

**MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
TONY M. TOWNSEND, PRESIDENT
AGENDA**

**DATE: MONDAY, JUNE 3, 2013
PLACE: COUNCIL CHAMBERS
TIME: 7:30P.M.**

THERE ARE NO PUBLIC HEARINGS TONIGHT

- 1. ROLL CALL**
- 2. INVOCATION BY COUNCILMAN ED LEWIS, IV**
- 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**

ORDINANCE NO. 57 – 2013

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an amended agreement between the City of Massillon and Quest Specialty Chemicals, under the Ohio Urban Jobs and Enterprise Zone Program, and declaring an emergency.

ORDINANCE NO. 58 – 2013

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an agreement with Lewis Bernard, Ltd, Midwest Health Services and Midwest Innovations, providing for the construction of a new office building within the City of Massillon Community Reinvestment Area. This project will retain the 18 employees along with creating 2 new full time positions within the City of Massillon Community Reinvestment Area, and declaring an emergency.

ORDINANCE NO. 59 – 2013

BY: FINANCE COMMITTEE

AN ORDINANCE making certain appropriations from the unappropriated balance of the Home Health Fund, 2105 Stormwater Utility Fund and the Community Development Block Grant Program Fund, for the year ending December 31, 2013, and declaring an emergency.

RESOLUTION NO. 9 – 2013

BY: COMMUNITY DEVELOPMENT COMMITTEE

A RESOLUTION reversing the decision of the Massillon Zoning Board of Appeals made on April 17, 2013 wherein the Zoning Board of Appeals denied a variance from the Massillon Zoning Code for a proposed garage at 222 Lake Avenue NE, on Parcel No. 10915WH in the City of Massillon, Ohio, and declaring an emergency.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

LETTER FROM OHIO DIVISION OF LIQUOR CONTROL REGARDING A NEW LIQUOR LICENSE TO OLD CAROLINA BARBECUE CO LLC DBA OLD CAROLINA BARBECUE CO 2482 LINCOLN WAY E MASSILLON OHIO 44646

LETTER FROM OHIO DIVISION OF LIQUOR CONTROL REGARDING A NEW LIQUOR LICENSE TO DOLGEN MIDWEST LLC DBA DOLLAR GENERAL STORE 10289 2150 WALES RD NE MASSILLON OHIO 44647

LETTER FROM OHIO DIVISION OF LIQUOR CONTROL REGARDING A NEW LIQUOR LICENSE TO 37 ERIE LLC 37 ERIE ST N MASSILLON OHIO 44646

9. BILLS, ACCOUNTS AND CLAIMS

10. REPORTS FROM CITY OFFICIALS

A). AUDITOR SUBMITS MONTHLY REPORT FOR MAY 2013

11. REPORTS OF COMMITTEES

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBER

13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

15. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 51 – 2013

BY: PARKS AND RECREATION COMMITTEE

AN ORDINANCE authorizing the Mayor and the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a five (5) year Lease Agreement for and on behalf of the City of Massillon, Ohio, with the Massillon Museum for the lease of City owned land in the Veterans Memorial Park, Massillon, Ohio, 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 JUNE 3, 2013

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
TONY M. TOWNSEND, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 57 - 2013

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an amended agreement between the City of Massillon and Quest Specialty Chemicals, under the Ohio Urban Jobs and Enterprise Zone Program, 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 does hereby authorize amending the Enterprise Zone agreement between the City of Massillon and Quest Specialty Chemicals, by the property being conveyed from Alco Industries Inc., dba U.S. Chemical and Plastics and authorizing the Mayor to enter into the same under the Ohio Urban Jobs and Enterprise Zone Program.

Section 2:

The agreement between the City of Massillon and Quest Specialty Chemicals, under the Ohio Urban Jobs and Enterprise Zone Program is hereby amended to show the property being conveyed from Alco Industries Inc., dba U.S. Chemical and Plastics and the Mayor is authorized to enter into the same.

Section 3:

A copy of said amendment is attached hereto and made part of this Ordinance.

Section 4:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 5:

This Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said enactment is necessary for the Enterprise Zone agreement to reflect the revised agreement with the property being conveyed to the new company Quest Specialty Chemicals. 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 _____, 2013

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

TONY M. TOWNSEND, PRESIDENT

ATTEST: _____

KATHY CATAZARO-PERRY, MAYOR

**AMENDMENT TO OHIO ENTERPRISE ZONE AGREEMENT
CONSENT TO ASSIGNMENT**

This Amendment made and entered into this _____ day of _____, 201____, by and between the City of Massillon, Ohio (the "City"), and Quest Specialty Chemicals (the "Assignee").

Whereas, the City entered into an Ohio Enterprise Zone Agreement dated August 2, 2006 (the "Agreement") with Alco Industries, Inc. dba U.S. Chemical & Plastics (the "Enterprise") whereby the Enterprise agreed to construct two new building additions for manufacturing and office use located at 600 Nova Drive SE, in the City of Massillon, Stark County, Ohio (the "Project"); and in return, the City agreed to provide the Enterprise with development incentives to support the economic viability of the Project; and,

Whereas, the Agreement provides for a ten year, 75% tax exemption for real property improvements made in connection with the Project; and,

Whereas, the Assignee has acquired the property at 600 Nova Drive SE from the Enterprise; and,

Whereas, the Enterprise wishes to assign to the Assignee and the Assignee wishes to assume from the Enterprise, all of the Enterprise's rights and obligations under the Agreement; and

Whereas, pursuant to Section 16 of the Agreement, the Agreement is not transferable or assignable without the express, written approval of the City, which approval the City is willing to grant on the terms and conditions contained in this Amendment and Consent to Assignment.

Now, therefore, the parties hereby agree as follows:

Section 1:

The City approves of and consents to the assignment to Assignee of the Agreement, including the transfer to Assignee of all rights of the Enterprise contemplated by the Agreement and the assumption by Assignee of all of the Enterprise's payment and performance obligations expressly arising under the Agreement from and after the date of the assignment thereof.

Section 2:

The Assignee hereby agrees that, in connection with the assignment of the Agreement, it will assume the Enterprise's payment and performance obligations under the Agreement arising from and after the date of the assignment thereof.

Section 3:

In all other respects, the Agreement is hereby confirmed and ratified as written.

Section 4:

The City hereby undertakes to execute and deliver on its behalf such further instruments and documents as may be reasonably requested by Assignee to evidence the assignment of rights and assumption of obligations under the Agreement.

Section 5:

This Amendment and Consent to Assignment shall be binding upon the parties hereto and their respective successors and assigns.

Section 6:

This Amendment and Consent to Assignment shall be construed and enforced in accordance with the laws of the State of Ohio.

Section 7:

This Amendment and Consent to Assignment may be executed by the parties hereto in one or more counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same agreement.

In Witness Whereof, the parties have each caused this Amendment and Consent to Assignment to be executed by their duly authorized representatives as of the date and year first above written.

WITNESSED BY:

QUEST SPECIALTY CHEMICALS

By: _____

Name:

Title:

WITNESSED BY:

THE CITY OF MASSILLON, OHIO

By: _____

Kathy Catazaro-Perry, Mayor

Approved as to form and legal sufficiency:

Pericles G. Stergios, Director of Law
City of Massillon, Ohio

DATE: JUNE 3, 2013

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
TONY M. TOWNSEND, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 58 - 2013

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor to enter into an agreement with Lewis Bernard, Ltd., Midwest Health Services and Midwest Innovations, providing for the construction of a new office building within the City of Massillon Community Reinvestment Area. This project will retain the 18 employees along with creating 2 new full time positions within the City of Massillon Community Reinvestment Area, and declaring an emergency.

WHEREAS, the City of Massillon has encouraged the development of real property and the acquisition of personal property located in the area designated as a Community Reinvestment Area; and

WHEREAS, Lewis Bernard, Ltd, Midwest Health Services and Midwest Innovations is proposing to construct a new 9,901 square foot office building within the Massillon Community Reinvestment Area, with an estimated total investment of \$852,396, (hereinafter the "Project"), provided that the appropriate development incentives are available to support the economic viability of said Project; and

WHEREAS, the Council of the City of Massillon, Ohio, (hereinafter "Council") by Ordinance No. 34 – 2009 adopted April 6, 2009, designated the area as a "Community Reinvestment Area" pursuant to Chapter 3735 of the Ohio Revised Code; and

WHEREAS, effective May 6, 2009, the Director of Development of the State of Ohio determined that the aforementioned area designated in said Ordinance No. 34 - 2009 contains the characteristics set forth in 3735.66 of the Ohio Revised Code, and confirmed said area as a Community Reinvestment Area under Chapter 3735; and

WHEREAS, the City of Massillon, having the appropriate authority for the stated type of project is desirous of providing Lewis Bernard, Ltd, Midwest Health Services and Midwest Innovations with incentives available for the development of the Project in said Community Reinvestment Area under Chapter 3735 of the Ohio Revised Code; and

WHEREAS, Lewis Bernard, Ltd, Midwest Health Services and Midwest Innovations has submitted a proposed agreement application, herein attached as Exhibit "A", to the City of Massillon, Ohio, said application (hereinafter referred to as "Applicant"), and

WHEREAS, the City of Massillon, Ohio, has investigated the application submitted by Lewis Bernard, Ltd, Midwest Health Services and Midwest Innovations and has recommended approval of the same to the Council on the basis that the company is qualified by financial responsibility and business experience to create employment opportunities in said Community Reinvestment Area and to improve the economic climate of the City of Massillon; and

WHEREAS, the project site is located in the Massillon City School District and the Massillon City Board of Education has been notified in accordance with Section 5709.83 and have been given a copy of the application.

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 does hereby authorize and direct the Mayor to enter into an agreement, attached hereto as Exhibit "A" and incorporated herein by reference, with Lewis Bernard, Ltd, Midwest Health Services and Midwest Innovations providing for the adoption of a project which will promote and preserve employment opportunities within the City of Massillon Community Reinvestment Area.

Section 2:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 3:

This Ordinance is declared to be an emergency measure immediately necessary for the preservation of the health, safety and welfare of the City of Massillon, Ohio and for the further reason that approval of said agreement is necessary so as to maximize the investment that will be made by Lewis Bernard, Ltd, Midwest Health Services and Midwest Innovations within the City of Massillon, Ohio. 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.

COMMUNITY REINVESTMENT AREA AGREEMENT

This agreement made and entered into by and between the **City of Massillon**, a municipal corporation, with its main offices located at 151 Lincoln Way East, Massillon, Ohio 44646 (hereinafter referred to as "City of Massillon"), **Midwest Health Services**, a S-Corporation with its main offices currently located at 11 Lincoln Way West, Suite A, Massillon, Ohio 44647 (hereinafter referred to as "Midwest Health"), **Midwest Innovations**, a LLC with its main offices currently located at 11 Lincoln Way West, Suite A, Massillon, Ohio 44647 (hereinafter referred to as "Midwest Innovations"), and **Lewis Bernard, Ltd.**, the Lessor, a LLC Partnership with its main offices located at 11 Lincoln Way West, Suite A, Massillon, Ohio 44647 (hereinafter referred to as "Lessor").

WITNESSETH;

WHEREAS, the City of Massillon, Stark County, Ohio has encouraged the development of real property and the acquisition of personal property located in the area designated as a Community Reinvestment Area; and

WHEREAS, Lessor is desirous of constructing a new nine thousand nine hundred one (9,901) square foot office building to consolidate operations of Midwest Health and Midwest Innovations (hereinafter referred to as the "Project") within the boundaries of the aforementioned Community Reinvestment Area, provided that the appropriate development incentives are available to support the economic viability of said Project; and

WHEREAS, the Council or Board the City of Massillon, Ohio by Ordinance No. 34-2009 adopted April 6, 2009, designated the area as an "Community Reinvestment Area" pursuant Chapter 3735 of the Ohio Revised Code; and

WHEREAS, effective May 6, 2009, the Director of Development of the State of Ohio determined that the aforementioned area designated in said Ordinance No. 34-2009 contained the characteristics set forth in Section 3735.66 of the Ohio Revised Code and confirmed said area as a Community Reinvestment Area under said Chapter 3735; and

WHEREAS, the City of Massillon, having the appropriate authority for the stated type of project, is desirous of providing Lessor with incentives available for the development of the Project in said Community Reinvestment Area under Chapter 3735 of the Ohio Revised Code; and

WHEREAS, Lessor submitted a proposed agreement application (herein attached as Exhibit A) to the City of Massillon said application (hereinafter referred to as "Application"); and

WHEREAS, Lessor has remitted the required state application fee of \$750.00 made payable to the Ohio Development Services Agency with the application to be forwarded to said department with a copy of the final agreement; and

WHEREAS, the City of Massillon has investigated the application of Lessor and has recommended the same to the Council of the City of Massillon on the basis that Lessor is qualified by financial responsibility and business experience to create and preserve employment opportunities in said Community Reinvestment Area and improve the economic climate of the City of Massillon; and

WHEREAS, the project site as proposed by Lessor is located in the Massillon City School District and the Board of Education of the Massillon City School District has been notified in accordance with Section 5709.83 and been given a copy of the Application; and

WHEREAS, pursuant to Section 3735.67(A) and in conformance with the format required under Section 3735.671(B) of the Ohio Revised Code, the parties hereto desire to set forth their agreement with respect to matters hereinafter contained;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. Lessor shall construct a new nine thousand nine hundred one square foot office building on Parcel #619449, part of lot 12882, Massillon, Ohio, to centralize administrative operations of Midwest Health, Midwest Innovations and Lessor. Said facility shall be constructed on part of Lot # 12882 as the same is known and designated on the Auditor's revised list of lots in the sixth ward of (municipality), Ohio.

In addition, Lessor, Midwest Health and Midwest Innovations will purchase and install new machinery and equipment and furniture and fixtures totaling seventy thousand (\$70,000) dollars.

The Project will involve a total investment by Lessor, Midwest Health and Midwest Innovations of nine hundred twenty-two thousand three hundred ninety-six (\$922,396) dollars, plus or minus 10%, at the Project site. Included in this investment are eight hundred fifty-two thousand three hundred ninety-six (\$852,396) dollars for construction of the facility, fifty thousand (\$50,000) dollars to purchase first used machinery and equipment and twenty thousand (\$20,000) dollars for furniture and fixtures.

The Project will begin July 1, 2013 and all acquisition, construction and installation will be completed by November 1, 2013.

2. Midwest Health and Midwest Innovations shall create within a time period not exceeding 12 months after the commencement of construction of the aforesaid facility, equivalent of two (2) new full-time permanent job opportunities. And Midwest Health and Midwest Innovations will use its best efforts to retain eighteen (18) existing full-time equivalent jobs at the Project facility.

Midwest Health and Midwest Innovations schedule for hiring is as follows: create 2 new, full-time jobs in year one after construction. The job creation period begins November 1, 2013 and all jobs will be in place by November 1, 2014.

Midwest Health, Midwest Innovations and Lessor currently have eighteen (18) full-time permanent employees at the project site. In total, Midwest Health, Midwest Innovations and Lessor have 358 full-time permanent employees and 192 part-time permanent employees in the State of Ohio.

This increase in the number of employees will result in approximately sixty-five thousand (\$65,000) dollars of additional annual payroll for Midwest Health, Midwest Innovations and Lessor. The following is an itemization by the type of new jobs created: two (2) full-time permanent will result in sixty-five thousand (\$65,000) dollars additional annual payroll. The retention of the existing eighteen (18) jobs will maintain the current annual payroll of nine-hundred fifty thousand (\$950,000) dollars.

3. Lessor shall provide to the proper Tax Incentive Review Council (TIRC) any information reasonably required by the TIRC to evaluate the property owner's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the TIRC.

4. The City of Massillon hereby grants Lessor a tax exemption for real property improvements made to the Project site pursuant to Section 3735.67 of the Ohio Revised Code and shall be in the following amounts:

| | |
|--------------------------|---------|
| Exemption Term: | 5 years |
| Percentage of Exemption: | 50% |

Each identified project improvement will receive a 5 year exemption period. The exemption commences the first year for which the Real Property exemption would first be taxable were that property not exempted from taxation. No exemption shall commence after tax return year 2014 nor extend beyond tax return year 2018.

Lessor must file the appropriate tax forms with the County Auditor to effect and maintain the exemptions covered in the agreement.

5. Lessor shall pay such real and tangible personal property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If Lessor fails to pay such taxes or file such returns and reports, all incentives granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

6. The City of Massillon shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

7. If for any reason the Community Reinvestment Area designation expires, the Director of the Ohio Development Services Agency revokes certification of the zone, or the City of Massillon

revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless Lessor materially fails to fulfill its obligations under this agreement and the City of Massillon terminates or modifies the exemptions from taxation granted under this agreement.

8. If Lessor materially fails to fulfill its obligations under this agreement, or if the City of Massillon determines that the certification as to delinquent taxes required by this agreement is fraudulent, the City of Massillon may terminate or modify the exemptions from taxation granted under this agreement. If terminated, the City of Massillon may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement.

9. Lessor hereby certifies that at the time this agreement is executed, Lessor does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which Lessor is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, Lessor currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against Lessor. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes.

10. Lessor affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

11. Lessor and the City of Massillon acknowledge that this agreement must be approved by formal action of the legislative authority of the City of Massillon as a condition for the agreement to take effect. This agreement takes effect upon such approval.

12. The City of Massillon has developed a policy to ensure recipients of Community Reinvestment Area tax benefits practice non-discriminating hiring in its operations. By executing this agreement, Midwest Health, Midwest Innovations and Lessor are committing to following non-discriminating hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

13. Exemptions from taxation granted under this agreement shall be revoked if it is determined that Lessor, any successor property owner, or any related member (as those terms are defined in Section 3735.671 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under Division (E) of Section 3735.671 or Section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections.

14. Lessor affirmatively covenants that it has made no false statements to the State or local political subdivisions in the process of obtaining approval of the Community Reinvestment Area incentives. If any representative of Lessor has knowingly made a false statement to the State or local political subdivision to obtain the Community Reinvestment Area incentives, Lessor shall be required to immediately return all benefits received under the Community Reinvestment Area Agreement pursuant ORC Section 9.66(C)(2) and shall be ineligible for any future economic development assistance from the State, any state agency or a political subdivision pursuant to ORC Section 9.66(C)(1). Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to ORC Section 2921.13(D)(1), which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.

15. This agreement is not transferable or assignable without the express, written approval of the City of Massillon.

IN WITNESS WHEREOF, the City of Massillon, Ohio, by Kathy Catazaro-Perry, Mayor, and pursuant to (Ordinance/Resolution) No. _____, has caused this instrument to be executed this day of (month), 20 (yr)

And Lessor by (authorized business official), its (title of person) has caused this instrument to be executed on this _____ day of (month), 20 (yr).

WITNESSED BY:

THE CITY OF MASSILLON, OHIO

Kathy Catazaro-Perry, Mayor

WITNESSED BY:

LEWIS BERNARD LTD

WITNESSED BY:

MIDWEST HEALTH SERVICES

WITNESSED BY:

MIDWEST INNOVATIONS

Approved as to form and legal sufficiency:

Pericles G. Stergios, Director of Law
City of Massillon, Ohio

Note: In a multiparty agreement, each party's obligation and benefits should be clearly stated. In addition, all parties to receive a tax benefit should be a signatory party to the agreement.

Note: A copy of this agreement must be forwarded to the Ohio Development Services Agency within fifteen (15) days of finalization.

**CITY OF MASSILLON
COMMUNITY REINVESTMENT AREA PROJECT APPLICATION**

PROPOSED AGREEMENT for Community Reinvestment Area Tax Incentives between the
City of Massillon located in the County of Stark and Lewis Bernard, Ltd.

1. a. Name of property owner, home or main office address, contact person, and telephone number (attach additional pages if multiple enterprise participants).

Lewis Bernard, Ltd.

Enterprise Name

Tom Rickels

Contact Person

11 Lincoln Way W. Suite 5A

Address

330-832-9582

Telephone Number

- b. Project site:

Vacant Land(Behind Yunds)

Parcel #619449

Address

Tom Rickels

Contact Person

330-832-9582

Telephone Number

2. a. Nature of commercial/industrial activity (manufacturing, warehousing, wholesale or retail stores, or other) to be conducted at the site.

Office space and corporate training space for Midwest Health Services, Midwest Innovations, Lewis Bernard Ltd.

- b. List primary 6 digit North American Industry Classification System (NAICS) # **531120**
Business may list other relevant SIC numbers. **Lewis Bernard Tax ID # 45-5105750**

- c. If a consolidation, what are the components of the consolidation? (must itemize the location, assets, and employment positions to be transferred: This will not be a consolidation, it will be the moving of the companies listed from lease space in the Chase Bank building to a new standalone office.

- d. Form of business of enterprise (corporation, partnership, proprietorship, or other).

Lewis Bernard is a LLC partnership

3. Name of principal owner(s) or officers of the business.

Tom Rickels and Joseph B. Knetzer are partners.

4. a. State the enterprise's current employment level at the proposed project site:

18 Persons with 4 out of 5 of the top company salaries to be located in Massillon.

- b. Will the project involve the relocation of employment positions or assets from one Ohio location to another? Yes ___ No X

- c. If yes, state the locations from which employment positions or assets will be relocated and the location to where the employment positions or assets will be located:

- d. State the enterprise's current employment level in Ohio (itemized for full and part-time and permanent and temporary employees):

For the three companies, Midwest Health, Midwest Innovations and Lewis Bernard. There are approximately 550 employees with approximately 65% full time employees and 35% part time.

- e. State the enterprise's current employment level for each facility to be affected by the relocation of employment positions or assets:

We are currently at 18 and will relocate 18 but expect growth in the next 3 years. We will add at least 2 new employees in the next year after the building is built

- f. What is the projected impact of the relocation, detailing the number and type of employees and/or assets to be relocated?

All employees are full time, all corporate assets currently at our leased location will move. There will be purchase made from local Massillon businesses such as Kellar's office furniture and our continued usage of local restaurants and banks.

5. Does the Property Owner owe:

- a. Any delinquent taxes to the State of Ohio or a political subdivision of the state?

Yes ___ No X

b. Any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State? Yes ___ No X

c. Any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not? Yes ___ No X

d. If yes to any of the above, please provide details of each instance including but not limited to the location, amounts and/or case identification numbers (add additional sheets).

6. Project Description: New office and corporate training center

Project will begin June or July, 2013 and be completed November, 2013 provided a tax exemption is provided.

7a. Estimate the number of new employees the property owner will cause to be created at the facility that is the project site (job creation projection must be itemized by the name of the employer, full and part-time and permanent and temporary): At this time we are anticipating Midwest Health hiring another Human Resources individual and a Maintenance Supervisor in addition to our existing staff. Both staff would be fulltime. So two new employees.

b. State the time frame of this projected hiring: 1 yrs.

c. State proposed schedule for hiring (itemize by full and part-time and permanent and temporary employees):

Again, both staff would be hired within the first year of the building

9. a. Estimate the amount of annual payroll such new employees will add \$ 30,000-35,000 per position both FT (new annual payroll must be itemized by full and part-time and permanent and temporary new employees).

b. Indicate separately the amount of existing annual payroll relating to any job retention claim resulting from the project: \$

10. An estimate of the amount to be invested by the enterprise to establish, expand, renovate or occupy a facility:

A. Acquisition of Buildings:

\$

B. Additions/New Construction:

\$ 750,000

| | | |
|-------------------------------|-------------------------------------|-----------------|
| C. | Improvements to existing buildings: | \$ _____ |
| D. | Machinery & Equipment: | \$ 50,000 _____ |
| E. | Furniture & Fixtures: | \$ 20,000 _____ |
| F. | Inventory: | \$ _____ |
| Total New Project Investment: | | \$820,000 _____ |

11. a. Business requests the following tax exemption incentives: 50 % for 5 years covering real estate and annualized salary as described above. Be specific as to the rate, and term.
- b. Business's reasons for requesting tax incentives (be quantitatively specific as possible)

Simply put, Midwest Health, Midwest Innovations and Lewis Bernard, Ltd. are requesting tax abatement because we are making a commitment to the city of Massillon and feel this is a commitment from the city of Massillon to us. Partner, Joesph B. Knetzer has been operating his businesses' out of downtown Massillon for over 10 years in a lease arrangement. He and Partner Tom Rickels enjoy this city and have decided to stay. We were very close to leasing 2 floors at the old Eagles building on 6th St. NE in Canton. This would have been a loss of all revenue to Massillon and another almost empty building. But we didn't! Joe and Tom are happy to be staying in Massillon and continuing our partnership with the city. Midwest Innovations also leases the building on 725 West Main St (across from Dairy Queen). This may be a location we are willing to buy in the future.


Submission of this application expressly authorizes City of Massillon to contact the Ohio Environmental Protection Agency to confirm statements contained within this application including item # 5 and to review applicable confidential records. As part of this application, the property owner may also be required to directly request from the Ohio Department of Taxation, or complete a waiver form allowing the Department of Taxation to release specific tax records to the local jurisdiction considering the request.

The Applicant agrees to supply additional information upon request.

The Applicant affirmatively covenants that the information contained in and submitted with this application is complete and correct and is aware of the ORC Sections 9.66(C) (1) and 2921.13(D) (1) penalties for falsification which could result in the forfeiture of all current and future economic development assistance benefits as well as a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.

Lewis Bernard, Ltd.
Name of Property Owner

5/6/13
Date


Signature

Tom Rickels, Partner
Typed Name and Title

* A copy of this proposal must be forwarded by the local governments to the affected Board of Education along with notice of the meeting date on which the local government will review the proposal. Notice must be given a minimum of fourteen (14) days prior to the scheduled meeting to permit the Board of Education to appear and/or comment before the legislative authorities considering the request.

** Attach to Final Community Reinvestment Area Agreement as Exhibit A

Please note that copies of this proposal must be included in the finalized Community Reinvestment Area Agreement and be forwarded to the Ohio Department of Taxation and the Ohio Development Services Agency within fifteen (15) days of final approval.

DATE: JUNE 3, 2013

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
TONY M. TOWNSEND, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 59 – 2013

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Home Health Fund, 2105 Stormwater Utility Fund and the Community Development Block Grant Program Fund, for the year ending December 31, 2013, 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 Home Health Fund, for the year ending December 31, 2013 the following:

\$100,000.00 to an account entitled "HOME Housing Program" 1229.845.2814

Section 2:

There be and hereby is appropriated from the unappropriated balance of the 2105 Stormwater Utility Fund, for the year ending December 31, 2013 the following:

\$25,000.00 to an account entitled "Storm Sewer Repairs" 2105.425.2510

Section 3:

There be and hereby is appropriated from the unappropriated balance of the Community Development Block Grant Program Fund, for the year ending December 31, 2013 the following:

\$92,000.00 to an account entitled "Target Area Street Improvements" 1203.845.2812

\$15,000.00 to an account entitled "Youth Summer Recreation" 1203.845.2874

Section 4:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 5:

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 _____ 2013

ATTEST: _____

MARY BETH BAILEY, CLERK OF COUNCIL

TONY M. TOWNSEND, PRESIDENT

APPROVED: _____

KATHY CATAZARO-PERRY, MAYOR

DATE: JUNE 3, 2013

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
TONY M. TOWNSEND, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

RESOLUTION NO. 9 - 2013

BY COMMUNITY DEVELOPMENT COMMITTEE

TITLE: A RESOLUTION reversing the decision of the Massillon Zoning Board of Appeals made on April 17, 2013 wherein the Zoning Board of Appeals denied a variance from the Massillon Zoning Code for a proposed garage at 222 Lake Avenue NE, on Parcel No. 10915WH in the City of Massillon, Ohio, and declaring an emergency.

WHEREAS, the Massillon Zoning Board of Appeals on April 17, 2013 denied a variance from the Massillon Zoning Code in Case No. 1991; and

WHEREAS, on April 29, 2013, a Notice of Appeal pursuant to Section 1129.09 of the Massillon Zoning Code was filed with the Clerk of Council by George R. Gliba, appealing the decision in Case No. 1991 of the Massillon Zoning Board of Appeals.

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

Section 1:

The Council of the City of Massillon, Ohio, deems it is in the best interest of proper community growth to reverse the decision of the Massillon Zoning Board of Appeals made on April 17, 2013 and hereby determines that the request for a variance should be approved, and

Section 2:

This Resolution is declared to be an emergency measure so that a prompt decision can be given to both the applicant and the adjacent property owners on the status of this construction, and that the reversal of the decision of the Massillon Zoning Board of Appeals is essential for the proper community growth and hence immediately necessary for the preservation of the health, safety and welfare of the community. Provided it receives Two-Thirds (6) votes of Council, this Resolution shall be in full force and effect immediately from and after passage and approval by the Mayor.

28.1'

20'

202 LAKE AVENUE N.E.

EXISTING HOUSE

13.9' →

29.6'

← 16' ADD

OPEN TO
ADDITION

4.1'

10.2'

8'

DRIVEWAY

4'

12.8

20

6.4' ADDITION

← 14.8' →

6' off property line
ADD 2'

← 4' ADD

CITY OF MASSILLON, OHIO
Department of Public Safety—Building Division

FEE \$ _____

Application for Building Permit

Date MARCH 25, 2013

TO THE INSPECTOR OF BUILDINGS:

Application is hereby made for PERMIT to erect a structure as herein described:

The acceptance of which shall constitute an agreement on Owner's part to abide by all conditions herein contained, and to comply with all Ordinances of the City of Massillon and the laws of the State of Ohio relating to the work to be done hereunder:

Owner GEORGE R KLIBA Address 222 LAKE AVE. NE Phone 330-234-4849
Elec. Contr. _____ Address _____ Phone _____
Plumb. Contr. _____ Address _____ Phone _____
Heating Contr. _____ Address _____ Phone _____
Gen. Contr. _____ Address _____ Phone _____

LOCATION AND DESCRIPTION OF BUILDING AND PROPERTY

Street and No. 222 LAKE AVE NE Footer _____
Side of Street Sublot No. _____ Allotment _____ Foundation _____
Lot } _____ ft. front _____ ft. deep on the _____ side Were Drawings _____
being } _____ ft. rear _____ ft. deep on the _____ side Approved? _____
Number of stories _____ and basement _____ Estimated Cost Complete \$ 16,000 Penalty _____
Size of Building: Width _____ Depth _____ Total Height _____ Other _____
Type of Construction: ☐ FRAME ☐ COMPOSITE ☐ MILL ☐ SLOW BURNING ☐ FIRE PROOF \$0-\$100,000, \$50,100 _____
Sq. ft. of contents _____ How is building to be occupied? _____ CLASS OF BUILDING _____ Subtotal _____
Is Street Curb in to establish grade in front of building? _____ Bldg. grade necessary _____ 1 or 3% BBS _____
Remarks 1 ROOM ADDITION AND NEW GARAGE CONSTRUCTION Total _____

Signature of Applicant _____

The applicant, agent, owner of this building and the undersigned... (1) Agrees to conform to applicable laws of the City of Massillon and State of Ohio. (2) Responsible to verify that the job location is within the city limits. (3) No refund will be issued. (4) The address is correct. (5) Responsible for making arrangements for all inspections. (6) General contractor shall notify all utility companies involved in the site no more than ten days and no less than 48 hours in advance of excavation. (ORC 3781.28)

Building Permit

YOU ARE HEREBY GRANTED PERMISSION to: ☐ Repair ☐ Raze ☐ Remodel ☐ Erect

a structure at _____

in the City of Massillon, Ohio, in accordance with your application on file in this Department, said structure to be completed by _____. Until that time you have permission to occupy one-third of the street in front of said lots. If the sidewalk is obstructed, a temporary sidewalk, four feet in width at least, as high as the curb line, must be constructed around the obstruction and the side towards the street to be tightly boarded up to 3 feet in height above the walk, but at all times, you are to comply with all ordinances of the City of Massillon and the laws of State of Ohio relative to the construction and erecting of buildings.

AND IN ADDITION THERETO, the recipient of this permit shall indemnify and save harmless the City of Massillon or any private individual or corporation that may be damaged through erection of the structure.

_____, Building Official

TO THE BOARD OF APPEALS ON ZONING

Case # 1991

I (We) GEORGE R ALIBA of 222 LAKE AVE NE
(Name of Applicant) (Street and Number)

Massillon, Ohio, telephone number 330-224-4849 HEREBY APPEAL TO THE
BOARD OF APPEALS ON ZONING FOR TEARDOWN AND REBUILT GARAGE
(Proposed Use)
GARAGE IS TO BE 2 FT WIDER AND 4 FT LONGER

Meeting will be on Thursday, _____, in the Council Chambers office located at
One James Duncan Plaza, Massillon, Ohio. _____
(Please Initial)

1. LOCATION OF THE PROPERTY: 222 LAKE AVE NE
(Street and Number)

(Subdivision and Lot Number)

2. DESCRIPTION OF CASE: (Fill out only items that apply)

(1) Present zoning classification of the property: R 2

(2) Description of property:

- a. Size of lot 55 X 145.81'
b. Area of lot _____
c. Is lot a corner or interior lot INTERIOR LOT

(3) Description of existing structures:

- a. Number of buildings now on premises 1
b. Size of each building now on premises 1160 SQ FT
c. Use of existing building on premises _____
d. Percentage of lot coverage on ground level _____

(4) Description of proposed structure:

- a. Height of proposed structure _____
b. Dimensions of building or addition to be constructed _____
c. Area of building or addition to be constructed 14.8' X 24'
d. Percentage of lot coverage of building or addition _____

(5) Yard setbacks after completion of building or addition: _____

a. Front yard (measured from lot line) _____

b. Side yard (measured from lot line) 6-10'

c. Rear yard (measured from lot line) _____

(6) A sketch depicting the above information shall accompany this application. (This sketch shall be on a Sheet of paper 8 1/2 x 11" in size)

(7) Reason for appeal. (Use additional sheet if necessary)

a. Interpretation of the Zoning Ordinance is requested because:

b. A special permit is requested pursuant to Article _____, Section _____,

Paragraph _____, of the Zoning Ordinance because: _____

c. Variance to the Zoning Ordinance is requested for these reasons: (All reasons must be answered)

(1) The property in question is not physically suitable for use under the limitations of the zoning district in which it is located because: _____

(2) The hardship created is UNIQUE and is not shared by all properties alike in the immediate vicinity of this property and in this use district because: _____

(3) The variance would not change the character of the district because: _____

I hereby depose and say that all the above statements and the statements contained in the papers submitted herewith are true and correct.

(Applicant)

Subscribed and sworn to before me this _____ day of _____, 20____.

My commission expires _____, 20____.

[Signature]
Notary Public