

ORDINANCE NO. 99-30

**AUTHORIZING THE CITY MANAGER TO ENTER INTO A UTILITY AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR THE RELOCATION OF PUBLIC UTILITIES**

**WHEREAS**, the State of Ohio has agreed to improve U.S. Route 42; and

**WHEREAS**, in improving the highway, the State of Ohio will need to move or alter the location of certain waterlines owned by the City in the right-of-way of U.S. Route 42; and

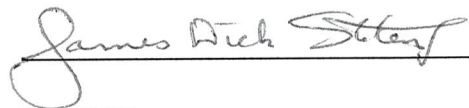
**WHEREAS**, the State of Ohio has obtained federal aid funds for the purposes of paying for the costs incurred in altering such waterlines and have proposed a utility agreement governing the proposed alteration.

**NOW THEREFORE, BE IT ORDAINED** by the Council of the City of Mason, Ohio, **six (6)** members elected thereto concurring:

**Section 1.** That the City Manager is hereby authorized to enter into an utility agreement with the State of Ohio under the terms and conditions set forth in Exhibit "A" attached hereto and incorporated herein by reference.

**Section 2.** That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and general welfare and shall be effective immediately upon its passage. The reason for said declaration of emergency is the need to proceed with the work on U.S. Route 42 as quickly as possible.

Passed this 8th day of February, 1999.



MAYOR

**ATTEST:**



CLERK OF COUNCIL

**IN THE MATTER OF ALTERATION OF  
PUBLIC UTILITIES ON UNITED STATES ROUTE 42,  
SECTION 3.443 IN WARREN COUNTY, OHIO  
FEDERAL PROJECT NUMBER STP  
PID NO. 13082**

AGREEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between the State of Ohio, acting by and through the Director of Transportation of the State of Ohio, as First Party, hereinafter referred to as the STATE and the CITY of Mason as Second Party, hereinafter referred to as the CITY, whose office is located in Mason, Ohio.

WITNESSETH:

WHEREAS, the STATE proposes to improve United States Route 42 and in so doing will cross or affect certain water line facilities of the CITY located on property under the jurisdiction of the CITY, and

WHEREAS, the CITY is eligible for STATE participation in costs incurred in adjusting CITY utilities located on property under the jurisdiction of the CITY, and

WHEREAS, the CITY has consented to the rearrangement by the STATE of its water line facilities as made necessary by construction of this project, and

WHEREAS, under such conditions Federal-Aid funds are eligible to pay a share of such relocation costs.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter stipulated to be kept and performed, it is agreed between the parties as follows:

SECTION 1 - PLANS AND ESTIMATES

The STATE shall prepare or cause to be prepared plans and estimates for altering CITY facilities temporarily, if necessary, and permanently to conform to the new highway improvement, and include such work as a bid item in the construction plans. Such plans and estimates shall be prepared in conformance with and as required by 23 CFR 645, and any additions, amendments or revisions thereto. Plans shall show clearly the existing facilities as well as the work contemplated in relation to the existing right of way, proposed right of way and centerline stationing. The cost of betterments not necessitated by the requirements of the project shall be an obligation of the CITY and will be performed at no cost to the STATE.

SECTION 2 - PERFORMANCE OF WORK

The CITY has stated that it is not adequately staffed or equipped to perform the necessary rearrangement work with its own forces, therefore, such work will be included as a bid item in the contract plans.

**SECTION 3 - BILLINGS AND PAYMENTS**

The CITY, for its work under this agreement, shall submit to the STATE a final bill in detail, based upon work order accounting covering actual costs of work performed, showing where accounts may be audited. Such billing in all respect shall conform to said 23 CFR 645, and amendments or revisions thereof.

No cost of highway easement for property taken or damage to the residue shall be included in bills for force account work, such matters being left for separate determination.

The CITY for its work, may bill the STATE monthly when costs exceed \$1,000.00. Progressive invoices may be submitted for work done during the previous month or period showing the actual accrued cost to date of billing. Progressive billings should contain support for costs billed and be inclusive of previous progressive billings less payments received. A final bill showing all details shall be submitted to the STATE within one year following completion of utility relocation work or project completion; otherwise, any previous payments may be considered final. The STATE shall pay all bills as soon as possible after receipt thereof.

The CITY, for its work under this agreement, may elect to submit for approval of payment by the lump-sum payment method when costs are \$100,000.00 or less. A final billing for the lump-sum payment shall be submitted to the STATE within one year following completion of utility relocation work project completion. The STATE shall pay all bills as soon as possible after receipt thereof.

**SECTION 4 - GENERAL**

It is understood that the work herein contemplated affects a segment of the CITY'S utility facilities and that the relocation of the water line facilities now located on property under the jurisdiction of the CITY is to be financed from funds provided by the STATE. The STATE expects that the Federal Highway Administration will reimburse the STATE for a share of such cost.

All CITY-owned facilities within the new highway right of way shall be maintained without cost to the STATE.

IN WITNESS WHEREOF, the parties hereunto have caused this agreement to be duly executed in duplicate as to the day and year first above written.

(SEAL)

**THE STATE OF OHIO**

By \_\_\_\_\_  
**JERRY WRAY**  
**DIRECTOR OF TRANSPORTATION**

**CITY OF MASON**

Witness \_\_\_\_\_

By \_\_\_\_\_  
Title -