

ORDINANCE NO. 99-214

AUTHORIZING THE CITY MANAGER TO ENTER INTO A PRE-ANNEXATION AGREEMENT WITH JIM AND LISA MARLOW REGARDING ANNEXATION AND THE EXTENSION OF WATER AND SEWER SERVICES

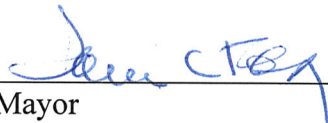
BE IT ORDAINED by the City of Mason, Ohio, **six (6)** members elected thereto concurring:

Section 1. That the City Manager is hereby authorized to enter into a pre-annexation agreement with Jim and Lisa Marlow regarding the extension of water and sewer services.

Section 2. That said agreement shall be in accordance with the terms and conditions set forth in the attached Exhibit "A" which is incorporated herein by reference.

Section 3. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed this 13th day of December, 1999.



Mayor

Attest:



Clerk of Council

12/9/99

FISCAL OFFICER'S CERTIFICATE
(Chapter 5521 and Section 5705.41, Ohio Revised Code)

I hereby certify to that the money, to wit: **\$1,901,240.00** required for the payment of the cost other than that thereof assumed by the **Federal** Government, for the improvement of that portion of **County Road 57 (Tylersville Road)**, lying within the corporate limits of the City of **Mason**, more particularly described as follows:

The improvement of existing Tylersville Road extension from two (2) to four (4) lanes from U.S. Route 42 to Interstate Route 71, lying within the City of Mason. Also, realign Stitt Road with a four (4) lane road and improve Western Row Road to five (5) lanes. Total work length of project being approximately 2.403 KM; and

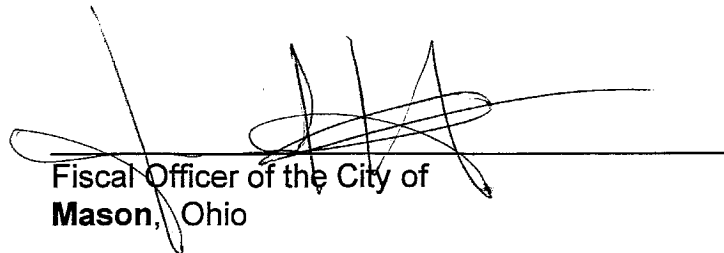
has been lawful appropriated for such purpose and is in the treasury to the credit of, or has been placed on the duplicate and in process of collection for the appropriate fund, and not appropriated for any other purpose; or is being obtained by sale of bonds issued on account of said improvement, which bonds are sold and in process of delivery.

I further certify that this certificate was made, sealed and filed with the legislative authority of the City of **Mason**, Ohio, after said legislative authority passed the final resolution in connection with the within described project; and that this certificate was forthwith recorded in the record of the proceedings of said legislative authority, namely:

Legislative Authority's Journal, Volume ORD. 2000-14, at Page _____,

IN WITNESS WHEREOF, I have hereunto set my hand and official seal as said fiscal officer, this 25 day of JANUARY, 2000.

(Fiscal Officer's Seal)


Fiscal Officer of the City of
Mason, Ohio

ESCROW AGREEMENT FOR HIGHWAY IMPROVEMENT

This agreement made and entered at MASON, Ohio, this 26 day of JANUARY, 2000, by and between the Legislative Authority of MASON, Ohio, The Ohio Department of Transportation (ODOT) and FIFTH THIRD BANK (FINANCIAL INSTITUTION) 38 FOUNTAIN SQUARE PLAZA, CINCINNATI, Ohio, (address) (municipality) 46263, 513-579-4163 (zip code) (telephone no.)

WITNESSETH

That for and in consideration of the covenants and agreements of the parties herein contained. The ODOT hereby expressly authorizes the City to deposit the pre-bid estimate (or some larger amount) of said City's participation share of project cost in the amount of **One Million Nine Hundred One Thousand Two Hundred Forty and - - - Dollars,, (\$1,901,240.00)**, as required by the ODOT's Invoice No. **8680**, dated the **14th day of January, 2000**, on Project described as: **Warren County - City of Mason - County Road 57 (Tylersville Road) - Section 2.188 - Federal Project No. TE-G990(296)**, in an interest bearing account, repurchase agreement or certificate of deposit with the FINANCIAL INSTITUTION. The City hereby agrees to deposit into the aforementioned account funds in the amount of \$1,901,240.00 on or before February 4, 2000. The Bank shall fax confirmation of this act (ex: deposit slip not escrow agreement) to John A. Ray, Administrator, Office of Project Coordination, within 24 hours of deposit. Such funds shall thereupon remain on deposit for the credit of the ODOT and said City, until such time as payment of the City's estimated participation share, as determined after receipt of bids, is ordered to be paid by the Administrator of the Office of Project Coordination or the Director of ODOT. Upon receipt of such order for payment, IN THE FORM OF A REVISED INVOICE, the FINANCIAL INSTITUTION hereby agrees to deliver and pay over to The ODOT, by return mail within twenty-four (24) hours, the funds so requested (but in no event more than the amount of the pre-bid estimate), and to deliver and pay over to the City the accrued interest thereon and any balance that may remain. (The City's ultimate share of the cost shall be determined in accordance with the FINAL RESOLUTION and the CONTRACT).

It is understood and agreed that funds on deposit pursuant to this agreement may be invested by the FINANCIAL INSTITUTION as provided herein and in accordance with applicable law and regulations. It is also expressly understood that the Local Public Agency shall not withdraw any funds.

IN WITNESS WHEREOF, The parties have hereunto set their hands and Seal on the date and year first herein written.

* SEAL.

Richard J. Fair
Attest
Richard J. Fair
Attest
Richard J. Fair
Attest

Laura Schultz
Clerk
Scott J. Johnson
City Manager
John McCurley
Presiding Officer of
Legislative Authority

Legislative Authority of **Mason**, Ohio

The Ohio Department of Transportation

Fifth Third Bank
(Financial Institution)

Gordon Procter
Director of Transportation

38 Fountain Square Plaza
(Address)

01.14.00
(Date)

Cincinnati OH
(City)

Lana Houston
(Attest)

45263
(Zip Code)

by:

[Signature]
(Signed by an officer of Financial Institution)
Public Funds officer
(Title)

J. Chris Woolkins
(Please print name)

JANUARY 26 2000
(Date)

If you have any questions, contact Lana Houston (614)466-3165
Office of Project Coordination - Fax No. (614)728-3935

C O N T R A C T
(Chapter 5521, Ohio Revised Code)

Note: Before the signing of this contract the fiscal officer must make and seal and file with the Legislative Authority his certificate of funds in strict compliance with Chapter 5521, and Section 5705.41, Ohio Revised Code. The fiscal officer should record his certificate of funds in the Legislative Authority's journal.

This contract and agreement made in duplicate this 27th day of January, 2000, by and between the City of **Mason**, hereinafter referred to as the legislative authority and the State of Ohio, hereinafter referred to as the State, witnesseth:

WHEREAS, On the **23rd day of September, 1991**, said legislative authority adopted legislation proposing to cooperate with the State in the highway improvement, which is to be made by and under the supervision of the Director of Transportation, said highway improvement being described as follows:

The improvement of existing Tylersville Road extension from two (2) to four (4) lanes from U.S. Route 42 to Interstate Route 71, lying within the City of Mason. Also, realign Stitt Road with a four (4) lane road and improve Western Row Road to five (5) lanes. Total work length of project being approximately 2.403 KM; and

WHEREAS, Thereafter, on the **28th day of October, 1991**, the Director of Transportation accepted the proposal of said legislative authority to cooperate with the State in said highway improvement; said action of the Director of Transportation being recorded in the Director's journal, Volume **76**, Page **10**; and

WHEREAS, On the _____ day of _____, 2000, the Director of Transportation determined to make the proposed highway improvement, when, in his judgment, conditions permit the advertising and awarding of a contract, therefore; and

WHEREAS, Thereafter, on the **14th day of January, 2000**, the Director Transportation submitted plans and estimates for said highway improvement to the legislative authority for approval; and

WHEREAS, Thereafter, on the 24th day of January, 2000, said legislative authority duly adopted a resolution, approving plans, proposing to co-operate, requesting the Director of Transportation to proceed and resolving to enter in to a contract with the State in conformity with previous resolutions, providing for the payment by said legislative authority of the estimated sum of **One Million Nine Hundred One Thousand Two Hundred Forty and ---- Dollars, (\$1,901,240.00)**, the share of said legislative authority in the total estimated cost and expense of said proposed highway improvement; and

WHEREAS, The Clerk has reported to this legislative authority that a certified copy of such Resolution has been duly transmitted to said Director of Transportation; and

WHEREAS, This legislative authority assumes and agrees to pay as its share of the cost and expense of construction of said highway improvement the sum of money herein before set forth, which moneys are now available for the purpose and as to which the fiscal officer has filed with said legislative authority a certificate that such moneys are in fund, all as required by statute, a duplicate of which certificate has been filed with the Director of Transportation; and

WHEREAS, In said legislation proposing cooperation, said legislative authority proposed to cooperate with the Director of Transportation in the improvement of **County Road 57 (Tylersville Road)**. **The City agrees to assume and bear the entire cost and expense of the improvement, less the amount of Federal-aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U.S. Department of Transportation, and further, the City agrees to assume and bear one hundred percent (100%) of the cost of Preliminary Engineering, excluding in-house Preliminary Engineering charges incurred by the State.**

In addition, the City agrees to assume and bear one hundred percent (100%) of the cost any construction items requested by the City on the entire improvement, which are not necessary for the improvement, as determined by the Federal Highway Administration.

The Director of Transportation notwithstanding the percentage basis of contribution may allocate the money contributed in whatever manner he may deem necessary in financing the cost of construction, rights-of-way, engineering and incidental expenses.

The total share of the cost for the City of **Mason** is now estimated in the amount of **One Million Nine Hundred One Thousand Two Hundred Forty and - - - - Dollars, (\$1,901,240.00)**, but said estimated amount is to be adjusted in order that the City's ultimate share of the cost of said improvement shall correspond with said percentages of actual costs when said actual costs determined; and

WHEREAS, Said legislative authority agrees that upon completion of said improvement it will, thereafter, keep said highway open to traffic at all times; and

- (a) Maintain the improvement in accordance with the provisions of the statutes relating thereto, and make ample financial and other provisions for such maintenance; and

- (b) Maintain the Right-of-way and keep it free of obstructions in a manner satisfactory to the State of Ohio and hold said right-of-way inviolate for public highway purposes and permit no signs, posters, billboards, roadside stands or other private installations within the right-of-way limits; and
- (c) Will place and maintain all traffic control devices conforming to the Ohio Manual Uniform Traffic Control Devices on the improvement in compliance with the provisions of Section 4511.11 and related sections of the Ohio Revised Code; and
- (d) Regulate parking in the following manner:

Prohibit parking in accordance with Section 4511.66 of the Ohio Revised Code, unless otherwise controlled by local ordinance or resolution.

WHEREAS, Said City further agrees:

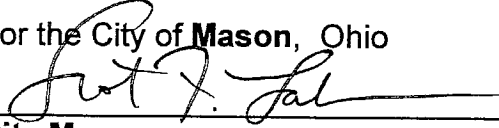
- (a) That all existing street and public way right-of-way within the City which is necessary for the aforesaid improvement, shall be made available therefore.
- (b) That the City will acquire any additional right-of-way required for the construction of the aforesaid improvement in accordance with the applicable State and Federal Regulations and instructions given by the State.
- (c) That arrangements obtained from all public utility companies whose lines or structures will be affected by the said improvement and said companies have agreed to make any and all necessary plant removals or rearrangements in such a manner as to be clear of any construction called for by plans of said improvement and said companies have signed agreed to make such necessary rearrangements immediately after notification by the City or the Department of Transportation Engineer.
- (d) That it is hereby agreed that the City shall at, its own expense, make all rearrangements of water mains, service lines, fire hydrants valve boxes, sanitary sewers, or other municipally owned utilities and/or any appurtenances thereto, which do not comply with the Ohio Department of Transportation utilities Manual and the provisions of 5501.51 of the Ohio Revised Code, whether inside or outside the corporate limits as may be necessary to conform to the said improvement and said rearrangements shall be done at such time as requested by the Department of Transportation Engineer.

- (e) That the construction, reconstruction, and/or rearrangements of both publicly and privately owned utilities, referred to in subsections (c) and (d) above, shall be done in such a manner as not to interfere unduly with the operation of the contractor constructing the improvement and all backfilling of trenches made necessary by such utility rearrangements shall be performed in accordance with the provisions of the Ohio Department of Transportation Construction and Material Specifications and shall be subject to approval by the State.
- (f) That the installation of all utility facilities on the right-of-way shall conform with the requirements of Title 23 CFR 645 "Utilities" and the Department of Transportation rules on Utility Accommodation.
- (g) That the City hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the negligence of its officers, employees or agents in the performance of the City's obligations made or agreed to in Sections (a), (b), (c), and (d), (e) and (f) hereinabove. Likewise, the State agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the negligence of its officers, employees or agents in the performance of the State's obligations made or agreed to in Sections (a), (b), (c), (d), (e) and (f) herein above.
- (h) Change orders and extra work contracts required to fulfill the construction contract shall be processed as needed. The Director of Transportation shall not approve a change order or extra work contract until he first gives notice, in writing, to this legislative authority. This legislative authority shall contribute its share of these items in accordance with other sections herein.

NOW, THEREFORE, in consideration of the foregoing and the construction of said improvement desired and determined by the legislative authority of **Mason**, Ohio, said legislative authority hereby contracts and agrees with the State of Ohio that it will pay, as its agreed proportion of the cost and expense of said improvement, the estimated sum of **One Million Nine Hundred One Thousand Two Hundred Forty and - - - Dollars, (\$1,901,240.00)**, and that the same shall be paid by the proper City Officials upon the requisition of the Director of Transportation.



 Attest

For the City of **Mason**, Ohio


City Manager
 (Contractual Officer(s) Signature(s)
 and Title) of **Mason**, Ohio.

State of Ohio

 Attest

Accepted by: _____
 Director of Transportation

State of Ohio

Mason, Ohio

)
) Office of the Legislative Authority
)

This is to certify that we have compared the foregoing copy and contract with the original record thereof, found in the record of the proceedings of the legislative authority of **Mason**, Ohio, and which contract was duly signed by the **City Manager** of **Mason**, Ohio, on the 27th day of January, 2000, and that the same is a true and correct copy of the record of said contract and the action of said legislative authority thereon.

We further certify that said contract and the actions of said legislative authority thereon is recorded in the journal of said legislative authority in volume ORD 2001, at page _____, and under date of January 24, 2000.

IN WITNESS WHEREOF, We have hereunto set our hands and seal, this 27th day of January, 2000.

* SEAL

John McCue
Presiding Officer
Verona Schultz
Clerk (Secretary Ex-Officio)
Legislative Authority of the
City of **Mason**, Ohio

Note: If the fiscal officer is secretary ex-officio of the Legislative Authority, the fiscal officer's seal should be affixed. If there is no seal, this fact should be stated by separate letter and attached hereto.

FINAL RESOLUTION

Adopting plans;
Proposing to co-operate;
Requesting Director to proceed;
(Chapter 5521, Ohio Revised Code)

Mr. Fox, moved the adoption of the following Resolution:

WHEREAS, At a meeting of the legislative authority of the City of **Mason**, Ohio, held in the office of said legislative authority on this 24th day of January, 2000, a quorum being present, the improvement of **County Road 57 (Tylersville Road)**, provisions of Chapter 5521, Ohio Revised Code, came on for further consideration; said portion of highway as described in the legislation proposing cooperation with the Director of Transportation, enacted on the **23rd day of September, 1991**, being described as follows:

The improvement of existing Tylersville Road extension from two (2) to four (4) lanes from U.S. Route 42 to Interstate Route 71, lying within the City of Mason. Also, realign Stitt Road with a four (4) lane road and improve Western Row Road to five (5) lanes. Total work length of project being approximately 2.403 KM; and

WHEREAS, In said legislation proposing cooperation, said legislative authority proposed to cooperate with the Director of Transportation in the improvement of **County Road 57 (Tylersville Road)**. **The City agrees to assume and bear the entire cost and expense of the improvement, less the amount of Federal-aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U.S. Department of Transportation, and further, the City agrees to assume and bear one hundred percent (100%) of the cost of Preliminary Engineering, excluding in-house Preliminary Engineering charges incurred by the State.**

In addition, the City agrees to assume and bear one hundred percent (100%) of the cost any construction items requested by the City on the entire improvement, which are not necessary for the improvement, as determined by the Federal Highway Administration.

The Director of Transportation notwithstanding the percentage basis of contribution may allocate the money contributed in whatever manner he may deem necessary in financing the cost of construction, rights-of-way, engineering and incidental expenses.

The total share of the cost for the City of **Mason** is now in the estimated amount of **One Million Nine Hundred One Thousand Two Hundred Forty and - - - - Dollars, (\$1,901,240.00)**, but said estimated amount is to be adjusted in order that the City's ultimate share of the cost of said improvement shall correspond with said percentages of actual costs when said actual costs determined; and

WHEREAS, The Director of Transportation has approved said legislation proposing cooperation and has caused to be made plans and specifications and an estimate of cost and expense for improving the above described highway and has transmitted copies of the same to this legislative authority; and

WHEREAS, This legislative authority desires the Director of Transportation to proceed with the aforesaid highway improvement.

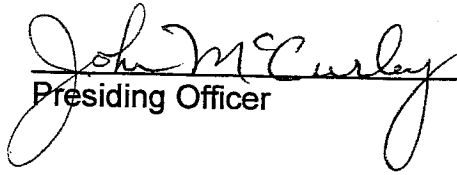
Now, Therefore, Be it Resolved:

- I. That the section of highway above described be improved under the provisions of aforesaid law. That said work be done under the charge, care and superintendence of the Director of Transportation and that said plans, specifications and estimates for this highway improvement as approved by the Director of Transportation are hereby approved and adopted by this legislative authority.
- II. Change orders and extra work contracts required to fulfill the construction contract shall be processed as needed. The Director of Transportation shall not approve a change order or extra work contract until he first gives notice, in writing, to this legislative authority. This legislative authority shall contribute its share of the cost of these items in accordance with other sections herein.
- III. That this legislative authority is still of the opinion the proposed work on the described highway should be constructed, and that we should co-operate on the basis set forth in our proposal.
- IV. That the sum of **One Million Nine Hundred One Thousand Two Hundred Forty and - - - - Dollars, (\$1,901,240.00)**, is hereby appropriated for improving the highway described above, and the fiscal officer is hereby authorized and directed to issue his order on the treasurer for said sum upon the requisition of the Director of Transportation to pay the cost and expense of said improvement. We hereby agree to assume, in the first instance, the share of the cost and expense over and above the amount to be allocated from **Federal Funds**.
- V. That the installation of utility facilities on the right-of-way shall conform with the requirements of Title 23 CFR 645 "Utilities" and the Department of Transportation rules on Utility Accommodation.

- VI. That it is hereby agreed that the City shall, at its own expense, make all rearrangements of water mains, service lines, fire hydrants, valve boxes, sanitary sewers, or other municipally owned utilities and/or any appurtenances thereto, which do not comply with the Ohio Department of Transportation utilities Manual and the provisions of 5501.51 of the Ohio Revised Code, whether inside or outside the corporate limits as may be necessary to conform to the said improvement and said rearrangements shall be done at such time as requested by the Department of Transportation Engineer.
- VII. That traffic control signals will be installed on the project only when recommended by a study of roadway and traffic conditions by a traffic engineer or when at least one of the warranting conditions specified in the Ohio Manual of Uniform Traffic Control Devices is met and the municipality does hereby agree to place and maintain all traffic control devices conforming to the Ohio Manual of Uniform Traffic Control Devices on the improvement in compliance with the provisions of Section 4511.11 and related sections of the Ohio Revised Code.
- VIII. That the rights-of-way provided for said improvement shall be held inviolate for public highway purposes and no signs, posters, billboards, roadside stands or other private installations shall be permitted within the right-of-way limits.
- IX. That this legislative authority of **Mason**, Ohio, hereby requests the Director of Transportation to proceed with the aforesaid highway improvement.
- X. That this legislative authority of **Mason**, Ohio, shall enter into a contract with the Director of Transportation providing for the payment by said legislative authority of the sum of **One Million Nine Hundred One Thousand Two Hundred Forty and - - - - Dollars, (\$1,901,240.00)**, the agreed proportion of the cost and expense to be borne by the City of **Mason**, Ohio, for the improvement of the hereinbefore described highway.
- XI. That the Clerk of this legislative authority be, and he is hereby directed to transmit to the Director of Transportation a certified copy of these Resolutions.
- XII. This Resolution is hereby declared to be an emergency measure by reason of the need for expediting construction of project(s) to promote highway safety and provided it receives the affirmative vote of two-thirds of the members elected to the legislative authority, it shall take effect and be in force upon its passage and approval by the **City Manager**; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.


We further certify that said Resolution and the action of said legislative authority thereon is recorded in the journal of said legislative authority in volume ORD 2000/1 at page _____, and under date of January 24, 2000.

IN WITNESS WHEREOF, We have hereunto set out hands and seal, this 24th day of January, 2000.



Presiding Officer

* SEAL



Clerk (Secretary Ex-Officio)
Legislative Authority of the
City of **Mason**, Ohio

*Note: If the fiscal officer is secretary Ex-Officio of the Legislative Authority, the fiscal officer's Seal should be affixed. If there is no seal this fact should be stated by separate letter and attached hereto.