of credit in accordance with Chapter 20 of the Downers Grove Municipal Code.
4. Andersen, its successors and assigns, shall hold harmless and indemnify the Village from and against any and all damages, losses, claims, demands, actions and causes of action whatsoever arising out of, resulting from, or in connection with the release of said bond. Specifically, Andersen agrees to defend and indemnify the Village against any lawsuit brought against the Village by Comstock pursuant to Illinois Mechanic's Lien Act or otherwise.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date herein above written.

VILLAGE OF DOWNERS GROVE:

JOEL ANDERSEN HOMES, LTD.:

By: _____

By: _____

Title: _____

Title: _____

Attest: _____
Village Clerk

Subscribed and sworn to
before me this _____ day of
_____, 2007.

Notary Public