

ORDINANCE NO. 2013 - 109

**AUTHORIZING THE CITY MANAGER TO ENTER INTO A
LIFT STATION REIMBURSEMENT AGREEMENT WITH
MASON PROJECT I, LLC RELATED TO THE WILLOW
BROOKE SUBDIVISION**

WHEREAS, MASON and Mason Project I, LLC ("MPI") have worked closely together to plan future lift station improvements which are planned to benefit the most efficient transmission of wastewater; and

WHEREAS, MPI is required to install a lift station as part of the Willow Brooke Subdivision; and

WHEREAS, MASON has determined that it is in the best interest of the City to relocate and enlarge the lift station in order to create a regional basin; and

WHEREAS, the parties have agreed that MPI will reimburse MASON for the cost that MPI would have incurred in constructing the original lift station.

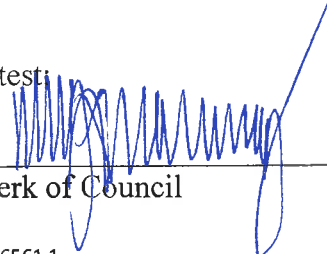
NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Mason, with seven members elected thereto concurring:

Section 1. That the City Manager is hereby authorized to enter into a Lift Station Reimbursement Agreement with Mason Project I, LLC, substantially in the form of the agreement attached hereto as Exhibit "A."

Section 2. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed this 9th day of December, 2013.

Attest:



Clerk of Council

1526561.1



Mayor

**LIFT STATION
REIMBURSEMENT AGREEMENT**

This Lift Station Reimbursement Agreement (“AGREEMENT”) is entered into this ____ day of _____, 2013, by and between the City of Mason, Ohio, (“MASON”) and Mason Project I, LLC. (“MPI”).

WITNESSETH:

WHEREAS, MASON and MPI have worked closely together to plan future lift station improvements which are planned to benefit the most efficient transmission of wastewater; and

WHEREAS, MPI is required to install a lift station as part of the Willowbrook Subdivision; and

WHEREAS, MASON has determined that it is in the best interest of the City to relocate and enlarge the lift station in order to create a regional basin; and

WHEREAS, the parties have agreed that MPI will reimburse MASON for the cost that MPI would have incurred in constructing the original lift station; and

WHEREAS, the parties desire to memorialize the terms of such reimbursement.

NOW, THEREFORE, in consideration of the mutual agreements, covenants and promises set forth in this AGREEMENT, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby **AGREED** among MASON and MPI (“the Parties”) as follows:

1. MASON shall design and construct a regional lift station and run a force main from the lift station to Mason-Morrow-Milgrove Road. The general location of said lift station is shown on Exhibit A, attached hereto and incorporated herein by reference. MASON shall assume all maintenance responsibility for said lift station and force main.

2. MASON shall have the sole right and responsibility of negotiating the terms of the acquisition of any easements necessary for the construction of said lift station. Notwithstanding this provision, MPI will dedicate easements needed for the construction of the lift station, force main, sanitary lines, access road, etc. necessary for the construction and maintenance of the lift station and will grant easements for a pipe connection to the property to the north of the site.

3. The Parties agree that MPI shall reimburse MASON in the total amount of \$374,400.00, (the “Reimbursement Amount”) which amount shall represent the cost that MPI would have incurred for the complete construction of the original lift station for the Willowbrook Subdivision with 4% interest based on a 8 year lot sell out, plus a \$511.82 per lot lift station construction fee.

4. The Reimbursement Amount shall be paid to MASON in the form of an additional fee of \$2,400.00 assessed to the building permit for each of the 156 lots of the Willowbrook Subdivision, north of Mason-Morrow-Milgrove Road, as shown on the Final Subdivision Plat, attached hereto as Exhibit B, and incorporated herein by reference.

5. This AGREEMENT and the rights and obligations that flow therefrom shall be interpreted, construed and enforced in accordance with the laws of the State of Ohio.

6. The parties acknowledge that the covenants contained in this AGREEMENT provide good and sufficient consideration for every promise, duty, obligation, and right contained in this AGREEMENT.

7. All notices required to be given hereunder shall be in writing and shall be sent to the following addresses:

If to MPI:

If to MASON:

Richard Fair
Service Director
City of Mason
6000 Mason Montgomery Road
Mason, Ohio 45040

8. Neither party shall assign any of its rights or delegate any of its duties under this AGREEMENT without written consent of the other. Subject to the above provision, this AGREEMENT shall be binding on the successors and assigns of the parties.

9. This AGREEMENT contains the entire Agreement between MPI and MASON with respect to the subject matter hereof and supersedes all prior written or oral contracts between the parties. No representations, promises, understandings, contracts or otherwise, not herein contained shall be of any force or effect.

10. No modification or amendment of any provisions of the AGREEMENT shall be effective unless made by a written instrument duly executed by the party to be bound thereby, which refers specifically to this AGREEMENT and the amendment or modification being made.

11. This AGREEMENT may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the have caused this instrument to be executed on the date first written above.

For the City of Mason:

For MPI, LLC.:

Eric Hansen, City Manager

By: _____

Its: _____

Approved as to form:

Law Director