

DATE: OCTOBER 4, 2010

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 118 - 2010

BY: STREET, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to sign the Preliminary Legislation with the Ohio Department of Transportation for the SR 172 Paving Project, 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 sign the Preliminary Legislation with the Ohio Department of Transportation for the SR 172 Paving Project.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized to sign the Preliminary Legislation with the Ohio Department of Transportation for the SR 172 Paving Project. The project funding will be 80/20 with ODOT being responsible for 80% and the City 20% of all project costs unless the city requests items for the project deemed unnecessary by the State and Federal Highway Administration. See attached Exhibit "A" hereto.

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 reason that it is necessary to sign the Preliminary Legislation with Ohio Department of Transportation so as to proceed with the SR 172 Paving Project. 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 1<sup>st</sup> DAY OF November 2010)

APPROVED:

Mary Beth Bailey  
MARY BETH BAILEY, CLERK OF COUNCIL

Glenn E. Gamber  
GLENN E. GAMBER, PRESIDENT

APPROVED:

November 2, 2010

Francis H. Cicchinelli, Jr.  
FRANCIS H. CICCHINELLI, JR., MAYOR

I hereby certify that the foregoing ordinance  
is a true copy of the original, as passed by  
the Council of the City of Massillon, Ohio,  
and approved as noted thereon:

Mary Beth Bailey  
Clerk of Council

Date 11/1/10

**PRELIMINARY LEGISLATION**

**RC 5521.01**

Ordinance/Resolution# \_\_\_\_\_  
PID No. 81597  
County/Route/Section STA-SR172-6.09  
ODOT Agreement No. \_\_\_\_\_

The following is \_\_\_\_\_ enacted by the City \_\_\_\_\_ of Massillon of \_\_\_\_\_  
(An Ordinance/a Resolution) (Local Public Agency)  
Stark \_\_\_\_\_ County, Ohio, hereinafter referred to as the Local Public Agency (LPA), in  
the matter of the stated described project.

**SECTION I - Project Description**

WHEREAS, the STATE has identified the need for the described project:

Paving from 7<sup>th</sup> Street to 3<sup>rd</sup> Street and from 3<sup>rd</sup> Street to Massillon eastern corporation limits

NOW THEREFORE, be it ordained by the City of Massillon \_\_\_\_\_ of Stark County \_\_\_\_\_  
(LPA)

Ohio.

**SECTION II - Consent Statement**

Being in the public interest, the LPA gives consent to the Director of Transportation to complete the above described project.

**SECTION III - Cooperation Statement**

The LPA shall cooperate with the Director of Transportation in the above described project as follows:

The LPA agrees to participate in the cost of construction within the City Limits at twenty percent (20%) total cost. This includes the construction contract and construction engineering.

The LPA further agrees to pay One Hundred Percent (100%) of the cost of those features requested by the LPA which are determined by the State and Federal Highway Administration to be unnecessary for the Project.

**SECTION IV - Utilities and Right-of-Way Statement**

The LPA agrees to acquire and/or make available to ODOT, in accordance with current State and Federal regulations, all necessary right-of-way required for the described Project. The LPA also understands that right-of-way costs include eligible utility costs. The LPA agrees to be responsible for all utility accommodation, relocation, and reimbursement and agrees that all such accommodations, relocations, and reimbursements shall comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

The LPA grants permission to the Director of the Ohio Department of Transportation to acquire in the name of the LPA all necessary right-of-way required for the described Project. The LPA agrees to be responsible for all utility accommodation, relocation, and reimbursement and agrees that all such accommodations, relocations, and reimbursements shall comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

#### **SECTION V - Maintenance**

Upon completion of the described Project, and unless otherwise agreed, the LPA shall: (1) provide adequate maintenance for the described Project in accordance with all applicable state and federal law, including, but not limited to, 23 USC 116; (2) provide ample financial provisions, as necessary, for the maintenance of the described Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

#### **SECTION VI - Consultants and Authority to Sign**

The \_\_\_\_\_ of said \_\_\_\_\_ is hereby empowered on behalf of  
(Contractual Agent) (LPA)  
the \_\_\_\_\_ to enter into contracts with ODOT pre-qualified consultants  
(LPA)  
for the preliminary engineering phase of the Project and to enter into contracts with the Director of Transportation necessary to complete the above described project.

Upon the request of ODOT, the \_\_\_\_\_ is also empowered to assign  
(Contractual Agent)  
all rights, title, and interests of the \_\_\_\_\_ to ODOT arising from  
(LPA)  
any agreement with its consultant in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

The LPA agrees that if Federal Funds are used to pay the cost of any consultant contract, the LPA shall comply with 23 CFR 172 in the selection of its consultant and the administration of the consultant contract. Further the LPA agrees to incorporate ODOT's "Specifications for Consulting Services" as a contract document in all of its consultant contracts. The LPA agrees to require, as a scope of services clause, that all plans prepared by the consultant must conform to ODOT's current design standards and that the consultant shall be responsible for ongoing consultant involvement during the construction phase of the Project. The LPA agrees to include a completion schedule acceptable to ODOT and to assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.

Passed: \_\_\_\_\_, 20\_\_\_\_  
(Date)

Attested: \_\_\_\_\_  
(Clerk) (Officer of LPA - title)

Attested: \_\_\_\_\_  
(Title)

\_\_\_\_\_  
(President of Council)

This \_\_\_\_\_ is hereby declared to be an emergency measure to  
(Ordinance/Resolution)  
expedite the highway project(s) and to promote highway safety. Following appropriate legislative action, it shall take effect and be in force immediately upon its passage and approval, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

CERTIFICATE OF COPY  
STATE OF OHIO

City of Massillon of Stark County, Ohio  
(LPA)

I, \_\_\_\_\_, as Clerk of the City of Massillon  
(LPA)  
of Stark County, Ohio, do hereby certify that the forgoing is a true and  
correct copy of \_\_\_\_\_ adopted by the legislative Authority of the said  
(Ordinance/Resolution)  
City \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
(LPA)  
that the publication of such \_\_\_\_\_ has been made and certified of  
(Ordinance/Resolution)  
record according to law; that no proceedings looking to a referendum upon such  
\_\_\_\_\_ have been taken; and that such  
(Ordinance/Resolution) (Ordinance/Resolution)  
and certificate of publication thereof are of record in \_\_\_\_\_ Page \_\_\_\_\_  
(Ordinance/Resolution Record No.)

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my  
official seal, if applicable, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Clerk

(SEAL)  
(If Applicable) \_\_\_\_\_ of \_\_\_\_\_, Ohio  
(LPA)

The foregoing is accepted as a basis for proceeding with the project herein  
described.

For the \_\_\_\_\_ of \_\_\_\_\_, Ohio  
(LPA)

Attest: \_\_\_\_\_, Date \_\_\_\_\_

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For the State of Ohio

Attest: \_\_\_\_\_, Date \_\_\_\_\_  
Director, Ohio Department of Transportation