

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

AGENDA

DATE: TUESDAY, JANUARY 22, 2008
PLACE: COUNCIL CHAMBERS
TIME: 7:30 P.M.

THERE ARE NO PUBLIC HEARINGS TONIGHT

1. ROLL CALL
2. INVOCATION BY COUNCILMAN DAVE HERSHER
3. PLEDGE OF ALLEGIANCE
4. READING OF THE JOURNAL
5. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS ON THE AGENDA
6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

Passed.
ORDINANCE NO. 7 – 2008

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into a contract with Stark County Regional Planning Commission for Housing Rehabilitation Services in the City of Massillon, Ohio, and declaring an emergency.

Passed.
ORDINANCE NO. 8 – 2008

BY: ENVIRONMENTAL COMMITTEE

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to accept the dedication of a 20 foot wide sanitary sewer easement on Out Lot 1044, and declaring an emergency.

Passed
ORDINANCE NO. 9 – 2008

BY: ENVIRONMENTAL COMMITTEE

AN ORDINANCE accepting the replatting of Part of Out Lots 569, located on the west side of Millennium Blvd SE, north of Navarre Road, and including the dedication of a proposed sanitary sewer easement in the Neocom Industrial Park, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

Passed
ORDINANCE NO. 10 – 2008

BY: ENVIRONMENTAL COMMITTEE

AN ORDINANCE authorizing the Law Firm of Bricker and Eckler LLP and the Law Director of the City of Massillon, Ohio, to commence legal proceedings against Infilco Degremont, Inc., Smith Environmental, Inc., and CTI Engineers, Inc., by the filing of a Complaint in the Court of Common Pleas for Stark County, Ohio, concerning various legal claims which the City has against such defendants with regard to the design and construction of upgrades to and expansion of the Massillon Regional Wastewater Treatment Plant, and declaring an emergency.

ORDINANCE NO. 11 – 2008

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

1st. Reading

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to sign a proposal with URS for professional engineering services for the design of certain intersections in the City of Massillon, Ohio, and declaring an emergency.

ORDINANCE NO. 12 – 2008

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

1st. Reading

AN ORDINANCE accepting the replatting of Part of Out Lots 373 and 491, located on the south side of Walnut Road SE, east of 16th Street, and including the dedication of existing right-of-way areas for Walnut Road SE, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

ORDINANCE NO. 13 – 2008

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

1st. Reading

AN ORDINANCE accepting the replatting of Out Lots 691 and 940, located on the south side of Nave Road SE, west of Veterans Blvd, and including the dedication of existing roadway areas, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

ORDINANCE NO. 14 - 2008

BY: FINANCE COMMITTEE

Passed

AN ORDINANCE establishing a fund entitled "Ohio Peace Officers Continuing Professional Training Fund", and creating line items within said fund, and declaring an emergency.

ORDINANCE NO. 15 - 2008

BY: FINANCE COMMITTEE

Passed

AN ORDINANCE making certain appropriations from the unappropriated balance of the Income Tax Capital Improvement Fund and the Forfeited Funds Fund, for the year ending December 31, 2008, and declaring an emergency.

ORDINANCE NO. 16 - 2008

BY: FINANCE COMMITTEE

Passed

AN ORDINANCE making certain appropriations from the unappropriated balance of the Parks and Rec. Fund, for the year ending December 31, 2008, and declaring an emergency.

ORDINANCE NO. 17 - 2008

BY: FINANCE COMMITTEE

Passed

AN ORDINANCE making certain transfers in the 2008 appropriations from within the Parks and Rec. Fund, for the year ending December 31, 2008, and declaring an emergency.

ORDINANCE NO. 18 - 2008

BY: FINANCE COMMITTEE

Passed

AN ORDINANCE making certain appropriations from the unappropriated balance of the Recycling Fund, for the year ending December 31, 2008, and declaring an emergency.

Passed

ORDINANCE NO. 19 - 2008

BY: FINANCE COMMITTEE

AN ORDINANCE making certain transfers in the 2008 appropriations from within the Recycling Fund, for the year ending December 31, 2008, and declaring an emergency.

Passed

ORDINANCE NO. 20 - 2008

BY: FINANCE COMMITTEE

AN ORDINANCE reducing the appropriation in the General Fund, of the City of Massillon, Ohio, for the year ending December 31, 2008, and declaring an emergency.

Passed

ORDINANCE NO. 21 - 2008

BY: FINANCE COMMITTEE

AN ORDINANCE making certain transfers in the 2008 appropriations from within the General Fund, for the year ending December 31, 2008, and declaring an emergency.

1st Reading

ORDINANCE NO. 22 - 2008

BY: FINANCE COMMITTEE

AN ORDINANCE making certain appropriations from the unappropriated balance of the Capital Improvement Fund, for the year ending December 31, 2008, and declaring an emergency.

1st Reading

ORDINANCE NO. 23 - 2008

BY: FINANCE COMMITTEE

AN ORDINANCE making certain transfers in the 2008 appropriations from within the Capital Improvement Fund, for the year ending December 31, 2008, and declaring an emergency.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

LETTER FROM OHIO DIVISION OF LIQUOR CONTROL REGARDING A TRANSFER OF LIQUOR LICENSE FROM LUCKY'S RETAIL MANAGEMENT LLC 1630 KEUPER BLVD NE MASSILLON OHIO 44646 TIMOTHY MURPHY TO MAGGIORES INVESTMENT INC DBA MAGGIORES DRIVE THRU 5 1630 KEUPER BLVD NE MASSILLON OHIO 44646

9. BILLS, ACCOUNTS AND CLAIMS

10. REPORTS FROM CITY OFFICIALS

- A). POLICE CHIEF SUBMITS MONTHLY REPORT FOR DECEMBER 2007
- B). TREASURER SUBMITS MONTHLY REPORT FOR DECEMBER 2007
- C). FIRE CHIEF SUBMITS MONTHLY REPORT FOR DECEMBER 2007.
- D). INCOME TAX DEPARTMENT SUBMITS MONTHLY REPORT FOR DECEMBER 2007
- E). WASTE DEPARTMENT SUBMITS MONTHLY REPORT FOR DECEMBER 2007
- F). MAYOR SUBMITS MONTHLY REPORT FOR DECEMBER 2007

11. REPORTS OF COMMITTEES

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

Passed. ORDINANCE NO. 127 – 2007

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids, for the sale of approximately 51 acres located at the Legends Golf Course, in the City of Massillon, Stark County, Ohio and owned by said City, which are not needed for any municipal purpose, and declaring an emergency.

15. SECOND READING ORDINANCES AND RESOLUTIONS

Passed. ORDINANCE NO. 2 – 2008

BY: PARK AND RECREATION COMMITTEE

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with Lake Region Oil, Inc., for the installation of a gas well at Community Park and another at Oak Knoll Park, and declaring an emergency.

16. NEW AND MISCELLANEOUS BUSINESS

17. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS NOT ON THE AGENDA

18. ADJOURNMENT

MARY BETH BAILEY - CLERK OF COUNCIL

DATE: January 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 7 - 2008

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into a contract with Stark County Regional Planning Commission for Housing Rehabilitation Services in the City of Massillon, Ohio, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby finds that it is necessary to enter into a contract with Stark County Regional Planning Commission for Housing Rehabilitation Services in the City of Massillon. The contract for services shall not exceed Fifteen Thousand Dollars (\$15,000.00).

Section 2:

The Mayor of the City of Massillon, Ohio, is hereby authorized to enter into a contract with Stark County Regional Planning Commission for Housing Rehabilitation Services in the City of Massillon, Ohio.

Section 3:

Upon delivery of the aforesaid agreement, the Mayor is hereby authorized to issue vouchers to the Auditor of the City of Massillon, Ohio, directing prompt payment for said agreement and the City Auditor is authorized and directed to honor and pay said vouchers.

Section 4:

This Ordinance is declared to be an emergency measure immediately necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is needed to assist the City of Massillon in its Housing Rehabilitation Program. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 8 - 2008

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to accept the dedication of a 20 foot wide sanitary sewer easement on Out Lot 1044, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby finds that it is necessary to accept the dedication of a 20 foot wide sanitary sewer easement on Out Lot 1044.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized to accept the dedication of a 20 foot wide sanitary sewer easement on Out Lot 1044, this dedication was approved by the Planning Commission at the meeting held January 9, 2008, as further described on exhibit "A" attached hereto and as set forth below:

Being known as Out Lot 1044, located on the west side of Erie Avenue SW/Route 21, north of Warmington Road. The request is to dedicate a 20 foot wide sanitary sewer easement to serve the proposed Menards shopping center. This request has been submitted by Menard, Inc./Deibel Surveying.

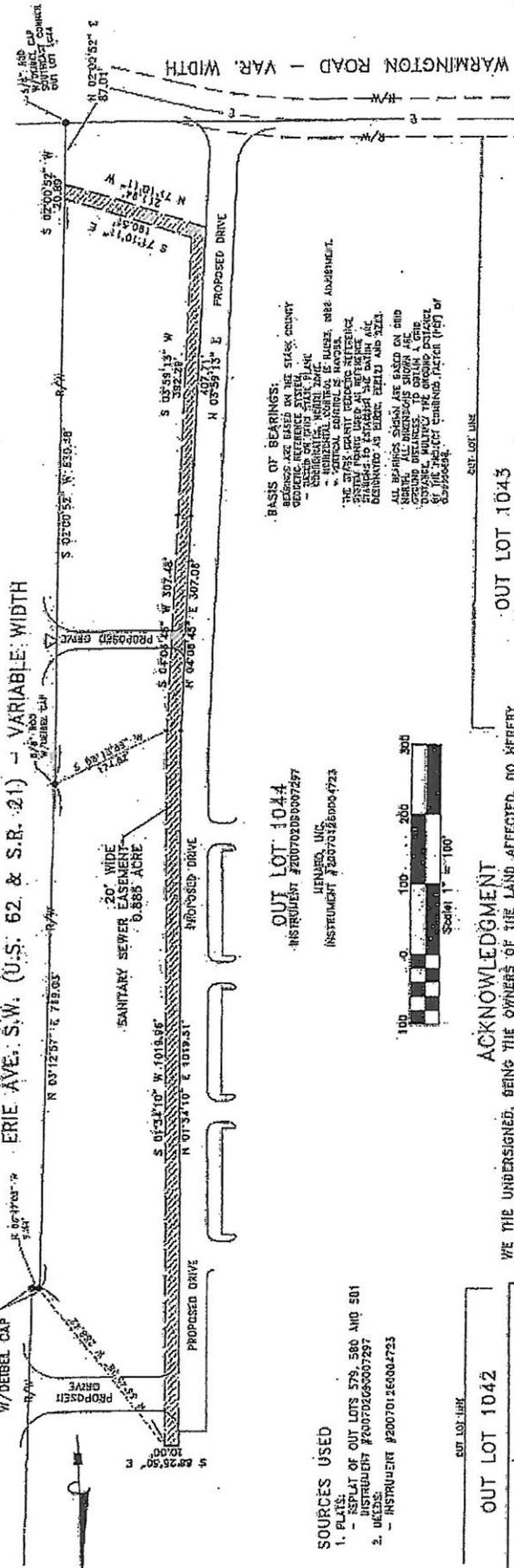
Section 3:

That this Ordinance is hereby declared to be an emergency measure for the reason that this 50 foot wide sanitary sewer easement must be dedicated to enable timely completion of the development. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

DEDICATION PLAT - SANITARY SEWER EASEMENT

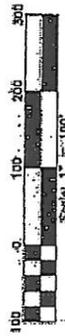
PART OF OUT LOT 1044 IN THE CITY OF MASSILLON, COUNTY OF STARK, STATE OF OHIO

ERIE AVE. S.W. (U.S. 62 & S.R. 21) - VARIABLE WIDTH

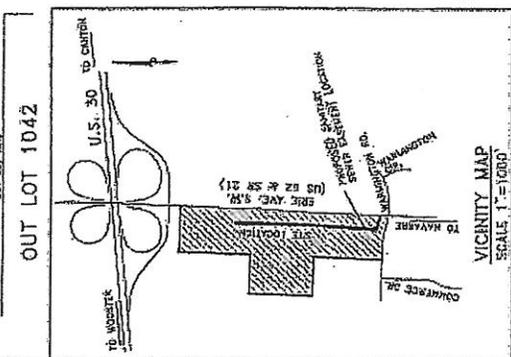


BASIS OF BEARINGS:
 BEARINGS ARE BASED ON THE STARK COUNTY
 MERIDIAN. ALL BEARINGS ARE TRUE BEARINGS
 UNLESS OTHERWISE NOTED.
 - ALL BEARINGS WERE OBTAINED FROM THE
 STARK COUNTY RECORDS.
 - ALL BEARINGS WERE OBTAINED FROM THE
 STARK COUNTY RECORDS.
 - ALL BEARINGS WERE OBTAINED FROM THE
 STARK COUNTY RECORDS.

OUT LOT 1044
 INSTRUMENT #2007028097257
 HENARD, INC.
 INSTRUMENT #2007028097253



SOURCES USED
 1. PLAT OF OUT LOTS 579, 580 AND 581
 INSTRUMENT #2007028097297
 2. DEEDS:
 - INSTRUMENT #200701260067233



ACKNOWLEDGMENT
 WE THE UNDERSIGNED, BEING THE OWNERS OF THE LAND AFFECTED, DO HEREBY
 DEDICATE THE LANDS SHOWN AS A SANITARY SEWER EASEMENT TO PUBLIC USE
 FOREVER.

WITNESSES (PRINT NAMES BELOW)

 HENARD, INC.
 OWNERS

BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY
 APPEARED THE ABOVE WHO ACKNOWLEDGED THAT HE DID SIGN THE
 FOREGOING INSTRUMENT, AND THAT THE SAME IS HIS FREE ACT AND DEED.
 I HAVE HERETO SET MY HAND AND OFFICIAL SEAL AT _____
 THIS _____ DAY OF _____, 2008.

NOTARY PUBLIC _____ BY COMMISSION EXPIRES _____
PLANNING COMMISSION
 APPROVED BY THE MASSILLON PLANNING COMMISSION AT A MEETING HELD
 THIS _____ DAY OF _____, 2008

CHAIRMAN _____ SECRETARY _____
MASSILLON CITY ENGINEER
 APPROVED BY THE MASSILLON CITY ENGINEER THIS _____ DAY OF _____, 2008

OUT LOT 1045
 ACCEPTED BY THE CITY COUNCIL OF MASSILLON, OHIO BY ORDINANCE NO. _____
 THIS _____ DAY OF _____, 2008.

CHAIRMAN _____ SECRETARY _____
STARK COUNTY AUDITOR
 ENTER FOR TRANSFER THIS _____ DAY OF _____, 2008.
 STARK COUNTY AUDITOR _____
STARK COUNTY RECORDER
 RECEIVED FOR RECORD THIS _____ DAY OF _____, 2008.
 RECORDED IN INSTRUMENT # _____
 THIS _____ DAY OF _____, 2008.

STARK COUNTY RECORDER _____
CERTIFICATION
 I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT PLAT OF THE
 SANITARY SEWER EASEMENT HEREBY BEING OFFERED FOR DEDICATION.

CHAIRMAN _____ SECRETARY _____
MASSILLON CITY ENGINEER
 APPROVED BY THE MASSILLON CITY ENGINEER THIS _____ DAY OF _____, 2008

www.deibelsurveying.com
deibel
surveying
 INC.
 415 3900 Ave., S.W.
 Canton, OH 44708
 Phone: (330) 452-2893
 Fax: (330) 452-2893
 E-mail: deibelsurveying@deibel.com



DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

Passed

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 9- 2008

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE accepting the replatting of Part of Out Lots 569, located on the west side of Millennium Blvd SE, north of Navarre Road, and including the dedication of a proposed sanitary sewer easement in the Neocom Industrial Park, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The replatting of Part of Out Lots 569, located on the west side of Millennium Blvd SE, north of Navarre Road, and including the dedication of a proposed sanitary sewer easement in the Neocom Industrial Park, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, is hereby accepted and confirmed. This replatting and dedication was approved by the Planning Commission at the meeting held January 9, 2008. The property being replatted is described as follows:

Being known as Part of Out Lots 569, located on the west side of Millennium Blvd SE, north of Navarre Road. This property is in the Neocom Industrial Park. The request is to create (2) new out lots with frontage on Millennium Blvd. The plat includes the dedication of a proposed sanitary sewer easement to the City of Massillon. The applicant is Massillon Development Foundation.

Section 2:

This Ordinance is declared to be an emergency measure for the reason that said replatting is needed for the development of Neocom Industrial Park. The replatting must be approved for proper community growth and hence immediately necessary for the preservation of the health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise it shall take effect and be in force from and after the earliest period allowed by Law.

2nd page is the signature page

DATED: January 22, 2008

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 10 - 2008

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE authorizing the Law Firm of Bricker and Eckler LLP and the Law Director of the City of Massillon, Ohio, to commence legal proceedings against Infilco Degremont, Inc., Smith Environmental, Inc., and CTI Engineers, Inc., by the filing of a Complaint in the Court of Common Pleas for Stark County, Ohio, concerning various legal claims which the City has against such defendants with regard to the design and construction of upgrades to and expansion of the Massillon Regional Wastewater Treatment Plant, and declaring an emergency.

WHEREAS, the City of Massillon, Ohio, previously entered into a contract with Kokosing Construction for an upgrade of the Wastewater Treatment Plant, and the defendants specified above were involved in various stages of the design, provision of various systems, and construction of the upgrade, and various faults have been determined to exist with regard to said upgrade: and

WHEREAS, the City of Massillon, Ohio, previously authorized by Ordinance No. 73-2007, the hiring of the law firm of Bricker and Eckler LLP to provide legal services for the City of Massillon, Ohio with regard to disputes with Kokosing Construction, Inc., concerning the failure of the upgrade to perform as represented, and issues concerning alleged cost overruns and change orders which Kokosing Construction claimed were owed: and

WHEREAS, the Law Firm of Bricker and Eckler LLP has recommend that the City file suit on or before January 28, 2008 so that potential claims it may have can be timely brought forward.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Law Firm of Bricker and Eckler LLP and the Law Director of the City of Massillon, Ohio be and hereby are authorized to file a Complaint against Infilco Degremont, Inc., Smith Environmental, Inc., and CTI Engineers, Inc., for claims which the City may have against such entities with regard to the upgrade, expansion, and renovation of various parts of the Massillon Regional Wastewater Treatment Plant.

Section 2:

The Complaint which is authorized to be filed is attached hereto as Exhibit "A" and shall be in substantially the form as that attached hereto as Exhibit "A".

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community and for the further reason that some of the claims presented in the Complaint potentially must be filed in Court on or before January 28, 2008, or the City may be unable to assert the same in the future, and such filing is vitally essential to preserve the claims and to continue to attempt to timely resolve the continued issues with regard to the future operation of the Wastewater Treatment Plant and resolve the issues with regard to the upgrade, expansion, and renovation of the Wastewater Treatment Plant. Wherefore, this Ordinance shall be in full force and effect immediately from and after its passage and upon approval by the Mayor.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2008.

ATTEST: _____
MARY BETH BAILEY,
CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO

THE CITY OF MASSILLON, OHIO
151 Lincoln Way East
Massillon, Ohio 44646

Plaintiff

v.

INFILCO DEGREMONT, INC.

c/o Statutory Agent
James E. Brown
8007 Discovery Drive
Richmond, VA 23229-8605

Defendant,

v.

SMITH ENVIRONMENTAL, INC.

c/o Statutory Agent
Carol Braunschweig
1400 McDonald Investment Center
800 Superior Ave.
Cleveland, Ohio 44114

Serve also:

Smith Environmental, Inc.
731 East Broad St.
Columbus, Ohio 43205

Defendant,

v.

CTI ENGINEERS, INC.
aka CTI ENVIRONMENTAL, INC.

101 Central Plaza South
Suite 400
Canton, Ohio 44702

Defendant.

Judge:

Case No.

JURY DEMAND ENDORSED HEREON

COMPLAINT FOR MONEY DAMAGES

Now comes Plaintiff City of Massillon, Ohio, by and through counsel, and states as its Complaint against Defendants the following:

PARTIES

1. Plaintiff City of Massillon is an Ohio municipal corporation located in Stark County, authorized to bring suit under the Ohio Revised Code.
2. Defendant Infilco Degremont ("Infilco") is a foreign corporation engaged in the business of developing and manufacturing equipment and systems for the treatment of water and wastewater for municipal and industrial uses in numerous geographical areas, including Ohio.
3. Defendant Smith Environmental, Inc. ("Smith") is an Ohio corporation engaged in the business of selling equipment and systems for the treatment of water and wastewater for municipal and industrial uses including equipment and systems manufactured by Infilco.
4. Defendant CTI Engineers, Inc. ("CTI") is an Ohio corporation engaged in the business of providing consulting engineering services with regard to water and wastewater infrastructure for municipal and industrial uses.

FACTS COMMON TO ALL COUNTS

5. In May 1999 Massillon executed a written contract ("Engineering Contract") with Defendant CTI for CTI to provide consulting engineering and construction administration services for the project known as the City of Massillon Regional Wastewater Treatment Plant Upgrade 2000 ("the Project"). The pages of the Engineering Contract are too numerous to attach hereto, but based upon information and belief, Massillon avers that CTI has a copy in its possession.

6. The Engineering Contract includes a provision specifying arbitration of disputes between Massillon and CTI. Massillon is naming CTI as a Defendant in this Complaint to put all relevant parties on notice of all of Massillon's claims at a single instance in a single forum, to eliminate the need for any defenses under Civ. R. 19 for failure to join a party, and so that this Court will have jurisdiction of any ultimate arbitration award. Before CTI's answer is due, Massillon will move for a stay of proceedings as to CTI only, pending arbitration with CTI. Massillon will not move for default judgment against CTI while Massillon's motion to stay is pending.

7. The Project consisted of the design and construction of upgrades to and expansion of the Massillon Regional Wastewater Treatment Plant ("WWTP"), and included renovation of existing clarifiers, renovation of anaerobic digestors, construction of new tertiary filters and filter building, construction of new ultraviolet disinfection system, construction of new retention basin, improvements to plant instrumentation and controls systems, rehabilitation of screw pumps, rehabilitation of sludge handling facilities and all demolition, appurtenances and electrical system upgrades associated with the aforementioned improvements.

8. Kokosing Construction Company, Inc. of Fredericktown, Ohio ("Kokosing") was awarded a contract in excess of thirty-two million dollars to construct the Project.

9. As part of its services for the Project, CTI designed and specified the construction of a new tertiary filter system intended to reduce suspended solids concentrations in the WWTP's effluent to levels compliant with the WWTP's National Pollutant Discharge and Elimination System ("NPDES") permit issued by the Ohio Environmental Protection Agency.

10. As part of CTI's work on the new tertiary filter system, it specified a system designed and manufactured by Defendant Infilco known as the Automatic Backwash Filter ("ABW Filter System"), which was ultimately installed by Kokosing after Kokosing purchased the system from either Defendant Smith or Defendant Infilco.

11. Regardless of whether Kokosing purchased the ABW Filter System directly from Infilco or from Smith after Smith purchased it from Infilco, Infilco and Smith profited monetarily from the sale of the ABW Filter System and the purchase or purchases were executed pursuant to written agreements to which Massillon is a third party beneficiary because the subject of the written agreements, the ABW Filter System, was known by all parties to be specifically intended for the Project and the ABW Filter System was physically customized specifically for the Project, such that it is not suitable for any other application.

12. Regardless of whether Kokosing purchased the ABW Filter System directly from Infilco or from Smith after Smith purchased it from Infilco, Kokosing ultimately furnished the ABW Filter System to Massillon and Infilco and Smith were so involved in the transaction that Kokosing served as Smith's and Infilco's agent for the transaction.

13. The ABW Filter System does not function adequately, as intended, as represented by Defendants Infilco and Smith or as required for the WWTP to consistently achieve the suspended solids concentrations specified in its NPDES permit.

COUNT I INFILCO'S BREACH OF EXPRESS WARRANTY

14. Plaintiff City of Massillon incorporates all the preceding allegations as if fully written herein.

15. Infilco created an express warranty regarding the performance and abilities of the ABW Filter System by affirming both verbally and through written materials to Massillon that the ABW Filter System was suitable for the Project, would allow for consistent compliance with the NPDES permit, would perform optimally without filter shutdowns, would operate continually without downtime, would perform reliably, would perform consistently, would perform effectively, and would reduce maintenance costs.

16. Massillon relied upon Infilco's express warranty when it chose the ABW Filter System for the Project.

17. Because the ABW Filter System is not suitable for the Project, does not allow for consistent compliance with the NPDES permit, does not perform optimally without shutdowns, does not operate continually without downtime, does not perform reliably, does not perform consistently, does not perform effectively, and does not reduce maintenance costs, Infilco has breached its express warranty.

18. Massillon has been damaged in excess of \$25,000.00 as a result of Infilco's breach of its express warranty.

COUNT II INFILCO'S BREACH OF IMPLIED WARRANTY FOR
FITNESS FOR A PARTICULAR PURPOSE

19. Plaintiff City of Massillon incorporates all the preceding allegations as if fully written herein.

20. Infilco knew of Massillon's particular purpose required of the ABW Filter System when it recommended the ABW Filter System to Massillon and later sold the ABW Filter System to parties who then furnished the ABW Filter System to Massillon.

21. Massillon relied upon Infilco's skill and judgment when Massillon chose the ABW Filter System for the Project.

22. As described in Paragraph 17 herein, the ABW Filter System is not fit for the particular purpose for which it was procured by Massillon, constituting a breach of Infilco's implied warranty for fitness for Massillon's particular purpose.

23. Massillon has been damaged in excess of \$25,000.00 as a result of Infilco's breach of its implied warranty for a particular purpose.

COUNT III INFILCO'S BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

24. Plaintiff City of Massillon incorporates all the preceding allegations as if fully written herein.

25. As described in Paragraph 17 herein, the ABW Filter System is not fit for the ordinary purposes for which such goods are used, constituting a breach of Infilco's implied warranty of merchantability.

26. Massillon has been damaged in excess of \$25,000.00 as a result of Infilco's breach of its implied warranty of merchantability.

COUNT IV INFILCO'S BREACH OF IMPLIED WARRANTY IN TORT

27. Plaintiff City of Massillon incorporates all the preceding allegations as if fully written herein.

28. As described in Paragraph 17 herein, the ABW Filter System is defective.

29. The ABW Filter System was defective when it left the hands of Infilco, constituting a breach of implied warranty in tort.

30. Massillon has been damaged in excess of \$25,000.00 as a direct and proximate result of Infilco's breach of its implied warranty in tort.

COUNT V INFILCO'S NEGLIGENT MISREPRESENTATION

31. Plaintiff City of Massillon incorporates all the preceding allegations as if fully written herein.

32. Infilco failed to exercise reasonable care or competence when it represented both verbally and through written materials to Massillon that the ABW Filter System was suitable for the Project, would allow for consistent compliance with the NPDES permit, would perform optimally without filter shutdowns, would operate continually without downtime, would perform reliably, would perform consistently, would perform effectively, and would reduce maintenance costs.

33. The representations and guidance identified in Paragraph 32 herein are false.

34. Massillon reasonably relied upon the representations and guidance identified in Paragraph 32 herein when it chose the ABW Filter System for the Project.

35. Massillon has been damaged in excess of \$25,000.00 as a direct and proximate result of Infilco's false representations and guidance.

COUNT VI SMITH'S BREACH OF EXPRESS WARRANTY

36. Plaintiff City of Massillon incorporates all the preceding allegations as if fully written herein.

37. Smith created an express warranty regarding the performance and abilities of the ABW Filter System by affirming both verbally and through written materials to Massillon that the ABW Filter System was suitable for the Project, would allow for consistent compliance with the NPDES permit, would perform optimally without filter shutdowns, would operate continually without downtime, would perform reliably, would perform consistently, would perform effectively, and would reduce maintenance costs.

38. Massillon relied upon Smith's express warranty when it chose the ABW Filter System for the Project.

39. Because the ABW Filter System is not suitable for the Project, does not allow for consistent compliance with the NPDES permit, does not perform optimally without shutdowns, does not operate continually without downtime, does not perform reliably, does not perform consistently, does not perform effectively, and does not reduce maintenance costs, Smith has breached its express warranty.

40. Massillon has been damaged in excess of \$25,000.00 as a result of Smith's breach of its express warranty.

COUNT VII SMITH'S BREACH OF IMPLIED WARRANTY FOR

FITNESS FOR A PARTICULAR PURPOSE

41. Plaintiff City of Massillon incorporates all the preceding allegations as if fully written herein.

42. Smith knew of Massillon's particular purpose required of the ABW Filter System when it recommended the ABW Filter System to Massillon in anticipation of later monetary compensation from the sale of the ABW Filter System.

43. Massillon relied upon Smith's skill and judgment when Massillon chose the ABW Filter System for the Project.

44. As described in Paragraph 17 herein, the ABW Filter System is not fit for the particular purpose for which it was procured by Massillon, constituting a breach of Smith's implied warranty for fitness for Massillon's particular purpose.

45. Massillon has been damaged in excess of \$25,000.00 as a result of Smith's breach of its implied warranty for a particular purpose.

COUNT VIII SMITH'S BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

46. Plaintiff City of Massillon incorporates all the preceding allegations as if fully written herein.

47. As described in Paragraph 17 herein, the ABW Filter System is not fit for the ordinary purposes for which such goods are used, constituting a breach of Smith's implied warranty of merchantability.

48. Massillon has been damaged in excess of \$25,000.00 as a result of Smith's breach of its implied warranty of merchantability.

COUNT IX SMITH'S BREACH OF IMPLIED WARRANTY IN TORT

49. Plaintiff City of Massillon incorporates all the preceding allegations as if fully written herein.

50. As described in Paragraph 17 herein, the ABW Filter System is defective.

51. The ABW Filter System was defective when it left the hands of Smith, constituting a breach of implied warranty in tort. Alternatively, the ABW Filter System was defective when it left the hands of Infilco, who Smith was acting on behalf of with regard to the sale of the ABW Filter System, constituting a breach of implied warranty in tort.

52. Massillon has been damaged in excess of \$25,000.00 as a direct and proximate result of Smith's breach of its implied warranty in tort.

COUNT X SMITH'S NEGLIGENT MISREPRESENTATION

53. Plaintiff City of Massillon incorporates all the preceding allegations as if fully written herein.

54. Smith failed to exercise reasonable care or competence when it represented both verbally and through written materials to Massillon that the ABW Filter System was suitable for the Project, would allow for consistent compliance with the NPDES permit, would perform optimally without filter shutdowns, would operate continually without downtime, would perform reliably, would perform consistently, would perform effectively, and would reduce maintenance costs.

55. The representations and guidance identified in Paragraph 54 herein are false.

56. Massillon reasonably relied upon the representations and guidance identified in Paragraph 53 herein when it chose the ABW Filter System for the Project.

57. Massillon has been damaged in excess of \$25,000.00 as a direct and proximate result of Smith's false representations and guidance.

COUNT XI INDEMNIFICATION FROM CTI

58. Plaintiff City of Massillon incorporates all the preceding allegations as if fully written herein.

59. Kokosing has asserted a claim against Massillon for \$5,149,270.55, plus interest, ("Kokosing Claim") a portion of which Kokosing attributes to actions and/or failure to act on the part of CTI, arising out of CTI's work on the Project.

60. To the extent that Massillon is found liable for some or all of the Kokosing Claim, and all or part of Massillon's liability is attributable to CTI, CTI has breached the Engineering Contract and breached the duty of professional care owed Massillon and Massillon is entitled by law to be indemnified by CTI.

61. A justiciable controversy exists between Massillon and CTI as to whether or not Massillon is entitled to be indemnified by CTI.

COUNT XII MONEY DAMAGES FROM CTI

62. Plaintiff City of Massillon incorporates all the preceding allegations as if fully written herein.

63. As a result of the portions of the Kokosing Claim attributed to actions and/or failure to act on the part of CTI, Massillon has incurred money damages, including attorney and consultant fees, for which CTI is liable by operation of law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment as follows:

- A. With respect to Count I, for compensatory damages against Defendant Infilco Degremont in an amount exceeding \$25,000.00 according to proof at trial;
- B. Alternatively, with respect to Count II, for compensatory damages against Defendant Infilco Degremont in an amount exceeding \$25,000.00 according to proof at trial;

- C. Alternatively, with respect to Count III, for compensatory damages against Defendant Infilco Degremont in an amount exceeding \$25,000.00 according to proof at trial;
- D. Alternatively, with respect to Count IV, for compensatory damages against Defendant Infilco Degremont in an amount exceeding \$25,000.00 according to proof at trial;
- E. Alternatively, with respect to Count V, for compensatory damages against Defendant Infilco Degremont in an amount exceeding \$25,000.00 according to proof at trial;
- F. With respect to Count VI, for compensatory damages against Defendant Smith Environmental, Inc. in an amount exceeding \$25,000.00 according to proof at trial;
- G. Alternatively, with respect to Count VII, for compensatory damages against Defendant Smith Environmental, Inc. in an amount exceeding \$25,000.00 according to proof at trial;
- H. Alternatively, with respect to Count VIII, for compensatory damages against Defendant Smith Environmental, Inc. in an amount exceeding \$25,000.00 according to proof at trial;
- I. Alternatively, with respect to Count IX, for compensatory damages against Defendant Smith Environmental, Inc. in an amount exceeding \$25,000.00 according to proof at trial;
- J. Alternatively, with respect to Count X, for compensatory damages against Defendant Smith Environmental, Inc. in an amount exceeding \$25,000.00 according to proof at trial;

- K. With respect to Count XI a declaration that to the extent that Massillon is found liable for some or all of Kokosing Construction Co. Inc.'s claim against Massillon, and all or part of Massillon's liability is attributable to CTI Engineers, Inc., Massillon is entitled by law to be indemnified by CTI Engineers, Inc.;
- L. With respect to Count XII, for compensatory damages against Defendant CTI Engineers, Inc. according to proof at trial;
- M. Interest, including prejudgment interest, as allowed by law; and
- N. For costs of suit incurred herein, including reasonable attorneys' fees, and for such other relief, whether legal or equitable, as this Court, in its discretion, shall deem just and proper.

Respectfully submitted,

Doug Shevelow (0077657)
Jack Rosati, Jr. (0042735)
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215-4291
614-227-2300 Phone
614-227-2390 Fax

Attorneys for City of Massillon, Ohio

OF COUNSEL:

Perry Stergios

JURY DEMAND

Plaintiff, City of Massillon, Ohio hereby demands a trial by jury.

Doug Shevelow (0077657)

DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

1st Reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 11 - 2008

Passed 1/4/08

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to sign a proposal with URS for professional engineering services for the design of certain intersections in the City of Massillon, Ohio, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to sign a proposal with URS for professional engineering services for the design of certain intersections in the City of Massillon, Ohio.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to sign a proposal with URS for professional engineering services for the following intersections in the City of Massillon, Ohio:

- a). SR 172 (Lincoln Way East)/27th Street/Jackson Avenue - \$42,684.00
- b). SR 241 (Wales Road)/Lake Avenue - \$36,932.00
- c). SR 241 (Erie Street)/Tremont Avenue - \$29,607.00
- d). SR 241 (Wales Road)/Hankins Road - \$28,527.00

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary that the proposal with URS is signed so the work may begin for the design of those intersections in the city. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Funding sources are as follows:

- 1) **SR 241 (Erie Street) and Tremont Avenue** – ODOT approved grant – This project has an estimated cost of \$194,000.00 and the grant awarded from ODOT is in the amount of \$187,950.00 leaving the City responsible for \$6,050.00 based on the estimate.
- 2) **SR 172 (Lincoln Way East) and 27th Street/Jackson Avenue** - ODOT approved grant – This project has an estimated cost of \$257,000.00 and the grant awarded from ODOT is in the amount of \$243,500.00 leaving the City responsible for \$13,500.00 based on the estimate.
- 3) **SR 241(Wales Road) and Lake Avenue; SR 241 (Wales Road) & Hankins Road** – SCATS approved grant in the amount of \$1,500,000.00 with an 80/20 split. The City being responsible for the 20%.



November 29, 2007

Mr. Keith A. Dylewski, PE
City Engineer
Municipal Government Annex
151 Lincoln Way East
Massillon, Ohio 44646

**Subject: Proposal for Professional Engineering Services
STA-241-8.04/10.41
Traffic Signal Design**

Dear Mr. Dylewski:

URS Corporation – Ohio (URS) is pleased to submit this technical proposal for the subject project to the City of Massillon (Client). This proposal is based upon your request dated April 25, 2007, and our meeting of May 9, 2007, and includes the design of four (4) traffic signals. The Scope of Services presented below represents our understanding of your needs and outlines our approach to this important project, followed by a proposed fee and schedule.

SCOPE OF SERVICES

The following signalized intersections are included in the project area:

- SR 241 (Wales Road)/Lake Avenue;
- SR 241 (Wales Road)/Hankins Road;
- SR 241 (Erie Street)/Tremont Avenue; and
- SR 172 (Lincoln Way East)/27th Street/Jackson Avenue.

URS will prepare a stand-alone traffic signal plan for each intersection which will be suitable for use in bidding and construction. The plans will use Ohio Department of Transportation (ODOT) design standards supplemented with City standards and preferences. The proposal has been organized such that the City can authorize individual tasks for each intersection, as needed. The following items will be conducted with regard to this project:

Task 1. Topographic Survey & Basemapping – Topographical survey will be conducted at each intersection for use in developing mapping for the design. The survey may be supplemented with Stark County GIS/ aerial photography. OUPS will be contacted prior to the survey to mark utilities in the area. A field review will be made to identify any sight obstructions or other items to be taken into consideration during design.

URS Corporation
564 White Pond Drive
Akron, OH 44320-1100
Tel: 330.836.9111
Fax: 330.836.9115



Mr. Keith Dylewski, PE
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Task 2. Establish Existing Right of Way – The following task descriptions are intended to detail the various tasks necessary to adequately research, establish, and map the existing right of way limits in the field at various intersections. This scope of services does not include any field staking of the existing right of way. The following tasks will be performed at each intersection as may be authorized by the City.

Research will be performed to investigate and obtain copies of all adjoining property owner deeds, survey plats (if available) and any recorded centerline of right of way establishment plats for the project intersections. This research will be performed on the Stark County Recorder's web site and at the Stark County courthouse, if needed. In addition, an effort will be made to visit County and State agencies in order to obtain copies of previous road improvement projects that may affect the project intersections.

URS will recover existing property line and centerline monumentation that will be necessary to establish key alignment points of the existing centerline and right of way limits.

Coordinate geometry calculations will be performed in order to verify existing monumentation with record data. Existing centerline and right of way limits will be shown on the improvement plans.

Task 3. Environmental Documentation – The following sections provide detail on the tasks necessary for the preparation of a Categorical Exclusion (CE) Level 1 environmental clearance document. The purpose of the environmental analysis and documentation will be to evaluate and document all relevant considerations necessary to satisfy environmental requirements of ODOT and FHWA (including applicable requirements of other state and local agencies) and to secure environmental clearance for the project. Based on URS' knowledge of the project area and assumptions regarding the proposed intersection improvements, a scope of services is outlined below which we believe will achieve the goals stated above. Assumptions specific to each area of analysis are detailed below.

- a. Assumptions – This scope of services is based on assumptions made and confirmed through email correspondence with Mr. Brian Peck, District 4, ODOT. These assumptions include:
- No ecological resources (wetlands, streams, endangered & threatened species, etc.) will be impacted by this project.
 - Since right of way will be required for the project, and Environmental Site Assessment (ESA) Site Screening will be required.
 - No cultural resources investigations (historical architecture or archaeology) will be required.
 - No noise modeling will be required.
 - There will be no effects on sites that may be considered Section 4(f) resources.



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- There will be no public meetings held during the course of this project. Public involvements will be handled by a letter to affected residents/businesses from the City, as well as a press release which explains the project. URS will assist the City in drafting these two items. Copies will be included in the CE document.
- The project will not involve any significant level of public opposition or controversy.
- The Environmental Document required is a CE Level 1.

Should any work be required beyond the level of work described in the assumptions above, that work will be considered out-of-scope. URS will provide a proposal for such out-of-scope work when the need for it is recognized.

- b. Hazardous Waste Site Screening and Phase I Environmental Site Assessment (ESA) – The tasks discussed below are necessary to prepare a Screening and subsequent Phase I Environmental Site Assessment document for the SR 172 (Lincoln Way East)/27th Street/Jackson Avenue intersection only. In absence of these reports, this proposal does not include a scope of work for a potential Phase II investigation at the location. This proposal follows the guidelines provided by ODOT's environmental evaluation process as detailed in their 1999 guidance document entitled *Hazardous Waste: Site Screening and Phase I Environmental Site Assessment*.

The Environmental Study will be conducted in two (2) parts: the Site Screening and a subsequent Phase I Investigation. The Site Screening will review all properties identified by right of way acquisition for possible involvement with hazardous waste. Areas that have the potential for some contamination will be investigated further in the form of a Phase I. The Phase I will include properties that are slated for easements and/or acquisitions.

This proposal assumes the Site Screening and the Phase I Site Assessment will be conducted concurrently and at one property.

Task 1: Site Screening

Site Visits – A site walkover will be conducted to visually inspect the individual parcels for the purpose of determining adjacent areas of potential or apparent contamination. Building will not be entered and no interviews are planned for this portion of the work. The walkover will be visual and notes of the walkover will be recorded on field maps carried by the inspector.

Historical Review – Sanborn, Hopkins or equivalent historic maps and/or aerial photographs will be reviews for information detailing past industrial and commercial users of the properties within the project location. Available maps/aerial photographs will be reviewed to determine land use or industrial to residential changes and to identify suspect locations.



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Regulatory Records Database Review – A database listing from U.S. and Ohio Environmental Protection Agency (EPA) files will be requested for the project. The database will also be reviewed to determine the relative proximity of any spills, landfills, uncontrolled sites, RCRA sites, and Superfund sites with 0.5 miles of the alignment.

Site Screening Report – A Judgmental Determination of a Phase I site will be made based on the information determined in the Site Screening. This will be based on information tabulated in Preliminary Site Screening Checklists that will be created for the Site Screening portion of the project. Based on the checklists, a comprehensive property documentation file will be created for any potentially contaminated property to be acquired.

Task 2: Phase I Environmental Site Assessment

Interviews – Persons located at the site in addition to persons determined to have knowledge of spills, releases or chemical management will be interviewed. If deemed appropriate, adjacent facilities/residents will also be interviewed for the same purpose.

A site walkover will also be conducted to visually inspect the project area for the purpose of determining areas of potential or apparent contamination. The walkover will be conducted by a URS employee who has met OSHA 40-hour training in accordance with 29 CFR 1910.120 in addition to actual site assessment experience. The detailed site walkover will cover only suspect properties recommended for Phase I Investigation. In addition, photographs will be taken in the field to document conditions.

Additional Regulatory Review – Representatives from State and local regulatory agencies will be contacted and interviewed to obtain information regarding past zoning of parcels within the project area. Some of the agencies with files that will be requested and reviewed include:

- Fire Department/Emergency Management Agency – These two agencies will be solicited for the purpose of determining past incidents regarding releases of hazardous materials. Local fire department inspection records will also be reviewed for the purpose of determining the identity and disposition of regulated materials for a given entity. These agencies may also provide useful information regarding underground storage tanks (USTs).
- The Office of the State Fire Marshall will be contacted for information detailing the location and status of registered USTs within the right of way, if available; information will also be gathered regarding recently closed UST systems and post closure reports.
- Ohio Environmental Protection Agency (OEPA) will be contacted for information detailing spills, violations and other potentially contaminating activities on or near the site.



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Report Preparation – A Phase I Report will be prepared and will contain recommendations for the next phase of work. The report will include all appropriate documentation used in conducting all tasks in the Phase I study and will include parcel documentation files for the parcel. The reports will address the study methodology, past and present land uses and their relationship to possible contaminants within the project, and a comprehensive listing of potentially contaminated sites that may require Phase II investigations. The report will also include a section detailing the geologic profile of the area. A geological profile of the area will be conducted. By gathering available information about local geology, significant items to be considered are depth to bedrock, depth to groundwater, and hydrologic conditions that may have an impact on proposed Phase II activities.

- c. Level 1 Categorical Exclusion Document – Environmental documentation consists of the preparation of the documentation necessary to receive NEPA clearance. Based on our knowledge of the project, it is assumed a Categorical Exclusion (CE) Level 1 will fulfill the environmental documentation requirements. The current ODOT Environmental Screening/CE-1 For November 1, 2003, will be used for environmental documentation. FHWA and ODOT regulations, guidelines and advisory reports, publications and papers will be used in preparing the environmental assessment documents and supporting environmental reports.

At this time, no major public controversy is anticipated. The project does involve minor right of way takes and potential for minor hazardous materials impacts. Therefore, since minor environmental impacts are anticipated, a Level 1 CE has been assumed. A higher level CE may be necessary based on the determined project impacts. This proposal assumes the Purpose and Need section will be prepared separately by URS for review by the City, ODOT, and any other applicable agencies for concurrence. Prior review and approval of the Purpose and Need and Alternatives discussion is proposed to facilitate the NEPA approval process. These sections of the NEPA documentation can be reviewed while the assessment of proposed project impacts is continuing. Five (5) draft copies of the CE will be prepared. One (1) will be submitted to the City, two (2) will be submitted to ODOT D-4, and two (2) will be retained by URS. Once comments on the draft are addressed, five (5) final copies of the CE will be prepared with the same distribution.

The proposal has been organized such that the primary work to prepare a CE document will be performed for the SR 172 (Lincoln Way East)/27th Street/Jackson Avenue and the SR 241 (Wales Road)/Lake Avenue intersections as needed. If it is determined that environmental clearance is needed at the SR 241 (Erie Street)/Tremont Avenue intersection, the additional work necessary will be performed as outlined in the spreadsheet and included in the SR 172 (Lincoln Way East)/27th Street/Jackson Avenue CE document. Similarly, if environmental clearance is required at the SR 241 (Wales Road)/Hankins Road intersection, the additional



Mr. Keith Dylewski, PE
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work necessary will be completed according to the proposal and included in the CE document for SR 241 (Wales Road)/Lake Avenue.

- d. Participate in Project Meetings – URS will attend and participate in periodic project meetings as necessary. It is assumed that progress meetings will be held on a monthly or near-monthly basis. URS will be responsible for documenting meetings by composing/distributing meeting minutes. It is assumed that eight (8) monthly meetings will be held for the project.

Task 4. Subsurface Utility Investigation – Once survey is complete, a preliminary signal pole layout will be completed at each intersection. If there is a concern regarding the location of underground utilities in the vicinity of the proposed pole locations, a subsurface utility engineer (SUE) may be hired to perform test holes. If authorized, the SUE subcontractor will perform Level A subsurface utility investigation on a Per Test Hole basis. The purpose of this work is to field locate the exact location of utilities in the vicinity of the signal support foundations. The SUE fee is based on two (2) test holes per intersection. URS will coordinate with the SUE to integrate the investigation into the project mapping.

Task 5. Preliminary Design - A separate and complete set of traffic signal plans will be prepared for each intersection (4 intersections total). The preliminary design will be equivalent to Stage 2 plans. The signal plans will be drawn in a 1"=20' scale and consist of the following elements:

- a. Title sheet;
- b. General notes;
- c. Plan sheet showing horizontal layout;
- d. Timing and phasing diagram;
- e. Wiring diagram;
- f. Pole elevations and details;
- g. Interconnect Plan.

The plans will include mast arm signal supports, video detection, and hardwire interconnect to the existing signal systems. At the Erie Street/Tremont Avenue intersection lighting and connection to the hardwire emergency system will be included. During the field investigation particular attention will be paid to the condition of the existing curb ramps. Where needed, new curb ramps will be included in the plans.

At the time the preliminary signal pole layout is complete, a field meeting will be scheduled with City personnel to review the pole and controller locations. This meeting will ensure that there are no conflicts with overhead utilities or trees, and that the locations are acceptable to the City.

URS will coordinate with the City while developing the signal plans for the two intersections on Wales Road. Following the basemapping and establishment of existing right of way, the



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preliminary widening plans for Wales Road will be reviewed to determine the ultimate mast arm length and pole size for the signal poles at those locations. It is the intention to provide poles that will be adequate for the future widened roadway. At this time a determination will be made as to right of way requirements and appropriate pole locations for both the existing pavement width and the future conditions.

Task 6. Final Design – Following review of the preliminary plans by the City and ODOT, any comments will be incorporated to Stage 3 plans. At this point, quantities will be calculated and included in subsummaries and a general summary. The Stage 3 plans will be forwarded to the City for review prior to Final plans being prepared.

Task 7. Preparation of Proposed Right of Way Plans – It is our understanding that additional right of way may be necessary at one or more intersections. If authorized, URS will prepare right of way plans. The following scope is intended to detail the various tasks that will be necessary to prepare a Right of Way plan and legal description for ownerships at each intersection that may require additional Right of Way for the proposed signal pole locations. It is intended that a one page Right of Way plat and legal description will be required at each intersection that will need additional Right of Way. Additional parcels and legals that may be needed at this same intersection will be added to this plat, as directed by the City. A maximum of four (4) parcels can be shown per intersection in this format. **For purposes of this proposal, the fee for this task assumes that right of way will be needed in all four (4) quadrants of each intersection. Once the existing right of way is established and right of way requirements are established, if it is determined that fewer takes are needed, this fee will be renegotiated.** Ownerships affected beyond four (4) will require modification to this contract and will be scoped as a separate task.

- a. **Research** – Research will be performed to research and obtain copies of the current property owner's deeds and survey plats for the parcels identified as needing additional Right of Way. Only the current deed of record will be researched, as URS assumes that a complete Title Report will be completed by others during acquisition activities.
- b. **Coordination with Survey Field Crews** – URS will recover additional existing property line monumentation that will be necessary to establish the owner's boundary line as these lines will relate to the proposed Right of Way acquisition. An effort will be made to recover any side line or rear pins as noted on record deeds and plats. Each parcel will be tied to the State Plane Coordinates, and if applicable, tied to the Stark County control points.
- c. **Calculations** – Coordinate geometry calculations will be performed in order to verify existing monumentation with record data. Property lines will be established by a Professional Surveyor based on record and field evidence.



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- d. One Page Right of Way Plan Format – URS will prepare a one page Right of Way plan on 22" x 34" bond for each intersection that the City determines additional Right of Way will be required. The plat will show the limits of the existing centerline of Right of Way, the existing Right of Way, the existing property lines of the affected owner, and the Proposed Right of Way limits. The plat will also note the owner's name, deed reference, Auditor's Parcel Number, record area, and area to be acquired. Up to four (4) ownerships, one per corner, can be shown in this format. The City will direct URS as to fee or easement acquisition for the additional Right of Way required.
- e. Legal Description – A legal description will be prepared to current Stark County Conveyance Standards for each additional Right of Way parcel. The City will direct URS as to Warranty Deed or Highway Easement format.
- f. Final Staking – Coordinates and stake-out routines will be generated in order to physically stake the proposed Right of Way limits, after acquisition, and at the direction of the City. The Proposed Right of Way limits will be pinned with 5/8" diameter rebar with a URS Identifications cap, or stake using other suitable monuments as field conditions may dictate, per ORC 4733 – Minimum Standards for Boundary Surveys in the State of Ohio.

Task 8. Centerline Monumentation – URS will set reference tie points at each existing centerline of right of way intersection in order for the contractor to place one monument box assembly during construction. The reference tie points will be detailed on the construction plan. Upon notification by the City, URS will return to place a 3/4 inch diameter rebar in the monument box and notify the City, in writing, upon completion. Coordinates of the rebar, tied to the Stark County control system, will be provided to the City with the notification letter.

Task 9. Estimate of Probable Construction Costs – An estimate of probable construction costs will be prepared during the development of Stage 3 plans. The estimate will be based on ODOT's Summary of Contracts Awarded using the Estimator software program.

PROJECT DELIVERABLES

The project deliverables for this project will include the following:

1. Categorical Exclusion Document;
2. Preliminary Right of Way Plans;
3. Final Right of Way Plans;
4. Legal Descriptions;
5. Stage 2 Plans;
6. Stage 3 Plans;
7. Final Plans; and



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8. Engineer's Estimate.

Copies of the plans will be provided to the utility companies at all stages of plan development. Two full-size sets of plans will be provided to the City at each stage, along with one mylar copy of the final plans. At Stage 2, ODOT will be provided with a set of plans for review, as required by the LPA process.

COMPENSATION

A separate fee has been developed for each intersection, as detailed on the enclosed spreadsheets. URS proposes the following Cost Plus Fees to complete the Scope of Services as outlined above for each intersection.

1. SR 172 (Lincoln Way East)/27th Street/Jackson Avenue – \$42,684
2. SR 241 (Erie Street)/Tremont Avenue – \$29,607
3. SR 241 (Wales Road)/Lake Avenue – \$36,932
4. SR 241 (Wales Road)/Hankins Road – \$28,527

Individual intersections may be authorized according to the total fee at each location, or by authorizing specific line items within the total fee. The total cost plus fee is payable upon completion of the plans. URS will submit invoices based on actual hours (with a 2.7 multiplier) plus expenses representing work completed as of the invoice period.

SCHEDULE

For each intersection, upon authorization to proceed, URS will begin work on the project. Stage 2 plans will be provided to your office within forty-five (45) calendar days. Stage 3 plans will be provided within thirty (30) calendar days following receipt of Stage 2 comments from the City and ODOT. The final plans will be submitted within ten (10) days of receipt of any comments on the Stage 3 plans. It is our understanding that separate authorization will be given for specific tasks for each intersection, although intersections and tasks may be authorized concurrently.

CONCLUSION

This Proposal is based on our understanding of the Scope of Services to date and the responsibilities of URS. If the Scope of Services for this Project is altered, this Contract shall be adjusted accordingly to the mutual satisfaction of both the City of Massillon and URS.

The costs included in this Proposal are valid for ninety (90) days from the date of submittal. If the Proposal is accepted after said period, URS reserves the right to review and retain or modify the figures stated herein in order to appropriately reflect changing costs and salaries and similar economic considerations.



Mr. Keith Dylewski, PE
November 29, 2007
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We welcome this opportunity to assist you with this matter and look forward to working with you on this important project. Please feel free to call with any questions you may have.

Sincerely,

URS Corporation - Ohio

A handwritten signature in black ink, appearing to read 'Scott Buchanan'.

Scott Buchanan, P.E.
Vice President

KPW:tk
File

FEE SCHEDULE
STA-244-B-04/10.41
 SR 172 Lincoln Way East/17th Street/Jackson Avenue
 City of Massillon

TASK	PM/SENIOR TRAFFIC ENGINEER \$77.00	RAW MANAGER \$34.00	SURVEY MANAGER \$35.00	SENIOR DESIGNER/ ENVY SCL \$38.00	TRAFFIC ENGINEER \$32.00	CADD TECHNICIAN/ GEOLOGIST \$20.00	CHEMICAL \$23.00	2 MAN SURVEY GROUND \$45.00	TOTAL DIRECT LABOR	LABOR X MULTIPLIER 27	SUBCON. SUFFICIENTS	DIRECT COSTS	TOTAL FEE
1. Topographic Survey & Basepointing													
Establish Stake Points Computer													
Topographic Survey			4						80	2.16		173	243
Boundary Development									410	1.07		507	1,157
Alignment/Stationing									290	7.83		2,273	7,833
									800	2.48		2,000	2,480
			4						800	2.376		1,901	2,376
2. Establish Existing Right of Way													
Research, Confirmation, Calculations									844	2.278		1,901	2,376
									844	2.278		1,901	2,376
3. Environmental Documentation													
Site Screening and Phase I ESA									207	5.53		1,145	644
Site Visit									107	2.89		306	289
Historical Review									107	2.89		306	289
Historic District Database Review									107	2.89		306	289
Site Screening Report									122	1.343		163	163
Interviews									67	2.26		151	151
Site Walkover									87	2.26		194	194
Additional Regulatory Review									277	7.48		2,073	878
Report Preparation									277	7.48		2,073	878
Conceptual Easement									763	2.097		1,581	2,138
Purpose and Need									1,716	4.637		7,957	4,817
ODOT Draft CE									526	1.429		750	1,570
Final CE									656	1.771		1,161	1,817
Project Meetings									5,081	13.748		69,815	13,581
4. Subsurface Utility Investigation													
Site Visit (Based on 2 Visits)									84	2.54		214	262
									84	2.54		214	262
5. Preliminary Design (Items #1-#2)													
Site Work									40	1.08		43	108
General Notes (2)									140	3.78		528	578
Preliminary Signal Layout (1)									180	2.02		360	390
Final Signal Layout									1,500	4.06		6,060	4,060
Signal Layout Detail (1)									1,300	3.51		4,563	3,510
Interpretation (1)									90	2.37		214	237
Coordination Meetings (1)									70	1.89		132	155
Utility Diagram (1)									130	3.42		445	492
Police Chart (1)									130	3.42		445	492
Director Chart (1)									60	1.62		97	162
Site/Utility Meeting									80	2.10		168	182
DNOC									168	4.58		768	598
									241	1.481		353	486
									1,924	5.193		9,924	5,270
6. Final Design (Items 1 & 2 Final Plans)													
Final Signal Layout (1)									120	3.24		384	324
Final Utility Diagram (1)									180	4.88		878	488
Final Police Chart (1)									70	1.89		132	155
Final Director Chart (1)									130	3.42		445	492
Final DNOC									168	4.58		768	598
Final Meeting									449	1,210		549	1,210
Final DNOC									1,333	3,599		4,932	3,724
7. Preparation of Proposed Right of Way Plans (All 4 Corners)													
Research, Plan, Legal Description, Calculations, Field Staking									3,274	8,840		12,114	9,858
									3,274	8,840		12,114	9,858
8. Certificate Memorandum													
SMR Review									170	4.59		780	509
SMR Review									135	3.65		493	415
SMR Review									135	3.65		493	415
SMR Review									824	2.24		1,834	924
SMR Review									348	9.54		3,314	324
SMR Review									348	9.54		3,314	324
9. Estimate of Probable Construction Costs													
Cost Estimate									348	9.54		3,314	324
									348	9.54		3,314	324
Project Totals	33	59	5	100	47	82	25	14	13,921	38,046	2,388	27,250	42,884

FEE SCHEDULE
STA-241-8-04/10.41
SR 241 (Erle Street)/Tramont Avenue
City of Massillon

TASK	PM / SENIOR TRAFFIC ENGINEER	ROW MANAGER	SURVEY MANAGER	SENIOR DESIGNER / ENV. SCI.	TRAFFIC ENGINEER	CADD TECHNICIAN / GEOLOGIST	CLERICAL	2 MAN SURVEY CREW	TOTAL DIRECT LABOR	LABOR x MULTIPLIER 2.7	SUBCON. SUBTANTS	DIRECT COSTS	TOTAL FEE
1. Topographic Survey & Benchmarking	1												
Establish Station & Tie Lines													
Topographic Survey													
Baseline Development													
Adjustments/Stationing													
Subtotal	0	0	4	0	4	14	0	8	880 \$	2,378 \$	-	50 \$	2,428 \$
2. Establish Existing Right of Way													
Research, Coordination, Calculations													
Subtotal	0	8	0	12	0	6	0	0	844 \$	2,279 \$	-	70 \$	2,349 \$
3. Environmental Documentation													
Add Time to include in SR 17227th Street CE Document													
Subtotal	8	0	0	2	0	0	2	0	446 \$	1,204 \$	-	-	1,204 \$
4. Subsurface Utility Investigation													
SUE Test Holes (based on 2 holes)													
Subtotal	2	0	0	0	0	0	0	0	94 \$	254 \$	2,388 \$	-	2,642 \$
5. Preliminary Design (Stage 2)													
Title Sheet													
General Notes (2)													
Preliminary Signal Layout (1)													
Field Signal Layout													
Signal Layout Detail (1)													
Interconnect Plan													
Timing/Phasing (1)													
Coordination Timeline (1)													
Wiring Diagram (1)													
Pole Chart (1)													
Detector Chart (1)													
Display Chart (1)													
Lighting Design													
Structure/View Meeting													
OM/C													
Subtotal	12	0	0	15	39	13	0	0	2,324 \$	6,275 \$	-	75 \$	6,350 \$
6. Final Design (Stages 3 & Final Plans)													
General Notes (2)													
Final Signal Layout (1)													
Drawings (1)													
Develop Final Plans													
Structure/View Meeting													
OM/C													
Subtotal	9	0	0	10	2	8	0	0	1,383 \$	3,728 \$	-	125 \$	3,724 \$
7. Preparation of Proposed Right of Way Plans (All 4 Corners)													
Research, Plan, Legal Description, Calculations, Field Staking													
Subtotal	0	38	0	42	0	18	0	0	3,274 \$	8,840 \$	-	215 \$	9,055 \$
8. Geomatics Monumentation													
Set Reference Ties													
Set Reference Ties													
Subtotal	0	0	1	0	0	0	0	0	305 \$	824 \$	-	100 \$	924 \$
9. Estimate of Probable Construction Costs													
Cost Estimate													
Subtotal	2	4	0	0	4	0	0	0	346 \$	934 \$	-	-	934 \$
Project Totals	33	50	5	81	63	59	2	14	9,848 \$	26,584 \$	2,388 \$	635 \$	29,607 \$

FREE SCHEDULE
STA-241-8.04/10.41
SR 241 (Wales Road)/Lalor Avenue
City of Massillon

TASK	PM / SENIOR TRAFFIC ENGINEER \$57,00	RW MANAGER \$38.00	SURVEY MANAGER \$35.00	SENIOR DESIGNER / ENVY. SCI. \$35.00	TRAFFIC ENGINEER \$23.00	CADD TECHNICIAN \$20.00	CLERICAL \$20.00	2/MAN SURVEY CREW \$45.00	TOTAL DIRECT LABOR	LABOR x MULTIPLIER 2.7	SUBCON-SUBTANTS	DIRECT COSTS	TOTAL FEE
1. Topographic Survey & Benchmarking													
Establish Right of Way													
Environmental Documentation													
Subsurface Utility Investigation													
Preliminary Design (Stage 2)													
Final Design (Stage 3 & Final Plans)													
Preparation of Proposed Right of Way Plans (All 4 Corners)													
Certificate of Monumentation													
Estimate of Probable Construction Costs													
Project Totals	95	50	5	95	47	59	14	14	12,380	33,420	2,388	1,118	36,932

FEE SCHEDULE
STA-241-8.04/10.41
 SR 241 (Wales Road)/Hankins Road
 City of Massillon

TASK	PM/SENIOR TRAFFIC ENGINEER	R/W MANAGER	SURVEY MANAGER	SENIOR DESIGNER/ ENVY SCI.	TRAFFIC ENGINEER	CADD TECHNICIAN	CLERICAL	2 MAN SURVEY CREW \$45.00	TOTAL DIRECT LABOR	LABOR x MULTIPLIER	SUBCON-SUPTANTS	DIRECT COSTS	TOTAL FEE
1. Topographic Survey & Basemaping													
Establish State Plane Coordinates								2	\$ 90	243		\$ 50	\$ 243
Topographic Survey			4		2			6	\$ 410	1,107		\$ 50	\$ 1,517
Basemap Development					2			2	\$ 280	783		\$ 50	\$ 783
Alignment/Staking			4		4			8	\$ 880	2,376		\$ 50	\$ 2,426
Subtotal													
2. Establish Existing Right of Way													
Research, Coordination, Calculations		8		12				0	\$ 844	2,279		\$ 70	\$ 2,349
Subtotal													
3. Environmental Documentation													
Add'l Time to Include in SR 241/Lake Avenue CE Document		8		2				2	\$ 446	1,204		\$ -	\$ 1,204
Subtotal													
4. Subsurface Utility Investigation													
SUE Test Holes (based on 2 holes)		2		0				0	\$ 94	254		\$ -	\$ 2,642
Subtotal													
5. Preliminary Design (Stage 2)													
Title Sheet						2			\$ 40	108		\$ -	\$ 108
General Notes (2)									\$ 140	378		\$ -	\$ 378
Preliminary Signal Layout (1)				4					\$ 150	405		\$ -	\$ 405
Field Signal Layout					6				\$ 100	270		\$ -	\$ 270
Signal Layout Detail (1)						2			\$ 150	405		\$ -	\$ 405
Interconnect Plan							4		\$ 130	361		\$ -	\$ 361
Timing Diagram (1)							2		\$ 70	189		\$ -	\$ 189
Coordination Timing (1)							1		\$ 110	297		\$ -	\$ 297
Wiring Diagram (1)							2		\$ 135	365		\$ -	\$ 365
Pole Chart (1)							1		\$ 135	365		\$ -	\$ 365
Detector Chart (1)							1		\$ 60	162		\$ -	\$ 162
Display Chart (1)							1		\$ 188	508		\$ -	\$ 508
Status/Review Meeting							1		\$ 541	1,461		\$ -	\$ 1,461
OV/C							4		\$ 133	365		\$ -	\$ 365
Subtotal									\$ 1,974	5,195		\$ 75	\$ 5,270
6. Final Design (Stage 3 & Final Plans)													
General Notes (2)									\$ 120	324		\$ -	\$ 324
Final Signal Layout (1)									\$ 160	486		\$ -	\$ 486
Quantities (1)									\$ 180	486		\$ -	\$ 486
Develop Final Plans									\$ 217	586		\$ -	\$ 586
Status/Review Meeting									\$ 188	508		\$ -	\$ 508
OV/C									\$ 448	1,210		\$ -	\$ 1,285
Subtotal									\$ 1,333	3,599		\$ 125	\$ 3,724
7. Preparation of Proposed Right of Way Plans (All 4 Corners)													
Research, Plan, Legal Description, Calculations, Field Staking									\$ 3274	8,840		\$ 215	\$ 9,055
Subtotal									\$ 3,274	8,840		\$ 215	\$ 9,055
8. Centerline Monumentation													
Set Reference Ties									\$ 170	459		\$ 50	\$ 509
Set Rehab									\$ 138	382		\$ 50	\$ 432
Subtotal									\$ 308	824		\$ 100	\$ 924
9. Estimate of Probable Construction Costs													
Cost Estimate									\$ 346	934		\$ -	\$ 934
Subtotal									\$ 346	934		\$ -	\$ 934
Project Totals									\$ 9,446	25,504		\$ 635	\$ 28,527

DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

1st Reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 12 - 2008

Passed 1/4/08

BY: STREETS, HIGHWAYS, TRAFFIC AND SAFETY COMMITTEE

TITLE: AN ORDINANCE accepting the replatting of Part of Out Lots 373 and 491, located on the south side of Walnut Road SE, east of 16th Street, and including the dedication of existing right-of-way areas for Walnut Road SE, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

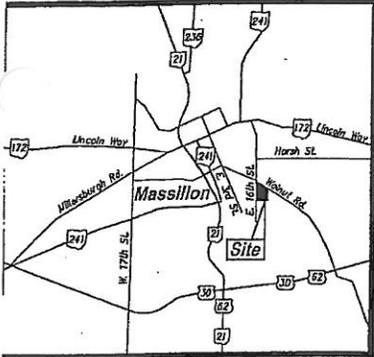
Section 1:

The replatting of Part of Out Lots 373 and 491, located on the south side of Walnut Road SE, east of 16th Street, and including the dedication of existing right-of-way areas for Walnut Road SE, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, is hereby accepted and confirmed. This replatting and dedication was approved by the Planning Commission at the meeting held November 14, 2007. The property being replatted is described as follows:

Being known as Part of Out Lots 373 and 491, located on the south side of Walnut Road SE, east of 16th Street, and including the dedication of existing right-of-way areas for Walnut Road SE. The request is to combine the existing lots into (1) new lot to allow the construction of a gas station canopy and pump structures for M & K Supermarket, 1619 Walnut Road SE. The applicant is Joan Desiderio-Hassan.

Section 2:

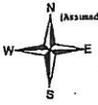
This Ordinance is declared to be an emergency measure for the reason that said replatting is needed for the development for M & K Supermarket located at 1619 Walnut Road SE. The replatting must be approved for proper community growth and hence immediately necessary for the preservation of the health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise it shall take effect and be in force from and after the earliest period allowed by Law.



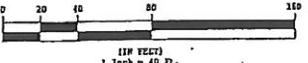
-Vicinity Map-

-Areas-

Area In Lot - 2.761 Acres
 Area In Street - 0.230 Acres
 Total Area - 2.991 Acres



GRAPHIC SCALE



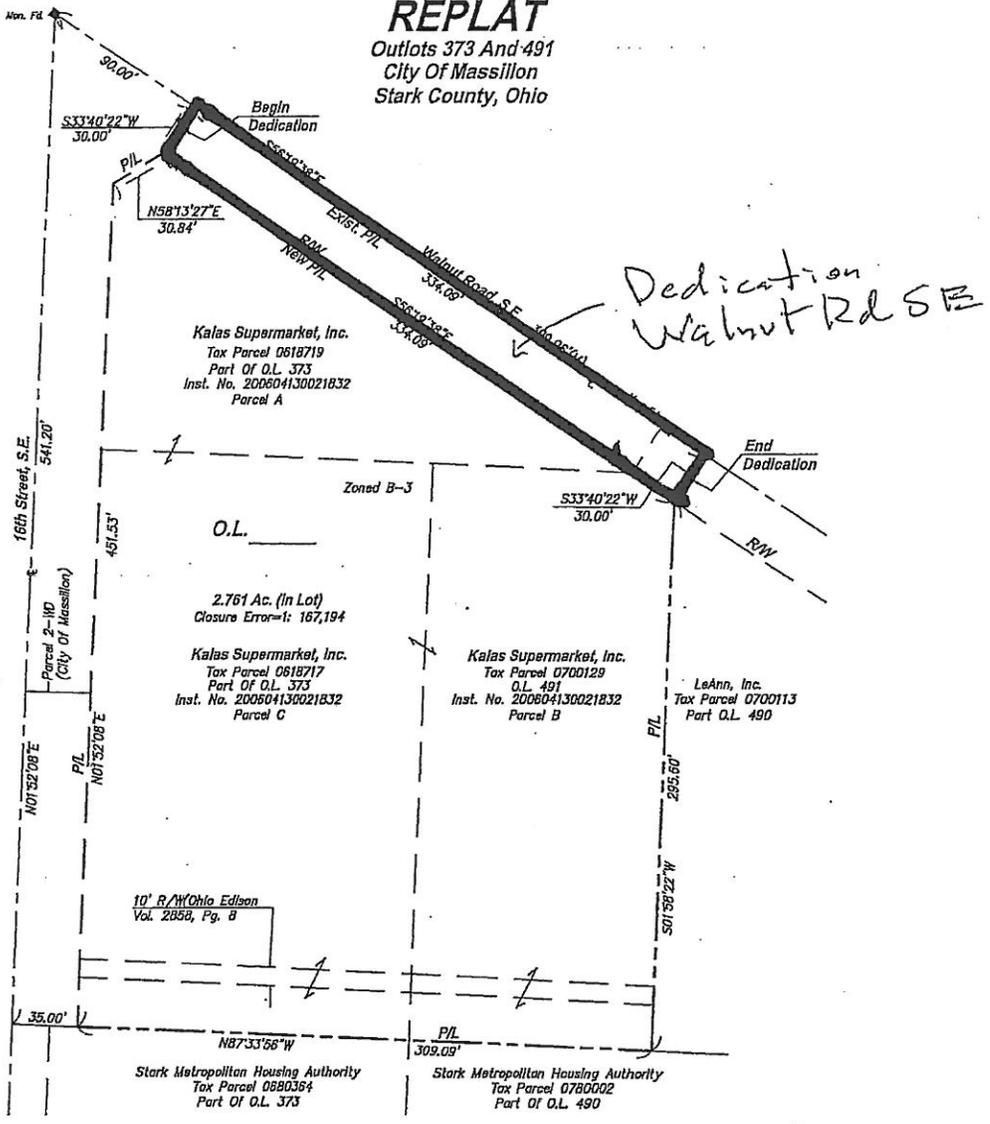
Note:
 All Measurements Are In English Units.

Legend

- (M) Measured Distance
- (R) Record Distance
- Monuments Found
- Iron Pin Found
- 5/8" Iron Pin (Bar) Set w/ Cap
- Stamped Housels & Boid
- 200604130021832 Dead Instrument Reference Number
- Parcel A, 0618719 Tax Parcel Numbers
- Parcel B, 0700129
- Parcel C, 0618717
- R/W Right-of-Way Line
- P/L Property Line

REPLAT

Outlots 373 And 491
 City Of Massillon
 Stark County, Ohio



Dedication
 Walnut Rd SE

I HEREBY CERTIFY THAT THIS IS A CORRECT PLAT OF A PROPOSED REPLAT OF OUTLOTS 373 AND 491 IN THE CITY OF MASSILLON, STARK COUNTY, OHIO. THIS SURVEY CONFORMS TO THE MINIMUM STANDARDS FOR BOUNDARY SURVEYS IN OHIO, PER CHAPTER 4133 - 37 OF THE OHIO ADMINISTRATIVE CODE. THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.



DAVID E. VOLLMOOLE, P.S., REGISTERED SURVEYOR NO. 6938

KNOW ALL MEN BY THESE PRESENTS, THAT THE UNDERSIGNED, THE OWNERS OF THE PROPERTY TITLED ABOVE, DO HEREBY ASSENT TO AND ADOPT THIS REPLAT AND ACKNOWLEDGE THAT SAID REPLAT WAS MADE AT THEIR REQUEST AND DOES HEREBY APPROVE SAME, WE DO DEDICATE THE STREETS AS SHOWN TO THE PUBLIC FOREVER.

WITNESSES: _____ OWNERS: _____

STATE OF OHIO: COUNTY OF STARK: BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED THE ABOVE NAMED PERSONS WHO ACKNOWLEDGE THE SIGNING OF THE FOREGOING INSTRUMENT AND THAT SAME IS THEIR FREE ACT AND DEED. IN TESTIMONY WHEREOF I HAVE SET MY HAND AND SEAL THIS _____ DAY OF _____, 2007.

NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

THIS REPLAT OF OUTLOTS 373 AND 491 AS TITLED ABOVE IS HEREBY APPROVED AND ACCEPTED BY THE PLANNING COMMISSION OF THE CITY OF MASSILLON, STARK COUNTY, OHIO THIS _____ DAY OF _____, 2007.

PRESIDENT OF PLANNING COMMISSION _____ SECRETARY OF PLANNING COMMISSION _____

APPROVED FOR RECORD THIS _____ DAY OF _____, 2007.

MASSILLON CITY ENGINEER - KRISTI A. DYLEWSKI

THE COUNCIL OF THE CITY OF MASSILLON, STARK COUNTY, OHIO HEREBY ACCEPTS AND APPROVES THIS REPLAT AS TITLED ABOVE AND APPROVES THE RECORDING OF THIS PLAT. ORDINANCE NO. _____

PRESIDENT OF COUNCIL _____ CLERK OF COUNCIL _____

RECEIVED FOR RECORD AT _____ O'CLOCK _____ M. ON THIS _____ DAY OF _____, 2007.
 RECORDED THIS _____ DAY OF _____, 2007 IN PLAT RECORD VOLUME _____ PAGE _____

STARK COUNTY RECORDER _____

TRANSFERRED THIS _____ DAY OF _____, 2007.

STARK COUNTY AUDITOR _____

DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

1st Reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 13- 2008

Passed 2/4/08

BY: STREETS, HIGHWAYS, TRAFFIC AND SAFETY COMMITTEE

TITLE: AN ORDINANCE accepting the replatting of Out Lots 691 and 940, located on the south side of Nave Road SE, west of Veterans Blvd, and including the dedication of existing roadway areas, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The replatting of Out Lots 691 and 940, located on the south side of Nave Road SE, west of Veterans Blvd, and including the dedication of existing roadway areas, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, is hereby accepted and confirmed. This replatting and dedication was approved by the Planning Commission at the meeting held January 9, 2008. The property being replatted is described as follows:

Being known as Out Lots 691 and 940, located on the south side of Nave Road SE, west of Veterans Blvd. This property is the site of storage buildings. The request is to combine the two lots into 1 lot with frontage on Nave Road. The plat includes the dedication of existing roadway areas. The property is zoned I-1 Industrial. The applicant is Fairbanks Properties.

Section 2:

This Ordinance is declared to be an emergency measure for the reason that said replatting is needed for the development of this area. The replatting must be approved for proper community growth and hence immediately necessary for the preservation of the health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise it shall take effect and be in force from and after the earliest period allowed by Law.

North

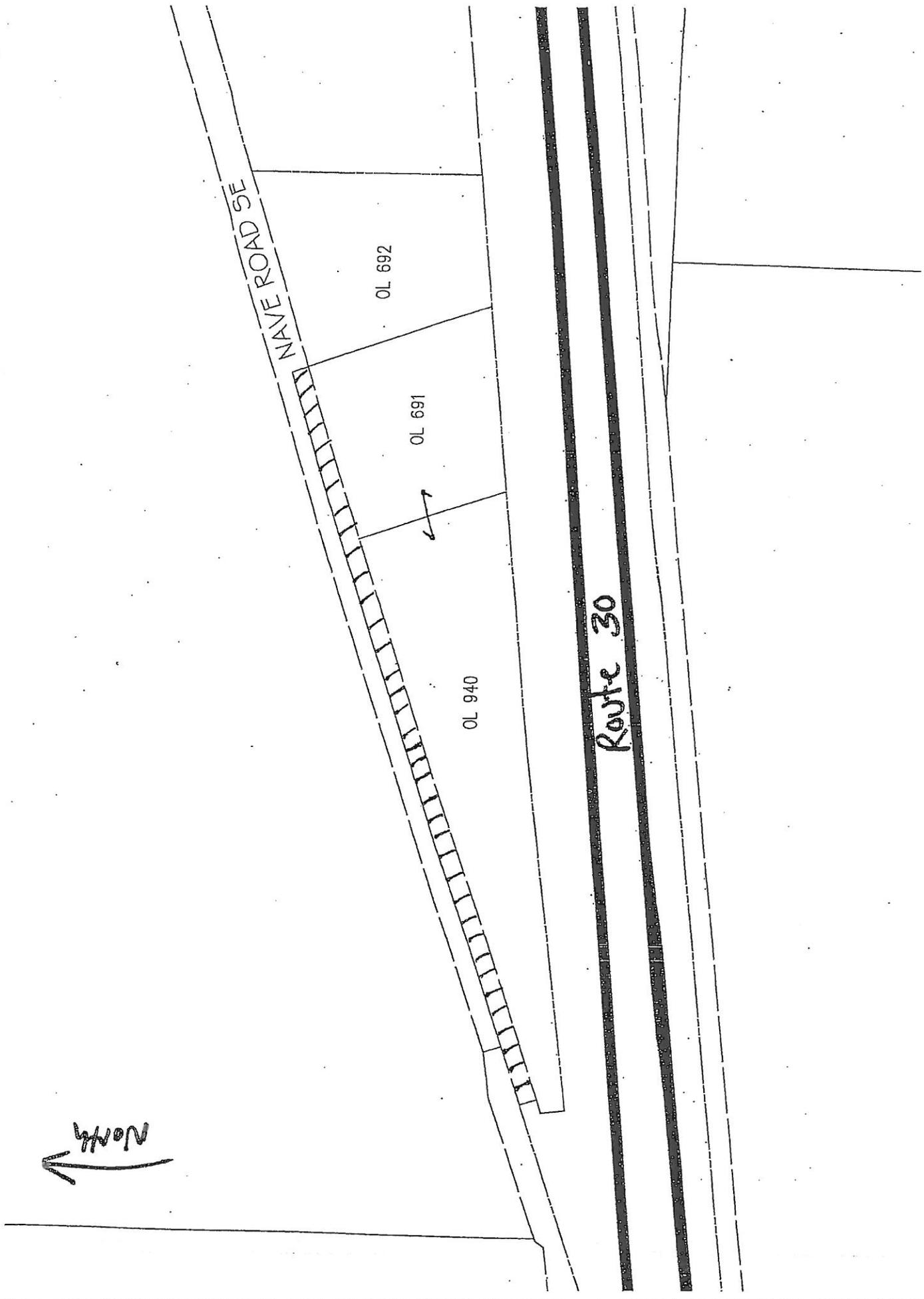
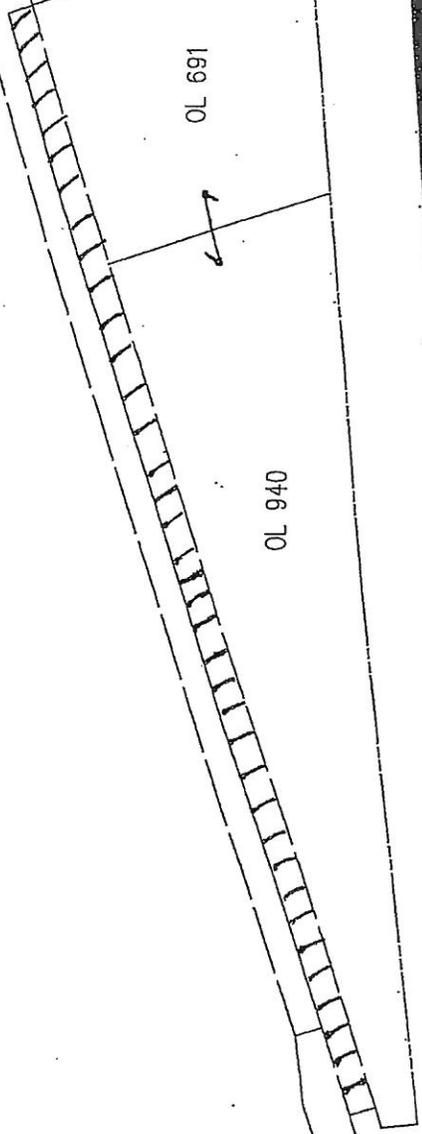
NIAVE ROAD SE

OL 692

OL 691

OL 940

Route 30



DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 14 - 2008

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE establishing a fund entitled "Ohio Peace Officers Continuing Professional Training Fund", and creating line items within said fund, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and is hereby established within the City of Massillon, Ohio, a fund entitled "Ohio Peace Officers Continuing Professional Training Fund", and creating line items within said fund.

Section 2:

The City Auditor is hereby authorized and directed to draw her warrants and make payments on vouchers duly approved by the proper departmental authority.

Section 3:

That this Ordinance is declared to be an emergency measure immediately necessary in order to keep federal grant dollars in one specific fund as recommended by the State Auditor for accounting procedures within the Auditor's Department. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

2nd page is the signature page

DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 15 - 2008

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Income Tax Capital Improvement Fund and Forfeited Funds Fund, for the year ending December 31, 2008, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is appropriated from the unappropriated balance of the Income Tax Capital Improvement Fund, for the year ending December 31, 2008, the following:

\$14,560.80 to an account entitled "27th Street NE/Jackson Avenue NE Project" 1401.435.2513

Section 2:

There be and hereby is appropriated from the unappropriated balance of the Forfeited Funds Fund, for the year ending December 31, 2008, the following:

\$3,500.00 to an account entitled "Travel/Seminar/Schooling" 1227.115.2389

\$2,000.00 to an account entitled "Professional Dues" 1227.115.2394

\$1,500.00 to an account entitled "Services/Contracts" 1227.115.2392

\$ 843.50 to an account entitled "Supplies/Materials/Postage" 1227.115.2410

Section 3:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon and for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

2nd page is the signature page

DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 16 - 2008

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Parks and Rec. Fund, for the year ending December 31, 2008, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is appropriated from the unappropriated balance of the Parks and Rec. Fund, for the year ending December 31, 2008, the following:

\$140,000.00 to an account entitled "Advance To" 1234.505.2750

Section 2:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon and for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2008

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 17 - 2008

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain transfers in the 2008 appropriations from within the Park & Rec. Fund, for the year ending December 31, 2008, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is transferred from the 2008 appropriation from within the Park & Rec. Fund, for the year ending December 31, 2008, the following:

FROM:	Advanced To	1234.505.2750	140,000.00
TO	Return on Advance	1100.905.1865	140,000.00

Section 2

That this Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said funds are necessary for the preservation of the public health, safety and welfare of the community and for the additional reason that the funds are required in the specific accounts to pay city obligations by the end of 2008. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2008

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 18 - 2008

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Recycling Fund, for the year ending December 31, 2008, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is appropriated from the unappropriated balance of the Recycling Fund, for the year ending December 31, 2008, the following:

\$29,000.00 to an account entitled "Advance To" 1222.605.2750

Section 2:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon and for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2008

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

ORDINANCE NO. 19 - 2008

Passed
LEGISLATIVE DEPARTMENT

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain transfers in the 2008 appropriations from within the Recycling Fund, for the year ending December 31, 2008, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is transferred from the 2008 appropriation from within the Recycling Fund, for the year ending December 31, 2008, the following:

FROM:	Advanced To	1222.605.2750	\$29,000.00
TO	Advanced In	2102.605.1865	\$29,000.00

Section 2

That this Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said funds are necessary for the preservation of the public health, safety and welfare of the community and for the additional reason that the funds are required in the specific accounts to pay city obligations by the end of 2008. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2008

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 20 - 2008

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE reducing the appropriation in the General Fund, of the City of Massillon, Ohio, for the year ending December 31, 2008, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The appropriations are hereby reduced in the General Fund, for the year ending December 31, 2008, as follows:

\$25,758.00 from an account entitled "Salary" 1100.116.2111

\$ 3,242.00 from an account entitled "Workers Comp" 1100.116.2270

Section 2:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon and for the preservation of the public health, safety and welfare of the community and for the additional reason that the appropriation needs to be reduced because of an audit procedure. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2008

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 21 - 2008

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain transfers in the 2008 appropriations from within the General Fund, for the year ending December 31, 2008, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is transferred from the 2008 appropriation from within the General Fund, for the year ending December 31, 2008, the following:

FROM:	Salaries	1100.116.2111	30,325.00
	Health/Life	1100.116.2210	8,700.00
	PERS	1100.116.2230	7,320.00
	City Share Medicare	1100.116.2231	785.00
TO	Salaries	1100.115.2111	30,325.00
	Health/Life	1100.115.2210	8,700.00
	PERS	1100.115.2230	7,320.00
	City Share Medicare	1100.115.2231	785.00

Section 2

That this Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said funds are necessary for the preservation of the public health, safety and welfare of the community and for the additional reason that the funds are required in the specific accounts to pay city obligations by the end of 2008. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

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DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

(Signature)
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 22 - 2008

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Capital Improvement Fund, for the year ending December 31, 2008, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is appropriated from the unappropriated balance of the Capital Improvement Fund, for the year ending December 31, 2008, the following:

\$105,000.00 to an account entitled "Advance To" 1401.920.2750

Section 2:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon and for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2008

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: JANUARY 22, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

pt needed

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 23 - 2008

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain transfers in the 2008 appropriations from within the Capital Improvement Fund, for the year ending December 31, 2008, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is transferred from the 2008 appropriation from within the Capital Improvement Fund, for the year ending December 31, 2008, the following:

FROM:	Advanced To	1401.920.2750	\$105,000.00
TO	Advanced In	2104.920.1865	\$105,000.00

Section 2

That this Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said funds are necessary for the preservation of the public health, safety and welfare of the community and for the additional reason that the funds are required in the specific accounts to pay city obligations by the end of 2008. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2008

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR