

RECORD OF ORDINANCES

62.5

Ordinance No. 2003-2 Passed _____, 20____

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO PREPARE PLANS AND SPECIFICATIONS AND ADVERTISE FOR BIDS FOR THE DEMOLITION OF 517 UNCAPHER AVE.

WHEREAS, 517 Uncapher Avenue was heavily damaged by fire on July 20, 2001 and is in violation of Marion Codified Ordinance 1360; and,

WHEREAS, notices of the City of Marion's intent have been sent and received by the owners of this property on October 31, 2002; and

WHEREAS, the owners of 517 Uncapher Avenue have failed to make the necessary improvements to the property to comply with Chapter 1360.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio;

Section 1. That the Safety/Service Director be authorized and is hereby directed to prepare specifications and advertise for bids for the demolition of 517 Uncapher Avenue.

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

PRESIDENT OF COUNCIL

APPROVED:

MAYOR

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

ATTEST:

CLERK OF COUNCIL

By a majority vote of the members, the legislation was defeated on January 13, 2003.


Cathy Chaffin
Clerk of Council

RECORD OF ORDINANCES

6217

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-3

Passed JAN 13 2003, 20

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN THE SCHOOL RESOURCE OFFICER FUND FOR THE YEAR ENDING DECEMBER 31, 2002.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in the School Resource Officer Fund in the amount of \$46,261.60 as follows:

SCHOOL RESOURCE OFFICER FUND

Salaries	218.1542.510110	\$34,257.60
Benefits	218.1542.510120	<u>12,004.00</u>
TOTAL		\$46,261.60

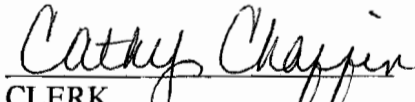
Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: JAN 14 2003


MAYOR

ATTEST:


CLERK

Approved As Submitted Pursuant
to M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

1219

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-4

Passed JAN 13 2003, 20

ORDINANCE AMENDING THE COMPOSITION ORDINANCE OF THE POLICE DEPARTMENT BY AMENDING ORDINANCE 1969-29 WHICH WAS LAST AMENDED BY ORDINANCE 2002-27 RE-ESTABLISHING THE NUMBER OF PERSONNEL TO BE EMPLOYED IN THE POLICE DEPARTMENT, APPROPRIATING THE NECESSARY FUNDS AND DECLARING AN EMERGENCY

WHEREAS, the current level of authorized staffing within the Police Department is sixty-eight (68) sworn police officers and,

WHEREAS, the Police Department has received a grant totaling \$34,696.20 for the first year, for the purpose of hiring an additional officer and creating a School Resource Officer (S.R.O.) position and,

WHEREAS, it is a requirement of the grant that the department must increase the composition of the department by one (1) patrol officer,

BE IT ORDAINED BY THE Council of the City of Marion, Ohio:

Section 1. Regulation III, Section 5 of Ordinance 1969-29, as amended, and now reading as follows:

Section 5. That from and after April 1, 2002, the personnel of the Police Department shall consist of (1) Chief, four (4) Majors, twelve (12) Lieutenants and fifty-one (51) patrol officers. However, these maximum number of patrol officers' positions shall be entirely dependant on the proper appropriations made by the Council of the City of Marion.

Is hereby amended to read as follows:

Section 5. That from and after January 15, 2003, the personnel of the Police Department shall consist of (1) Chief, four (4) Majors, twelve (12) Lieutenants and fifty-two (52) patrol officers. However, the maximum number of patrol officers' positions shall be entirely dependant on the proper appropriations made by the Council of the City of Marion, and more specifically, this 52nd Officer being a grant-funded position (the School Resource Officer position) shall be specifically contingent and dependant on the receipt of the grant funding. If the grant is terminated or expires the number of patrol officers shall revert bank to fifty-one (51), unless the Council take affirmative action after a re-evaluation of the position's need and the City's ability to fund the S.R.O..

Section 2. The Auditor shall complete all necessary acts to comply with the grant, including but not limited to appropriating the necessary funds.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, welfare and safety of the City of Marion and the inhabitants thereof, due to the real and present need to increase the patrol officers available to serve and protect and keep their ranks sufficiently staffed, and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise it shall become effective from and after the earliest period allowed by law.

APPROVED:

JAN 14 2003

Jack L. Kilby
Mayor

ATTEST:

Cathy Chappin
Clerk of Council

Keith A. Koehner
President of Council

Ordinance No. 2003-5

Passed JAN 27 2003, 2003

ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A REVOLVING LOAN ADMINISTRATION AGREEMENT WITH THE STATE OF OHIO, DEPARTMENT OF DEVELOPMENT, AND DECLARING AN EMERGENCY

WHEREAS, The State of Ohio Department of Development has requested as a part of the CDBG Revolving Loan Fund, an Administration Agreement to be executed prior to February 1, 2003, and

BE IT ORDAINED, by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Mayor is authorized to enter into said Administration Agreement, attached hereto as Exhibit A.

Section 2. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof and for the further reason that said agreement must be executed prior to February 1, 2003, and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.

Kevin A. Koehn
President of Council

APPROVED: JAN 28 2003

Jack L. Kelly
Mayor

ATTEST:

Cathy Chappin
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-6

Passed JAN 27 2003, 2003

ORDINANCE APPROPRIATING FUNDS, RATIFYING AND APPROVING THE BARGAINING AGREEMENT BETWEEN THE CITY OF MARION AND AFSCME LOCAL 1158 AND DECLARING AN EMERGENCY.

WHEREAS, Council will hereby appropriate monies to implement a bargaining agreement with AFSCME Local 1158 and

WHEREAS, an Agreement with AFSCME Local 1158 has been reached on behalf of said Bargaining Unit and the City of Marion and ratified by the bargaining unit, to be effective retroactive to January 1, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. The Auditor is authorized and directed to appropriate the necessary funds of \$95,726 to comply with the bargaining agreement and shall do so upon passage of this ordinance.

Section 2. That Council hereby ratifies and approves the bargaining agreement between the City of Marion and AFSCME Local 1158, for the above specified bargaining unit.

Section 3. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof and for the further reason that the current contract has expired on December 31, 2002 and as such shall take effect and be in force immediately upon its' passage and approval by the Mayor, provided it received the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.

Keirna Kolbman
 PRESIDENT OF COUNCIL

APPROVED: **JAN 28 2003**

Jack L. Kelley
 MAYOR

ATTEST:

Approved As Submitted Pursuant
 To M.C.C.
 MARK D. RUSSELL
 DIRECTOR OF LAW
 CITY OF MARION

Cathy Chappin
 CLERK OF COUNCIL

RECORD OF ORDINANCES

0125

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-7

Passed JAN 27 2003, 20

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN
VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31,
2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$35,772.22 as follows:

General Fund

Transfer to DARE Fund	101.7745.580699	\$ 4,000.00
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Help Me Grow Fund

Benefits	256.2543.510120	\$ 185.61
Travel	256.2543.520220	413.13
Utilities	256.2543.530310	3.09
Supplies	256.2543.540420	170.20
Postage	256.2543.540423	(46.13)
Reimbursements	256.2543.570721	<u>(3,434.16)</u>
TOTAL HMG FUND		\$ (2,708.26)

CHIP Grant Fund

Administration	272.4540.530324	\$ 901.28
Implementation	272.4540.530326	<u>1,579.20</u>
TOTAL CHIP FUND		\$ 2,480.48

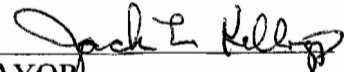
Sanitation Fund

Transfer Fees	506.5561.530319	\$ 32,000.00
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Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: JAN 28 2003


MAYOR

ATTEST:


CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

6227

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-8

Passed JAN 27 2003, 2003

ORDINANCE AUTHORIZING THE CITY AUDITOR TO PAY BILLS FROM VARIOUS CITY DEPARTMENTS PURSUANT TO OHIO REVISED CODE §5705.41(D), AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the City Auditor is hereby authorized to pay bills from various city departments pursuant to O.R.C. §5705.41(D) which reads in part as follows: "No subdivision or taxing unit shall make any contract or give any order involving the expenditure of money unless there is attached thereto a certificate of the fiscal officer of the subdivision that the amount required to meet the same. . . such taxing authority may authorize the issuance of a warrant in payment of such amounts due upon such contract, but such resolution or ordinance shall be passed within thirty days from the receipt of such certificate."

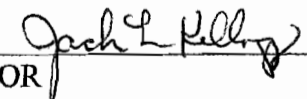
Sanitation Fund

\$29,883.68

Section 2. That this ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and the inhabitants thereof and for the further reason that it provides for the daily operation of the City; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall become effective from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: JAN 28 2003


MAYOR

ATTEST:


CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

129

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-9

Passed JAN 27 2003, 20

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH HENSCHEN & ASSOCIATES ON BEHALF OF THE MARION MUNICIPAL COURT FOR THE REPLACEMENT OF ITS' COMPUTER SYSTEM AND DECLARING AN EMERGENCY.

WHEREAS, the Council by previous Ordinance did find the Municipal Court to have sufficiently demonstrated a real and present need to replace and/or update their current computer system, and

WHEREAS, the Council previously directed the project go out for bids and at this time the Court has advised it has received and evaluated the bids submitted, and

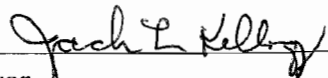
WHEREAS, the Council finds the bid submitted by Henschen & Associates to be the lowest and best bid,

BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. The Council having previously found a real and present need for the replacement of the Marion Municipal Court's Computer system and the Council now having been advised by the Court as to the bids which were received and upon the Court's recommendation as to which is the lowest and best. The Council herein authorizes and directs the Safety/Service Director enter into contract with the lowest and best bidder, to wit: Henschen & Associates. Further, the Safety/Service and/or the Clerk of the Municipal Court are directed and authorized to complete all acts necessary to see that the project is completed in a timely manner, pursuant to the project specifications. The project costs shall be paid from the Court's Computerization fund which has a sufficient balance to cover the costs of the aforementioned project.

Section 2. This ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, welfare and safety of the City of Marion and the inhabitants thereof, due to the real and present need to move forward without delay given the frailty and immediate need to replace the Court's computers to begin better reporting immediately; and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise it shall become effective from and after the earliest period allow by law.

Approved: JAN 28 2003



Mayor



President of Council

Attest:


Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0237

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-10

Passed JAN 27 2003 20

ORDINANCE AUTHORIZING AND DIRECTING THE
SAFETY/SERVICE DIRECTOR TO COMPLETE ALL ACTS
NECESSARY TO PURCHASE TWO (2) REPLACEMENT
BUSSES THROUGH THE OHIO COOPERATIVE
PURCHASING PROGRAM AND DECLARING AN EMERGENCY

WHEREAS, the former City Garage was destroyed by fire on November 29, 2002 at which time the Marion Area Transit Department lost two (2) busses, and

WHEREAS, the aforementioned buses are necessary in order to continue to provide the people of the City the same level of bus service, and

WHEREAS, the Mayor is in the process of settling the insurance claim and has advised the Council as to the insurance proceeds which the City will receive related to the Transit Department's loss,

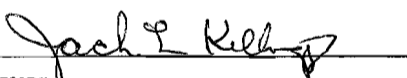
BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. The Safety/Service Director is authorized to enter into contract through the State of Ohio's Cooperative Purchasing Program for the purchase of two 25 passenger busses at a cost of \$ 110,854.00. The aforementioned total being advanced from the General Fund under Resolution 2003-8. That Resolution requires the repayment to the General Fund when the insurance proceeds the Mayor advised we will be receiving are actually received.

Section 2. This ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, welfare and safety of the City of Marion and the inhabitants thereof, due to the real and present need to replace busses which were destroyed in the old Central Garage fire; and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise it shall become effective from and after the earliest period allow by law.

APPROVED: JAN 28 2003


President of Council


Mayor

Attest:

Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0255

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-11

Passed FEB 10 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH VANCE'S LAW ENFORCEMENT FOR THE PURCHASE OF 60 GLOCK HANDGUNS, AND DECLARING AN EMERGENCY.

WHEREAS, the police department is in need of updating their handguns, and;

WHEREAS, the purchase of new handguns was budgeted for FY2003, and;

WHEREAS, Vance's Law Enforcement provided the lowest price, therefore,

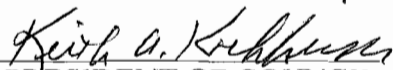
BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio;

Section 1. That the Safety/Service Director be authorized and is hereby directed to enter into contract with Vance's Law Enforcement, to purchase 60 Glock Model 22 semi-automatic pistols for use in the police department


Section 2. That the \$9,950 cost of said contract shall be payable from the Capital Improvements Fund.

Section 3. That the \$9,950 cost is after trading in 62 Smith & Wesson model 4043 semi-automatic pistols to Vance's Law Enforcement.

Section 4. That this ordinance is hereby declared to be an emergency measure for the welfare and safety of the City of Marion and the inhabitants thereof and for further reason that it is necessary for the daily operation of the City; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall become effective from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: FEB 11 2003


MAYOR

ATTEST:


CLERK OF COUNCIL

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-12

Passed FEB 10 2003, 2003

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH J & J RENOVATIONS OF MARION FOR THE DEMOLITION OF THE FORMER CITY GARAGE AT 960 W. CENTER STREET AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance 2002-133 authorized the Safety/Service Director to prepare specifications and advertise for bids the demolition of the former City Garage at 960 W. Center Street, and

WHEREAS, the structure was heavily damaged by fire on November 29, 2002 and is declared a public nuisance and unsafe structure, and

WHEREAS, J & J Renovations submitted the lowest and best bid for the demolition of the City Garage.

BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. That the Safety/Service Director be authorized and directed to enter into contract with J & J Renovations of Marion for the demolition of the City Garage at 960 W. Center Street.

Section 2. The demolition cost of \$8,750 will be paid for through insurance proceeds.

Section 3. That this ordinance is hereby declared to be an emergency measure for the welfare and safety of the City of Marion and inhabitants thereof; and as such shall take effect and be in force upon passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall come effective from and after the earliest period allowed by law.

APPROVED: FEB 11 2003

Keith A. Koehn
PRESIDENT OF COUNCIL

Jack L. Kellogg
MAYOR

ATTEST:

Cathy Chappin
CLERK OF COUNCIL

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

6237

Ordinance No. 2003-13

Passed FEB 10 2003, 2003

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO PREPARE SPECIFICATIONS AND ADVERTISE FOR BIDS FOR THE PURCHASE OF A POTHOLE MACHINE AND TRUCK CHASSIS FOR THE STREETS DEPARTMENT

BE IT ORDAINED BY the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service director is hereby authorized and directed to prepare specifications and advertise for bids for the purchase of a Pothole Machine and Truck Chassis for the Streets Department.

Section 2. That the cost of such contract shall be payable from the S.C.M.R. Fund.

Section 3. This ordinance shall take effect and be in force from and after the earliest period allowed by law.

Keith A. Koehneiser
President of Council

Approved: FEB 11 2003

Jack L. Kellogg
Mayor

Attest:

Cathy Chappin
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

1239

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-14, Page One

Passed FEB 10 2000, 20

ORDINANCE AMENDING MARION CITY CODE
CHAPTER 914.06 , 914.05 AND 914.04 IN ORDER TO
MAKE THE DEBT SERVICES CHARGES MORE
EQUITABLE AND TO CARRY OUT THE INTENT
OF DEVELOPING A RATE STRUCTURE TO REPAY
SANITARY SEWER DEBT OBLIGATIONS

WHEREAS, the Council last modified the sanitary sewer system improvement charge (debt service) by its action in Ordinance 1985-6, and

WHEREAS, the Administration and the Council have evaluated and incorporated herein those changes which it has determined to be necessary for a fair and equitable debt service mechanism within the sanitary sewer system, and

WHEREAS, the Council finds after debate the changes are necessary in order to best serve all those persons who are served by the sanitary sewer system,

BE IT ORDAINED by the Council of Marion, Marion County, Ohio:

Section 1. Marion City Code Chapter 914.06 SEWER SYSTEM IMPROVEMENT CHARGE, OUTSIDE CITY USERS, now reading in part:

The volumetric rate as determined in Section 914.04 and as may be amended from time to time shall be multiplied by a factor of two and added to the volumetric rate as determined under Section 912.10(A)(3) to produce the total volumetric rate. For the purpose stated herein, the sewer system improvement charge to be added to the user charge volumetric rate with the effective date of this chapter and Chapter 912 is forty one and six tenths cents (\$.416) per 100 cubic feet.

SHALL BE AMENDED TO READ AS FOLLOWS:

The volumetric rate as determined in Section 914.04 and as may be amended from time to time shall be increased by .30 per ccf and added to the volumetric rate as determined under Section 912.10(A)(3)/(4) to produce the total volumetric rate. This additional surcharge shall be applied to inside City residential users. Given that the only debt which may be created on the system must first be approved by the Council and given that the Administration is required by law to collect sufficient charges to pay the system's debt service charges, the Safety/Service Director shall annually, in February of each year, calculate the necessary debt service (sewer improvement charge) and collect sufficient sums to ensure the system's annual debt charge is met. The Director shall post all charges related hereto in his/her Office.

Section 2. Marion City Code Chapter 914.05 SEWER SYSTEM IMPROVEMENT CHARGE, MUNICIPALITY USERS, now reading in part:

The volumetric rate as determined in Section 914.04 and as may be amended from time to time shall be added to the volumetric rate as determined under Section 912.10(A)(3) to produce the total volumetric rate. For the purpose stated herein, the sewer system improvement charge to be added to the user charge volumetric rate with the effective date of this chapter and Chapter 912 is twenty and eight tenths cents (\$.208) per 100 cubic feet.

SHALL BE AMENDED TO READ AS FOLLOWS:

RECORD OF ORDINANCES

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-14, Page Two

Passed FEB 1 9 7 03, 2003

Inside Residential Users

(A) The volumetric rate as determined in Section 914.04 and as may be amended from time to time shall be reduced by the revenue generated by the surcharge in Section 914.06 and then added to the volumetric rate as determined under Section 912.10(A)(3)/(4) to produce the total volumetric rate.

Given that the only debt which may be created on the system must first be approved by the Council and given that the Administration is required by law to collect sufficient charges to pay the system's debt service charges, the Safety/Service Director shall annually, in February of each year, calculate the necessary debt service (sewer improvement charge) and collect sufficient sums to ensure the system's annual debt charge is met. The Director shall post all charges related hereto in his/her Office.

Inside Commercial / Industrial Users

(B) The volumetric rate as determined in Section 914.04 and as may be amended from time to time shall be added to the volumetric rate as determined under Section 912.10(A)(3)/(4) to produce the total volumetric rate.

Given that the only debt which may be created on the system must first be approved by the Council and given that the Administration is required by law to collect sufficient charges to pay the system's debt service charges, the Safety/Service Director shall annually, in February of each year, calculate the necessary debt service (sewer improvement charge) and collect sufficient sums to ensure the system's annual debt charge is met. The Director shall post all charges related hereto in his/her Office.

Section 3. Marion City Code Chapter 914.04 BASIS OF SEWER SYSTEM IMPROVEMENT CHARGE, now reading in part:

Each year in conjunction with the requirements of § 912.07, the City Auditor shall determine the sums of money required to provide for the annual payments of debt service. These sums of money divided by the value determined as required in § 912.07(B) will provide a volumetric rate. This rate shall be in addition to the volumetric rate as set forth in § 912.10(A)(3) as may be amended from time to time.

SHALL BE AMENDED TO READ AS FOLLOWS:

Each year in conjunction with the requirements of § 912.07, the City Auditor shall determine the sums of money required to provide for the annual payments of debt service. These sums of money divided by the value determined as required in § 912.07(B) will provide a volumetric rate. This rate shall be in addition to the volumetric rate as set forth in § 912.10(A)(3)/(4) as may be amended from time to time.

The debt service rate, also known as the sewer system improvement charge, shall be computed as follows:

- (A) Total Annual Flow in CCF's
- (B) Total Residential Inside Flow in CCF's
- (C) Total Outside City Flow in CCF's
- (D) Total Inside City Commercial/Industrial Flow in CCF's
- (E) Total Annual Debt Payment Charge
- (F) Debt Charge for Inside City Residential Customers/CCF

RECORD OF ORDINANCES

02-1

Ordinance No. 2003-14, Page Three Passed FEB 10 2003, 2003

- (G) Debt Charge for Inside City Commercial, Industrial Customers/CCF
- (H) Debt Charge for Outside City Customers/CCF

914.05(2)(A) Inside - Commercial, Industrial - Debt Charge per CCF

$$\frac{E}{A} = G$$

914.06 Outside City - All Users - Debt Charge per CCF


$$G + \$.30 = H$$

914.05(1)(A) Inside City Residential Users - Debt Charge per CCF

$$G - \frac{(C \times \$.30)}{B} = F$$

Section 4. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

APPROVED: FEB 11 2003



 Mayor



 President

Attest;


 Clerk of Council

Approved As Submitted Pursuant
 To M.C.C.
 MARK D. RUSSELL
 DIRECTOR OF LAW
 CITY OF MARION

RECORD OF ORDINANCES

6246

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-15

Passed FEB 24 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO PREPARE PLANS AND SPECIFICATIONS AND ADVERTISE FOR BIDS FOR VARIOUS CAPITAL EQUIPMENT AND IMPROVEMENT ITEMS.

WHEREAS, the fiscal 2003 general budget for the City of Marion made appropriations for the purchase of various capital improvements and equipment items, and ;

WHEREAS, the bidding of these items is required due to the anticipated purchase price exceeding \$15,000.

BE IT ORDAINED BY THE Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be authorized and is hereby directed to prepare specifications and advertise for bids for various capital equipment and improvement items as listed.

3 Cruisers w/equipment for Police
Records management system for Police
New vehicle for Engineer's office
Lights for 2 softball fields at Sawyer Park

Section 2. That this ordinance shall take effect on the earliest date allowed by law.

Keith A. Koehner
PRESIDENT OF COUNCIL

APPROVED FEB 25 2003

Paul R. Kelley
MAYOR

ATTEST:

Cathy Chappin
CLERK OF COUNCIL

RECORD OF ORDINANCES

0245

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-16Passed FEB 24 2003, 2003

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN VARIOUS FUNDS
FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$126,562.20 as follows:

GENERAL FUND

Property Tax	101.7741.540381	\$ 464.68
Flexible Spending	101.7744.570773	25,000.00
TOTAL GENERAL FUND		\$ 25,464.68

SCMR FUND

Supplies	207.6612.540420	\$100,000.00
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SENIOR CITIZENS III-B FUND

Administration	203.3424.540324	\$ 7,357.40
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HEALTH FUND

Professional Services	214.2222.530320	\$ 2,000.00
Altrusa Books	214.2221.540228	2,102.02
TOTAL HEALTH FUND		\$ 4,102.02

WELLNESS BLOCK GRANT FUND

Reimbursements	253.2543.570721	\$ (16,000.00)
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CHIP FUND

FY 2K Implementation	272.4540.530326	\$ 4,638.10
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SANITATION FUND

Refunds	506.5561.570720	\$ 400.00
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LANDFILL MONITORING FUND

Utilities	507.5563.530310	\$ 500.00
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RECYCLING FUND

Refunds	508.5564.570720	\$ 100.00
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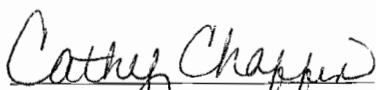
Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: FEB 25 2003


MAYOR

ATTEST:


CLERK

RECORD OF ORDINANCES

0247

Ordinance No. 2003-17

Passed FEB 24 2003, 2003

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH ATWELL'S POLICE AND FIRE EQUIPMENT FOR THE PURCHASE OF 61 HOLSTERS AND MAGAZINE POUCHES, AND DECLARING AN EMERGENCY.

WHEREAS, the police department is in need of new holsters and magazine pouches for their new handguns, and;

WHEREAS, the purchase of these items was budgeted for FY 2003, and;

WHEREAS, Atwell's Police and Fire Equipment provided the lowest price, therefore,

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio;

Section 1. That the Safety/Service Director be authorized and is hereby directed to enter into contract with Atwell's Police and Fire Equipment, to purchase 61 Safariland holsters and magazine pouches for use in the police department

Section 2. That the \$6,222.00 cost of said contract shall be payable from the Capital Improvement Fund.

Section 3. That this ordinance is hereby declared to be an emergency measure for the welfare and safety of the City of Marion and the inhabitants thereof and for further reason that it is necessary for the daily operation of the City; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.

Keith A. Koehlman
PRESIDENT OF COUNCIL

APPROVED: FEB 25 2003

Jack R. Kelly
MAYOR

ATTEST:

Cathy Chappin
CLERK OF COUNCIL

Ordinance No. 2003-18, As Amended Passed MAR 1 0 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH FLOYD BROWNE ASSOCIATES, INC. FOR ENGINEERING SERVICES FOR THE FAIRGROUND/MARK STREET SEWERS, SIDEWALKS AND PAVEMENT IMPROVEMENTS, PROJECT 03-1P AND DECLARING AN EMERGENCY, AS AMENDED.

WHEREAS, the City of Marion has an immediate need to prepare final construction plans for the Fairground/Mark Street Sewers, Sidewalks and Pavement Improvements, Project No. 03-1P, and;

WHEREAS, the City of Marion has determined Floyd Browne Associates, Inc. to be the most qualified firm for this project with a design fee of \$56,000.00

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be authorized to enter into contract with Floyd Browne Associates, Inc. for design engineering services for Fairground/Mark Street Sewers, Sidewalks and Pavement Improvements, Project No. 03-1P.

Section 2. That the cost of said project shall be payable from the Sewer Replacement Fund (504.5031.550520), and the Storm Water Utility Fund (509.5031.550520), and the Community Distress Grant.

Amended to add:

Section 3. That Council hereby appropriates the funds as follows:

<i>Sewer Replacement Fund Project 03-1P</i>	<i>504.5031.550520</i>	<i>\$18,400.00</i>
<i>Storm Water Utility Fund Project 03-1P</i>	<i>509.5031.550520</i>	<i>\$31,600.00</i>
<i>Total</i>		<i>\$50,000.00</i>

Section 3.4. That this ordinance is hereby declared an emergency measure for the welfare and safety of the City of Marion and the inhabitants thereof and for the further reason this project must be completed during the 2003 construction season, and as such, shall take effect and be in force upon passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.

APPROVED: **MAR 1 1 2003**

Keith A. Koehnen
PRESIDENT OF COUNCIL

Jack L. Kellogg
MAYOR

ATTEST:

Cathy Chapin
CLERK

RECORD OF ORDINANCES

6237

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-19

Passed MAR 10 2003, 20

ORDINANCE MAKING AN ADDITIONAL APPROPRIATION IN
THE GENERAL FUND FOR THE YEAR ENDING DECEMBER
31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be an additional appropriation made in the General Fund in the amount of \$800.00 as follows:

Fire Department

Capital Improvement	101.1131.550520	\$ 800.00
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Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Keith A. Kochhusser
PRESIDENT OF COUNCIL

APPROVED: **MAR 11 2003**

Jack L. Kellogg
MAYOR

ATTEST:

Cathy Chappin
CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0 19

Ordinance No. 2003-100, Page One Passed OCT 27 2003, 20

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN
VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount
of \$82,677.93 as follows:

General Fund

Police Ins. Premiums	101.1111.530380	\$ 21,500.00
Fire Ins. Premiums	101.1131.530380	21,500.00
Recreation Ins. Premiums	101.3422.530380	1,200.00
Sr. Citizens Ins. Premiums	101.3424.530380	400.00
Sr. Citizens Utilities	101.3424.530310	27.00
Parking Meter		
Resurfacing Project	101.6615.530531	10,000.00
Property Tax	101.6615.540381	(127.09)
Airport Ins. Premiums	101.6621.530380	2,050.00
Airport Property Tax	101.6621.540381	1,320.03
City Hall Ins. Premiums	101.7741.530380	18,000.00
Engineering HHS/309 Signal	101.7743.550520	(48,653.76)
Statutory Accounts		
Election Expense	101.7744.530621	(5,000.00)
Annual Exam	101.7744.530622	(1,500.00)
TOTAL		<u>\$ 20,716.18</u>

SCMR Fund

Insurance Premiums	207.6612.530380	\$ 7,600.00
Service Contracts	207.6612.530321	(1,000.00)
Supplies	207.6612.540420	(2,550.00)
Fuel	207.6612.540430	(2,670.00)
Equipment	207.6612.550450	(1,380.00)
TOTAL		<u>\$ 0.00</u>

Health Fund

Insurance Premiums	214.2221.530380	\$ 1,950.00
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Parks Fund

Insurance Premiums	221.3421.530380	\$ 4,550.00
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Transit Fund

Insurance Premiums	502.6543.530380	\$ 1,750.00
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Sewer System Improvement Fund

OPWC Loan #CP10F	503.8913.560654	\$ 3,550.67
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Sewer Revenue Fund

Insurance Premiums	505.5552.530380	\$ 51,900.00
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Sanitation Fund

Insurance Premiums	506.5561.530380	\$ 2,900.00
Schooling	506.5561.530221	(1,113.00)
TOTAL		<u>\$ 1,787.00</u>

Recycling Fund

Insurance Premiums	508.5564.530380	\$ 400.00
Commingling Fee	508.5564.530318	6,000.00
TOTAL		<u>\$ 6,400.00</u>

Storm Water Utility Fund

OPWC Loan #CP 1 OF 509.8913.560654 \$ 3,174.08

Swimming Pool Fund

Insurance Premiums 516.3423.530380 \$ 650.00

Central Garage

Insurance Premiums 601.9601.530380 \$ (13,750.00)

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

Keith A. Koehne
PRESIDENT OF COUNCIL

APPROVED: OCT 2 8 2003

Paul L. Kelly
MAYOR

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

ATTEST:
Cathy Chapman
CLERK

Ordinance No. 2003-101, As Amended

Passed NOV 10 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH ~~FIRE SAFETY SERVICES~~ *SMEAL FIRE APPARATUS CO.*, TO PURCHASE AN AERIAL TRUCK FOR USE AT THE MARION FIRE DEPARTMENT AND DECLARING AN EMERGENCY, AS AMENDED

Whereas, Ordinance No. 2003-88 authorized the Safety/Service Director to prepare specifications and advertise for bids for an Aerial Truck for use at the Marion City Fire Department and,

As Amended:

Whereas, ~~Fire Safety Services~~ *Smeal Fire Apparatus Co.*, through its dealer *Fire Safety Services Inc.*, submitted the best bid, therefore,

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be authorized and is hereby directed to enter into contract with ~~Fire Safety Services~~ *Smeal Fire Apparatus Co., Snyder NE*, to purchase an Aerial Truck for use at the Fire Department.

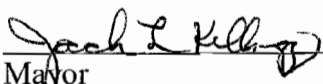
Section 2. That the \$727,975.00 cost of said contract shall be payable from the Fire Department Fund Account No. 101.1131.550540.

Section 3. This Council intends to finance the final purchase price of this Aerial Truck in 2004.

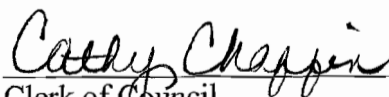
Section 4. That this ordinance is hereby declared to be an emergency measure for the welfare and safety of the City of Marion and the inhabitants thereof and for the further reason that it is necessary for the daily operation of the City; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.


President of Council

APPROVED: **NOV 12 2003**


Mayor

Attest;


Clerk of Council

RECORD OF ORDINANCES

0-33

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-102 Passed NOV 10 2003, 2003

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN
VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31,
2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$773,136.86 as follows:

General Fund

Economic Development		
Revenue Sharing	101.4539.530751	\$ 11,686.86
Fire Department		
Utilities	101.1131.530310	780.00
Insurance	101.1131.530380	500.00
Fire Equipment	101.1131.550450	727,975.00
Senior Citizens Insurance	101.3424.530380	500.00
City Hall Insurance	101.7741.530380	1,000.00
TOTAL GENERAL FUND		\$ 742,441.86

Sewer Revenue

Insurance	505.5552.530380	\$ 1,500.00
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Storm Water Utility

McKinley Lake/Daffodil	509.5012.550520	\$ 27,000.00
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ASAP Program Fund

Professional Service	225.1111.530320	\$ 1,675.00
Building Rental	225.1111.530371	100.00
Youth Sustenance	225.1111.540350	420.00
TOTAL ASAP		\$ 2,195.00

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

Kevin A. Koehne
PRESIDENT OF COUNCIL

APPROVED: NOV 12 2003

Jack L. Kellogg
MAYOR

ATTEST:

Cathy Chappie
CLERK

RECORD OF ORDINANCES

0135

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-103, Page One

Passed JAN 13 2004, 20

ORDINANCE TO ACCEPT THE PETITION FOR
ANNEXATION OF CERTAIN TERRITORY LOCATED NORTH OF
THE CITY OF MARION, CONTAINING 28.397 ACRES, OWNED
BY UNITED MOBILE HOMES OF OHIO, INC.

WHEREAS, a petition for annexation of certain territory in Marion Township was duly filed by J. Jeffrey McNealey, Attorney and Agent for the property owner United Mobile Homes of Ohio, Inc., the sole owner of the real estate in the territory;

WHEREAS, the petition was duly filed with the Board of County Commissioners of Marion County, Ohio on January 11, 2002; and

WHEREAS, the petition was duly considered by the Board of County Commissioners of Marion County, Ohio on September 4, 2003, after litigation which resulted in the reversal of their previous denial; and

WHEREAS, the Board of County Commissioners has approved the annexation of the territory to the City of Marion as hereinafter described; and

WHEREAS, the Board of County Commissioners certified the transcript of the proceedings in connection with the annexation with the map, the petition as required in connection therewith to the Clerk of Council who received the same on October 31, 2003; and

WHEREAS, sixty days from the date of the filing have now elapsed in accordance with the provisions of R.C. 709.04, now, therefore,

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the proposed annexation as applied for in the petition of J. Jeffrey McNealey, as Agent, and a majority owners of real estate in the territory sought to be annexed and filed with the Board of County Commissioners of Marion County, Ohio on January 11, 2002, and which the petition prayed for annexation to the City of Marion, Ohio, of certain territory adjacent thereto as hereinafter described was approved for annexation to the City of Marion by the Board of County Commissioners on September 4, 2003, be and is hereby accepted. The territory is described as follows:

DESCRIPTION 28.397 ACRES

Being part of the Northeast Quarter of Section 11, Township 5 South, Range 15 East, Marion Township, Marion County, State of Ohio; Being part of a tract now or formerly owned by United Mobile Homes of Ohio, Inc. (O.R. 65 Pg. 335 & O.R. 67 Pg. 334); and being more particularly described as follows;

Commencing at an existing railroad spike located at the intersection of the centerline of County Road 167 (also being the North Line of Section 11) with the centerline of County Road 215 (also being the East Corporation Line of the City of Marion (see Ordinance 1996-136 in O.R. 334 pg. 586 and recorded plat in P.B. 10 pg. 96, Marion County Recorder's Office);

thence along said centerline of County Road 215 S 0° 06' 30" E (for basis of bearing, see Official Record 363 Pg. 336, Marion County Recorder's Office) for a distance of 1646.79 feet to a railroad spike set and the point of beginning; thence N 52° 07' 25" E for a distance of 1509.33 feet to a 1" dia. iron pin set on the West Limited Access Right-of-Way Line of U.S. Route 23 (passing over a 1" dia. iron pin set at 37.96 feet);

thence along said West Right-of-Way Line S 7° 36' 30" E for a distance of 1404.88 feet to a 1" dia. iron pin set on Grantor's South Line (also being the North line of a 31.298 acre tract now or formerly owned by Marion Development, Inc. (O.R. 201 pg. 771); thence along Grantor's South Line (and North line of said Marion Development, Inc. 31.298 acre tract) S 89° 57' 30" W for a distance of 1376.50 feet to an existing railroad spike on the centerline of County Road 215 (passing over a 1" dia. iron pin set at 1346.50 feet); thence

along said centerline N 0° 06' 30" W for a distance of 466.86 feet to a railroad spike set and the point of beginning.

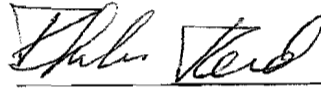
Containing 28.397 acres more or less and being subject to legal highways, easements, restrictions, and agreements of record. This description prepared from a survey performed by Thomas L. Boblenz, Registered Surveyor 5719, and dated November 12, 2001. All 1" dia. Iron pins set have a plastic identity cap with the following caption, "TLB & Associates."

The certified transcript of the proceedings for annexation with an accurate map of the territory, together with the petition for its annexation and other papers relating to the proceedings thereto of the County Commissioners are all on file with the Clerk of Council and have been for more than sixty days.

Section 2. That the property shall be zoned R-1 (C Single Family) and shall be subject to the conditions outlined in the attached agreement.

Section 3. The Clerk of Council be and she is hereby authorized and directed to make three copies of this ordinance to each of which shall be attached a copy of the map accompanying the petition for annexation, a copy of the transcript of proceedings of the Board of County Commissioners relating thereto and a certificate as to the correctness thereof. The Clerk of Council shall then forthwith deliver one copy to the County Auditor, one copy to the County Recorder and one copy to the Secretary of State and shall file notice of this annexation with the Board of Elections within thirty (30) days after it becomes effective, and the Clerk shall do all other things required by law.

Section 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.



PRESIDENT OF COUNCIL

APPROVED: JAN 14 2004


MAYOR

ATTEST:


CLERK

RECORD OF ORDINANCES

0.37

Ordinance No. 2003-104

Passed NOV 24 2003, 2003

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO PREPARE SPECIFICATIONS AND ADVERTISE FOR BIDS FOR A DIESEL POWERED PORTABLE PUMP TO BE USED BY THE DIVISION OF WATER POLLUTION CONTROL

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be and is hereby authorized and directed to prepare specifications and advertise for bids for a Diesel Powered Portable Pump to be used by the Division of Water Pollution Control.

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

Keith A. Kouhousi
PRESIDENT OF COUNCIL

APPROVED: **NOV 24 2003**

Jack L. Kelley
MAYOR

ATTEST:

Cathy Chappin
CLERK

RECORD OF ORDINANCES

0.39

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-105

Passed NOV 24 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH FINLEY FIRE EQUIPMENT AND BENDER COMMUNICATIONS, INC. TO PURCHASE RADIO EQUIPMENT FOR USE AT THE MARION FIRE DEPARTMENT AND DECLARING AN EMERGENCY.

WHEREAS, Finley Fire Equipment and Bender Communications submitted the lowest and most responsive quotes, therefore

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be authorized and is hereby directed to enter into contract with Finley Fire Equipment and Bender Communications, Inc., to purchase Radio Equipment for use at the Fire Department.

Section 2. That the \$3,600.00 and \$5,940.00 cost respectively of said contracts shall be payable from the Fire Department Fund Account No. 401.1131.553450.

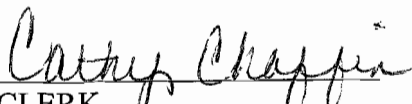
Section 3. That this ordinance is hereby declared to be an emergency measure for the welfare and safety of the City of Marion and the inhabitants thereof and for the further reason that it is necessary for the daily operation of the City; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall become effective from and after earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: NOV 24 2003


MAYOR

ATTEST:


CLERK

RECORD OF ORDINANCES

0.41

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-106

Passed NOV 24 2003, 20

ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO CONTRACT FOR THE PURCHASE OF CERTAIN LANDS AS A PART OF THE PREVIOUSLY APPROVED ECONOMIC DEVELOPMENT INITIATIVE GRANT PROGRAM THROUGH H.U.D. AND DECLARING AN EMERGENCY

WHEREAS, the Council previously approved the acceptance of the Economic Development Initiative Grant and authorized the Mayor to administer the program, and

WHEREAS, in order to obtain the designated land it is necessary to authorize the Mayor to enter into agreement for the purchase of said designated land,


BE IT ORDAINED, by the Council of the City of Marion, Marion County, Ohio:

SECTION 1. The Mayor is hereby authorized and directed to enter into contract for the purchase of real property within the City of Marion in order to obtain the designated land necessary for the creation of the downtown park pursuant to the Economic Development Initiative Grant Program previously approved by Ordinance 2003-87. Further, the Mayor is granted full authority to ensure the H.U.D. project is successful and to complete any and all documents to achieve said end.

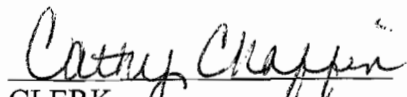
SECTION 2. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof given the immediacy of the project and the need to proceed without delay; and as such shall take effect and be in force immediately upon its' passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.

APPROVED: **NOV 24 2003**


PRESIDENT OF COUNCIL


MAYOR

ATTEST:


CLERK

RECORD OF ORDINANCES

013

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-107 Passed NOV 24 2003, 20

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN
VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County,
Ohio:

Section 1. That there be additional appropriations made in various funds in
the amount of \$239,482.75 as follows:

GENERAL FUND

Fire Department			
Insurance	101.1131.530380	\$	5,000.00
Administration	101.1131.540324		5,843.25
City Hall			
Land Acquisition	101.7741.550455	\$	5,000.00
Total General Fund		\$	15,843.25

HEALTH FUND

Administration	214.2221.540324	\$	100.00
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PARKS FUND

Administration	221.3421.540324	\$	2,539.50
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FORMULA GRANT FUND

FY 2003			
Administration	275.4543.530324	\$	27,500.00
Street Improvements	275.4543.530325		53,200.00
Water & Sewer	275.4543.530330		39,900.00
Flood & Drainage	275.4543.530331		31,100.00
Curbs & Sidewalks	275.4543.530337		12,700.00
Fair Housing	275.4543.530339		500.00
Public Housing	275.4543.530342		24,100.00
Total Formula Grant Fund		\$	189,000.00

AIRPORT IMPROVEMENT FUND

Project 12			
Professional Service	446.6402.530320	\$	5,000.00
Capital Improvement	446.6402.550520		25,000.00
Total Airport Improvement Fund		\$	30,000.00

LAW ENFORCEMENT TRUST FUND

Safety City Expenditures	737.1824.570731	\$	2,000.00
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Section 2. That this ordinance shall take effect and be in force from and
after the earliest period allowed by law.

Keith A. Koehn
PRESIDENT OF COUNCIL

APPROVED: **NOV 24 2003**

Joseph L. Kelly
MAYOR

ATTEST:
Cathy Chappin
CLERK

RECORD OF ORDINANCES

0.45

Ordinance No. 2003-108

Passed NOV 24 2003 20

ORDINANCE MAKING AN ADDITIONAL APPROPRIATION IN THE SPECIAL ASSESSMENT BOND RETIREMENT FUND FOR THE YEAR ENDING DECEMBER 31, 2003.

WHEREAS, the Special Assessment Bond Retirement Fund has an unexpended balance of \$161,005.97, and

WHEREAS, there are no outstanding Special Assessment Bonds issued by the City of Marion, and

WHEREAS, ORC 5705.14(A) states that the unexpended balance in a bond fund that is no longer needed for the purpose for which such fund was created shall be transferred to the sinking fund or bond retirement fund, therefore

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be an additional appropriation made in the Special Assessment Bond Retirement Fund in the amount of \$161,005.97 as follows:

Special Assessment Bond Retirement Fund

Transfer to G.O. Bond Retirement Fund 344.8912.5807719 \$161,005.97

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

Keil A. Koehn

PRESIDENT OF COUNCIL

APPROVED: **NOV 24 2003**

Josh L. Kellogg

MAYOR

ATTEST:

Cathy Chappin

CLERK

RECORD OF ORDINANCES

0117

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-109

Passed _____, 20____

ORDINANCE DIRECTING THE SAFETY/SERVICE DIRECTOR TO AMEND THE MASTER TRAFFIC CONTROL PLAN BY PLACING STOP SIGNS UPON BEXLEY AVENUE WHERE SAME INTERSECTS WITH UHLER AVENUE

WHEREAS, the Traffic Commission has received a request from the residents abutting the intersection of Bexley Ave. and Uhler to make the intersection a four-way stop, and

WHEREAS, the Traffic Commission entertained comments at two public meetings and after due deliberation, by a 4-3 vote, has recommended that the intersection be made a four-way stop by placing stop signs upon Bexley Ave.,

BE IT ORDAINED, by the Council of the City of Marion, Marion County, Ohio:

SECTION 1. The Council determines it to be beneficial for the intersection of Bexley Ave. and Uhler Ave. to be further improved by the placement of stop signs upon Bexley Ave. and thus creating a four-way stop at said intersection. This finding occurring after due deliberation and due consideration given to the City Engineer's opinion that the intersection does not meet the minimum requirements of the Ohio Manual of Uniform Traffic Control Devices and after taking into account the opposition of the placement of unwarranted signs by the aforementioned Engineer, Safety/Service Director, Chief of Police and the Law Director. Therefore, the Safety/Service Director is directed to place the additional signs at said intersection and shall ensure that the master traffic control plan/map is duly amended.

SECTION 2. This Ordinance shall take effect on the earliest date allowed by law.

PRESIDENT OF COUNCIL

APPROVED:

MAYOR

ATTEST:

CLERK

By a majority vote of the members, this legislation failed at the November 24, 2003 Council Meeting.

Cathy Chappin

Clerk of Council

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ORDINANCE AMENDING CODIFIED ORDINANCE 193: MUNICIPAL INCOME TAX

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That § 193.02 of the Codified Ordinances, now reading as follows:

"For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASSOCIATION. A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

BUSINESS. An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, co-partnership, limited partnership, corporation, association or any other entity.

CORPORATION. A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, foreign country or dependency and any entity electing to be taxed as a corporation for federal income tax purposes under the Internal Revenue Code.

C CORPORATION. A corporation that has not made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

COMPENSATION. Includes, but is not limited to salaries, wages, vacation pay, sick pay, commissions, bonuses, tips, severance pay, supplemental unemployment pay, or any other remuneration, that is paid to or constructively received by the recipient, and whether paid in cash or in property. Any portion of gross wages which may be deferred or deducted for federal income tax purposes under the Internal Revenue Code are still included in compensation for purposes of this chapter.

DISREGARDED ENTITY. An entity which is disregarded as an entity separate from its owner for federal income tax purposes under the Internal Revenue Code.

EMPLOYEE. An individual whose earnings are subject to the withholding of Federal Income Tax or Social Security Tax.

EMPLOYER. An individual, co-partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity who or that employs one or more persons on a salary, wage, commission or other compensation basis.

FISCAL YEAR. An accounting period of twelve (12) months or less ending on any day other than December 31. Only fiscal years accepted for reporting federal income tax under the Internal Revenue Code may be used for the Municipal Income Tax.

FORM 2106. Internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

INCOME TAX DEPARTMENT. The employees of the City Auditor's Office responsible for the administration and enforcement of this chapter.

INTERNAL REVENUE CODE. The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

LIMITED LIABILITY COMPANY. A limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

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MUNICIPAL INCOME TAX. The tax levied by § 193.03 of this chapter.

NET PROFITS. The net gain from the operation of a business, profession or enterprise after provision for all ordinary and necessary expenses incurred in the conduct thereof, either paid or accrued in accordance with the method of accounting regularly employed by the taxpayer for federal income tax purposes, without deduction of Federal taxes based on income, without deducting taxes imposed by this chapter, and otherwise adjusted for the requirements of this chapter. For tax years beginning on and after January 1, 2003, no deduction will be allowed for other taxes (including, but not limited to, federal, state and municipal taxes) based on income, and compensation paid to the owner of an unincorporated entity.

NON-RESIDENT. An individual, co-partnership, limited partnership, corporation, association or other entity domiciled outside the municipality.

OTHER ENTITY. Any person or unincorporated body not previously named or defined and includes inter alia, fiduciaries located within the municipality from business conducted within the municipality.

PASS-THROUGH ENTITY. A partnership, S corporation, limited liability company, or any class of entity (other than sole proprietorships) the income or profits from which are given pass-through treatment under the Internal Revenue Code.

PERSON. Every natural person, co-partnership, limited partnership, corporation, fiduciary or association whenever used in any clause prescribing and imposing a penalty. The term **PERSON** as applied to association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.

RESIDENT. An individual, co-partnership, limited partnership, corporation, association or other entity domiciled in the municipality.

S CORPORATION. A corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

SOLE PROPRIETORSHIP. Any business, including the renting of property, conducted by an individual or by an individual through his/her disregarded entity.

TAX COMMISSIONER. The employee of the City Auditor's Office responsible for the operation of the Income Tax Department per the personnel classification report (Yarger Report).

TAX YEAR. A calendar or fiscal year used as the basis on which compensation or net profits are to be computed under the Ordinance, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.

TAXPAYER. A person, whether an individual, co-partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or to pay a tax hereunder."

Is hereby amended to read as follows:

"For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) ASSOCIATION. A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

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(B) ADJUSTED FEDERAL TAXABLE INCOME. A C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(2) Add an amount equal to five per cent of intangible income deducted under division (B)(1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in § 1221 of the Internal Revenue Code.

(3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in § 1221 or § 1231 of the Internal Revenue Code.

(4) (a) Except as provided in division (B)(4)(b) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in § 1221 or § 1231 of the Internal Revenue Code.

(b) Division (B)(4)(a) of this section does not apply to the extent the income or gain is income or gain described in § 1245 or § 1250 of the Internal Revenue Code.

(5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.

(6) In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income.

(7) If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:

(a) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense.

(b) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in division (B) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

(C) BUSINESS. An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, co-partnership, limited partnership, corporation, association or any other entity.

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(D) CORPORATION. A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, foreign country or dependency and any entity electing to be taxed as a corporation for federal income tax purposes under the Internal Revenue Code.

(E) C CORPORATION. A corporation that has not made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(F) COMPENSATION. Includes, but is not limited to salaries, wages, vacation pay, sick pay, commissions, bonuses, tips, severance pay, supplemental unemployment pay, or any other remuneration, that is paid to or constructively received by the recipient, and whether paid in cash or in property. Any portion of gross wages which may be deferred or deducted for federal income tax purposes under the Internal Revenue Code are still included in compensation for purposes of this chapter.

(G) DISREGARDED ENTITY. An entity which is disregarded as an entity separate from its owner for federal income tax purposes under the Internal Revenue Code.

(H) EMPLOYEE. ~~(An individual whose earnings are subject to the withholding of Federal Income Tax or Social Security Tax.)~~ **An individual defined in §3121(d) of the Internal Revenue Code.**

(I) EMPLOYER. An individual, co-partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity who or that employs one or more persons on a salary, wage, commission or other compensation basis.

(J) FISCAL YEAR. An accounting period of twelve (12) months or less ending on any day other than December 31. Only fiscal years accepted for reporting federal income tax under the Internal Revenue Code may be used for the Municipal Income Tax.

(K) FORM 2106. Internal revenue service form 2106 or form 2106-EZ filed by a taxpayer pursuant to the Internal Revenue Code.

(L) INCOME TAX DEPARTMENT. The employees of the City Auditor's Office responsible for the administration and enforcement of this chapter.

(M) INTANGIBLE INCOME. Income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation.

(N) INTERNAL REVENUE CODE. The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(O) LIMITED LIABILITY COMPANY. A limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(P) MUNICIPAL INCOME TAX. The tax levied by § 193.03 of this chapter.

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(Q) NET PROFITS.

(1) For taxable years beginning before January 1, 2004, ~~(T)~~the net gain from the operation of a business, profession or enterprise after provision for all ordinary and necessary expenses incurred in the conduct thereof, either paid or accrued in accordance with the method of accounting regularly employed by the taxpayer for federal income tax purposes, without deduction of Federal taxes based on income, without deducting taxes imposed by this chapter, and otherwise adjusted for the requirements of this chapter. For taxable years beginning on and after January 1, 2003, no deduction will be allowed for other taxes (including, but not limited to, federal, state and municipal taxes) based on income, and compensation paid to the owner of an unincorporated entity.

(2) For taxable years beginning on or after January 1, 2004:

(a) Net profit for a taxpayer other than an individual means adjusted federal taxable income.

(b) Net profit for an individual means the individual's profit, other than amounts described is §193.16 of this chapter, required to be reported on schedule C, schedule E, or schedule F. Net profits will not include qualifying wages earned by an individual. Net profits will include compensation for personal services received by an individual as a non-employee whether reported on schedule C or not.

(c) In the case of an owner's distributive share of net profits from a pass-through entity (other than an S corporation), the adjusted federal taxable income of the pass-through entity will be used to determine net profits.

(R) NON-RESIDENT. An individual, co-partnership, limited partnership, corporation, association or other entity domiciled outside the municipality.

(S) OTHER ENTITY. Any person or unincorporated body not previously named or defined and includes inter alia, fiduciaries located within the municipality from business conducted within the municipality.

(T) PASS-THROUGH ENTITY. A partnership, S corporation, limited liability company, or any class of entity (other than sole proprietorships) the income or profits from which are given pass-through treatment under the Internal Revenue Code.

(U) PERSON. ~~(Every natural person, co-partnership, limited partnership, corporation, fiduciary or association whenever used in any clause prescribing and imposing a penalty. The term PERSON as applied to association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.)~~ **Includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.**

(V) QUALIFYING WAGES.

(1)Wages, as defined in § 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(a) Deduct any amount included in wages if the amount constitutes compensation attributable to a plan or program described in § 125 of the Internal Revenue Code.

(b) Add the following amounts:

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(i) Any amount not included in wages solely because the employee was employed by the employer prior to April 1, 1986.

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, or other disposition of stock purchased under a stock option. Division (V)(1)(b)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in § 401(k) or 457 of the Internal Revenue Code. Division (V)(1)(b)(iii) of this section applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in § 3402(o)(2) of the Internal Revenue Code and not included in wages.

(2) Except for the exemptions from wages provided in Internal Revenue Code §3121(a), no other provisions of the Internal Revenue Code (such as Internal Revenue Code §3121(b)) shall be construed to exclude remuneration paid by an employer to an employee from the definition of "qualifying wages" for the purposes of this chapter.

(W) RESIDENT. An individual, co-partnership, limited partnership, corporation, association or other entity domiciled in the municipality.

(X) S CORPORATION. A corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(Y) SCHEDULE C. Internal Revenue Service Schedule C or Schedule C-EZ filed by an individual taxpayer pursuant to the Internal Revenue Code.

(Z) SCHEDULE E. Internal Revenue Service Schedule E filed by an individual taxpayer pursuant to the Internal Revenue Code.

(AA) SCHEDULE F. Internal Revenue Service Schedule F filed by an individual taxpayer pursuant to the Internal Revenue Code.

(BB) SOLE PROPRIETORSHIP. Any business, including the renting of property, conducted by an individual or by an individual through his/her disregarded entity.

(CC) STATUTORY EMPLOYEE. An individual defined in §3121(d)(3) of the Internal Revenue Code.

(DD) STATUTORY STOCK OPTION. A stock option plan described in §422 or §423 of the Internal Revenue Code.

(EE) TAX COMMISSIONER. The employee of the City Auditor's Office responsible for the operation of the Income Tax Department per the personnel classification report (Yarger Report).

(FF) TAX YEAR. ~~A calendar or fiscal year used as the basis on which compensation or net profits are to be computed under the Ordinance, and in the case of a return for a fractional part of a year, the period for which such return is required to be~~

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made. **TAXABLE YEAR.** The corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(GG) TAXPAYER. ~~A person, whether an individual, co-partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or to pay a tax hereunder.~~ **A person subject to the Municipal Income Tax. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.**

Section 2. That § 193.04 of the Codified Ordinances, now reading as follows:

"The tax levied pursuant to § 193.03 of this chapter and any amendment to such § 193.03 shall be levied upon the following:

- (A) On all compensation earned by resident individuals of the municipality.
- (B) On all compensation earned by non-resident individuals of the municipality, for work done or services performed or rendered in the municipality.
- (C) On the net profits of sole proprietorships owned by residents.
- (D) On the net profits attributable to the municipality of sole proprietorships owned by non-residents derived from work done or services performed or rendered or other activities conducted in the municipality.
- (E) If the tax has not been levied on the pass-through entity pursuant to paragraph (I) of this section, on a resident owner's distributive share of the net profits of a pass-through entity (other than an S-corporation).
- (F) If the tax has not been levied on the pass-through entity pursuant to paragraph (I) of this section, on a non-resident owner's distributive share of the net profits of a pass-through entity (other than an S-corporation) attributable to the municipality derived from work done or services performed or rendered and business or other activities conducted within the municipality.
- (G) On the net profits earned of all C corporations and S corporations derived from work done or services performed or rendered and business or other activities conducted in the municipality.
- (H) On the net profits earned of any entity not enumerated in paragraphs (C), (D), (E) and (F) of this section from work done or services performed or rendered and business or other activities conducted in the municipality.
- (I) For tax years ending on or before December 31, 2002,
 - 1) On the net profits attributable to the municipality, earned by all resident unincorporated businesses, professions and other activities derived from work done or services rendered or performed and business or other activities conducted in the municipality.
 - 2) On the net profits attributable to the municipality earned of all non-resident unincorporated businesses, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the municipality.

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(J) Disregarded entities will be taxed as if the disregarded entity and its owner were one and the same.

(K) The portion of the entire net profits (except distributive shares of income from pass-through entities) of a taxpayer to be allocated as having been made within and attributable to the municipality, may, in the absence of actual records or separate accounting thereof, be determined by multiplying the entire net profit by a business allocation percentage to be determined by:

(1) Ascertaining the percentage which the average value of the taxpayer's real and tangible personal property within the municipality during the period covered by its report bears to the average value of all the taxpayer's real and tangible personal property wherever situated during such period. As used in this subsection, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(2) Ascertaining the percentage which the gross sales of the taxpayer within the municipality plus the gross credits or charges for work done and performed or services rendered in the municipality, bears to the total gross sales wherever made, plus the total gross credits or charges for work done and performed or services rendered. "Within the City" sales shall be deemed to include:

(a) All sales of tangible personal property delivered to purchasers within the municipality if shipped or delivered from an office, store, warehouse, factory, or place of storage, located within the municipality;

(b) All sales of tangible personal property delivered to purchasers within the municipality, even though transported from a point outside the municipality, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the municipality, and the sale is directly or indirectly the result of the taxpayer's activities within the municipality in soliciting or promoting sales.

(c) All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the municipality to purchasers in other cities or villages, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales in such other cities or villages, or even if it is so engaged, if the sales are not directly or indirectly attributable to such activities.

(d) Gross sales shall be considered to mean gross receipts from sales in the case of a "cash basis" taxpayer;

(3) Ascertaining the percentage which the total wages, salaries, and other personal service compensation, similarly computed during such period, of employees within the City bears to the total wages, salaries, and other personal service compensation, similarly computed, during such period of all the taxpayer's employees within and without the City, excluding compensation described in § 193.16(N) of this chapter; and

(4) Adding together the percentages determined in accordance with subsections (1) through (3) above, or such of the aforesaid percentages as shall be applicable to the particular taxpayer's business, and dividing the total so obtained by the number of percentages used in deriving said total. Provided, however, that in the event a just and equitable result cannot be obtained by the use of the factors set forth above, the City Auditor shall have the authority to substitute factors calculated to effect a fair and proper allocation.

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(L) If a taxpayer's income includes income against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer's form 2106, the taxpayer may deduct expenses reported on form 2106 in the following manner:

(1) If the expenses giving rise to the deduction were incurred while a resident, the total expenses reported on from 2106 shall be deducted from taxable income.

(2) If the expenses giving rise to the deduction were incurred while a non-resident, the taxpayer shall deduct only the portion of the expenses on form 2106 directly related to the income subject to the tax imposed by this chapter. In the absence of actual records or a separate accounting, the taxpayer may calculate the deduction by:

(a) ascertaining the percentage which the income earned within the municipality against which the expenses are claimed bears to the total income earned within and without the municipality against which the expenses are claimed, and

(b) multiplying the percentage obtained in subsection (a) by the total deduction reported on form 2106."

Is hereby amended to read as follows:

"The tax levied pursuant to § 193.03 of this chapter and any amendment to such § 193.03 shall be levied upon the following:

(A) (1) For taxable years ending before January 1, 2004, (Θ)on all compensation earned by resident individuals of the municipality.

(2) For taxable years beginning on or after January 1, 2004, on all qualifying wages earned by resident individuals of the municipality.

(B) (1) For taxable years ending before January 1, 2004, (Θ)on all compensation earned by non-resident individuals of the municipality, for work done or services performed or rendered in the municipality.

(2) For taxable years beginning on or after January 1, 2004, on all qualifying wages earned by non-resident individuals of the municipality, attributable to work done or services performed or rendered in the municipality.

(C) On the net profits of sole proprietorships owned by residents.

(D) On the net profits attributable to the municipality of sole proprietorships owned by non-residents derived from work done or services performed or rendered or other activities conducted in the municipality.

(E) If the tax has not been levied on the pass-through entity pursuant to paragraph (I) of this section, on a resident owner's distributive share of the net profits of a pass-through entity (other than an S-corporation).

(F) If the tax has not been levied on the pass-through entity pursuant to paragraph (I) of this section, on a non-resident owner's distributive share of the net profits of a pass-through entity (other than an S-corporation) attributable to the municipality derived from work done or services performed or rendered and business or other activities conducted within the municipality.

(G) On the net profits earned of all C corporations and S corporations derived from work done or services performed or rendered and business or other activities conducted in the municipality.

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(H) On the net profits earned of any entity not enumerated in paragraphs (C), (D), (E), ~~(and)~~ (F) **and (G)** of this section from work done or services performed or rendered and business or other activities conducted in the municipality.

(I) For **taxable** years ending on or before December 31, 2002,

1) On the net profits attributable to the municipality, earned by all resident unincorporated businesses, professions and other activities derived from work done or services rendered or performed and business or other activities conducted in the municipality.

2) On the net profits attributable to the municipality earned of all non-resident unincorporated businesses, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the municipality.

(J) Disregarded entities will be taxed as if the disregarded entity and its owner were one and the same.

(K) **For purposes of subsections (D), (F), (G), (H), and (I)(2) of this section,** the portion of the ~~(entire)~~ net profit(s ~~(except distributive shares of income from pass-through entities)~~) of a taxpayer **or pass-through entity** to be allocated as having been made within and attributable to the municipality (~~may, in the absence of actual records or separate accounting thereof,~~) **shall** be determined by multiplying the ~~(entire)~~ net profit **of the taxpayer or the pass-through entity** by a business allocation percentage to be determined by:

(1) Ascertaining the percentage which the average ~~(value)~~ **original cost** of the taxpayer's real and tangible personal property within the municipality during the period covered by its report bears to the average ~~(value)~~ **original cost** of all the taxpayer's real and tangible personal property wherever situated during such period. As used in this subsection, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(2) Ascertaining the percentage which the gross sales of the taxpayer within the municipality plus the gross credits or charges for work done and performed or services rendered in the municipality, bears to the total gross sales wherever made, plus the total gross credits or charges for work done and performed or services rendered. "Within the City" sales shall be deemed to include:

(a) All sales of tangible personal property delivered to purchasers within the municipality if shipped or delivered from an office, store, warehouse, factory, or place of storage, located within the municipality;

(b) All sales of tangible personal property delivered to purchasers within the municipality, even though transported from a point outside the municipality, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the municipality, and the sale is directly or indirectly the result of the taxpayer's activities within the municipality in soliciting or promoting sales.

(c) All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the municipality to purchasers in other cities or villages, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales in such other cities or villages, or

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even if it is so engaged, if the sales are not directly or indirectly attributable to such activities.

(d) Gross sales shall be considered to mean gross receipts from sales in the case of a "cash basis" taxpayer;

(3) Ascertaining the percentage which the total wages, salaries, and other personal service compensation, similarly computed during such period, of employees within the City bears to the total wages, salaries, and other personal service compensation, similarly computed, during such period of all the taxpayer's employees within and without the City, excluding compensation described in § 193.16(N) of this chapter; and

(4) Adding together the percentages determined in accordance with subsections (1) through (3) above, or such of the aforesaid percentages as shall be applicable to the particular taxpayer's business, and dividing the total so obtained by the number of percentages used in deriving said total. Provided, however, that in the event a just and equitable result cannot be obtained by the use of the factors set forth above, the City Auditor shall have the authority to substitute factors calculated to effect a fair and proper allocation. **If the taxpayer's books and records provide with reasonable accuracy what portion of the taxpayer's business was attributable to activities within the Municipality, the taxpayer may use such books and records to provide a separate accounting to determine income subject to the Municipal Income Tax.**

(L) If a taxpayer's income includes income against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer's form 2106, the taxpayer may deduct expenses reported on form 2106 in the following manner:

(1) If the expenses giving rise to the deduction were incurred while a resident, the total expenses reported on form 2106 shall be deducted from taxable income.

(2) If the expenses giving rise to the deduction were incurred while a non-resident, the taxpayer shall deduct only the portion of the expenses on form 2106 directly related to the income subject to the tax imposed by this chapter. In the absence of actual records or a separate accounting, the taxpayer may calculate the deduction by:

(a) ascertaining the percentage which the income earned within the municipality against which the expenses are claimed bears to the total income earned within and without the municipality against which the expenses are claimed, and

(b) multiplying the percentage obtained in subsection (a) by the total deduction reported on form 2106.

(M) If the taxpayer is a statutory employee whose income includes qualifying wages against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer's schedule C instead of form 2106, the taxpayer may deduct expenses reported on schedule C in the same manner as expenses reported on form 2106 are deducted in division (L) of this section."

Section 3. That § 193.16(L) of the Codified Ordinances, now reading as follows:

"(L) The income of a public utility when that public utility is subject to the tax levied under §5727.24 or §5727.30 of the Ohio Revised Code, except, starting January 1, 2002, the income of an electric company or combined company, as defined in §5727.01 of the Ohio Revised Code will be subject to the tax levied by this chapter subject to Chapter 5745 of the Ohio Revised Code."

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Is hereby amended to read as follows:

"(L) (1) Except as provided in division (L)(2) and (L)(3) of this section, ~~(F)the income of a public utility when that public utility is subject to the tax levied under § 5727.24 or § 5727.30 of the Ohio Revised Code. (~~except, starting January 1, 2002, the income of an electric company or combined company, as defined in §5727.01 of the Ohio Revised Code will be subject to the tax levied by this chapter subject to Chapter 5745 of the Ohio Revised Code.~~)~~

(2) Beginning January 1, 2002, the income of an electric company or combined company, as defined in § 5727.01 of the Ohio Revised Code will be subject to the tax levied by this chapter subject to Chapter 5745 of the Ohio Revised Code.

(3) Beginning January 1, 2004, the income of a telephone company, as defined in § 5727.01 of the Ohio Revised Code will be subject to the tax levied by this chapter subject to Chapter 5745 of the Ohio Revised Code."

Section 4. That § 193.07 of the Codified Ordinances, now reading as follows:

"(A) Each employer within the municipality who employs within the municipality one or more persons on a salary, wage, commission or other compensation basis, excluding exempted incomes set forth in § 193.16 of this chapter, shall deduct at the time of the payment of such salary, wage, commission or other compensation due by the said employer to the said employee and shall make a return and pay to the City Treasurer the amount of taxes so deducted as follows:

- (1) For the three months ending March 31st, on or before April 30th;
- (2) For the three months ending June 30th, on or before July 31st;
- (3) For the three months ending September 30th, on or before October 31st;
- (4) For the three months ending December 31st, on or before January 31st.

(B) Those employers, whose payment of withheld taxes that are determined to exceed \$4,000.00 annually, based on the preceding December 31, year-end report, shall make a return and pay to the City Treasurer the amount of the taxes on a monthly basis. These taxes withheld from their employees shall be payable on or before the last day of the month following the month of collection. Nothing in the above is intended to preclude any employer from placing his/her firm on the monthly reporting system or from payment of withheld taxes in a more rapid sequence than indicated above. It will be the responsibility of the City Auditor and the task of the City Income Tax Department to administer the program and provide each account with the necessary reporting forms not later than 20 days prior to the due dates prescribed above.

(C) Said return shall be on a form prescribed by the City Auditor and furnished by the City Treasurer. Such employer, in collecting said tax, shall be deemed to hold the same as trustee for the benefit of the City of Marion until payment is made by such employer to the City of Marion, and any such tax collected by such employer from his employees shall, until the same is paid to the City of Marion, be deemed a trust fund in the hands of such employer.

(D)(1) Except as provided in paragraph (D)(2) of this section, beginning January 1, 2001, employers not situated in the municipality whose withholding otherwise required by this section for a calendar year beginning on or after that date is \$150.00 or less will not be required to withhold the tax.

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Dayton Legal Blank, Inc.

Form No. 30043

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(2) For any calendar year beginning on or after January 1, 2001, employers not situated within the municipality whose withholding required by this section exceeds \$150.00 for a calendar year will be required to withhold the tax for that calendar year and the next three calendar years."

Is hereby amended to read as follows:

"(A) Each employer within the municipality who employs within the municipality one or more persons on a salary, wage, commission or other compensation basis, excluding exempted incomes set forth in § 193.16 of this chapter, shall deduct **the Municipal Income Tax** at the time of the payment of such salary, wage, commission or other compensation due by the said employer to the said employee and shall make a return and pay to the City Treasurer the amount of taxes so deducted as follows:

- (1) For the three months ending March 31st, on or before April 30th;
- (2) For the three months ending June 30th, on or before July 31st;
- (3) For the three months ending September 30th, on or before October 31st;
- (4) For the three months ending December 31st, on or before January 31st.

(B) Those employers, whose payment of withheld taxes that are determined to exceed \$4,000.00 annually, based on the preceding December 31, year-end report, shall make a return and pay to the City Treasurer the amount of the taxes on a monthly basis. These taxes withheld from their employees shall be payable on or before the last day of the month following the month of collection. Nothing in the above is intended to preclude any employer from placing his/her firm on the monthly reporting system or from payment of withheld taxes in a more rapid sequence than indicated above. It will be the responsibility of the City Auditor and the task of the City Income Tax Department to administer the program and provide each account with the necessary reporting forms not later than 20 days prior to the due dates prescribed above.

(C) Said return shall be on a form prescribed by the City Auditor and furnished by the City Treasurer. Such employer, in collecting said tax, shall be deemed to hold the same as trustee for the benefit of the City of Marion until payment is made by such employer to the City of Marion, and any such tax collected by such employer from his employees shall, until the same is paid to the City of Marion, be deemed a trust fund in the hands of such employer.

(D) (1) Except as provided in paragraph (D)(2) of this section, beginning January 1, 2001, employers not situated in the municipality whose withholding otherwise required by this section for a calendar year beginning on or after that date is \$150.00 or less will not be required to withhold the tax.

(2) For any calendar year beginning on or after January 1, 2001, employers not situated within the municipality whose withholding required by this section exceeds \$150.00 for a calendar year will be required to withhold the tax for that calendar year and the next three calendar years.

(3) Division (D) of this section shall apply only to taxable years beginning on or after January 1, 2001, and ending on or before December 31, 2003.

(E) For taxable years beginning on or after January 1, 2004, an employer is required to deduct the Municipal Income Tax only from qualifying wages.

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(F) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of a statutory stock option, if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option was issued.

(G) (1) An employee is not relieved from liability for the Municipal Income Tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the Municipal Income Tax.

(2) The failure of an employer to remit the Municipal Income Tax withheld relieves the employee from liability for the Municipal Income Tax unless the employee colluded with the employer in connection with the failure to the remit the tax withheld."

Section 5. That § 193.09 of the Codified Ordinances, now reading as follows:

"Every individual taxpayer who resides in the municipality but who receives net profits, salaries, wages, commissions or other personal service compensation, for work done, or services performed or rendered outside of the municipality, if it be made to appear that he/she has paid a municipal income tax on such net profits, salary, wages, commission or other compensation to another municipality, shall be allowed a credit on the Municipal Income Tax of the amount so paid by him/her or in his/her behalf to such other municipality. The credit shall not exceed the tax assessed by the Municipal Income Tax on such net profit, salary, wages, commission or compensation earned in such other municipality where such tax is paid. Credit will not be allowed to the extent the individual is entitled to a refund of the municipal income tax paid to such other municipality."

Is hereby amended to read as follows:

"(A) Every individual taxpayer who resides in the municipality but who receives net profits, salaries, wages, commissions or other personal service compensation, for work done, or services performed or rendered outside of the municipality, if it be made to appear that he/she has paid a municipal income tax on such net profits, salary, wages, commission or other compensation to another municipality, shall be allowed a credit on the Municipal Income Tax of the amount so paid by him/her or in his/her behalf to such other municipality. The credit shall not exceed the tax assessed by the Municipal Income Tax on such net profit, salary, wages, commission or compensation earned in such other municipality where such tax is paid. Credit will not be allowed to the extent the individual is entitled to a refund of the municipal income tax paid to such other municipality.

(B) (1) As used in division (B) of this section:

(a) "Nonqualified deferred compensation plan means a compensation plan described in § 3121(v)(2)(C) of the Internal Revenue Code.

(b) (i) Except as provided in division (B)(1)(b)(ii) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

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(ii) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (B)(1)(b)(i) of this section computed without regard to division (B)(1)(b)(ii) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(iii) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(c) "Qualifying tax rate" means the applicable tax rate for the taxable year for which the taxpayer paid income tax to the municipality with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the Municipal Income Tax paid each year with respect to the nonqualified deferred compensation plan.

(2) (a) Except as provided in division (B)(3) of this section, if a taxpayer has paid Municipal Income Tax in one or more taxable years on compensation deferred pursuant to a nonqualified deferred compensation plan and the taxpayer sustains a qualifying loss with respect to such nonqualified plan, the taxpayer shall be allowed a refundable credit for each qualifying loss.

(b) If a taxpayer has paid income tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the credit shall be calculated on the basis the proportion the total Municipal Income tax paid bears to the income tax paid to all municipal corporations with respect to the nonqualified deferred compensation plan.

(c) In no case shall the credit exceed the cumulative Municipal Income Tax paid for all taxable years by the taxpayer with respect to the nonqualified deferred compensation plan.

(3) The credit allowed under division (B) of this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(i) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(ii) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

(C) A taxpayer shall be allowed a credit against the Municipal Income Tax for income tax paid to a joint economic development zone created under §715.691 or a joint economic development district created under §715.70, §715.71 or §715.72 of the Ohio Revised Code. The credit shall not exceed the tax assessed by the Municipal Income Tax on such net profit, salary, wages, commission or compensation earned in such joint economic development zone or joint economic

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development district where such tax is paid. Credit will not be allowed to the extent the individual is entitled to a refund of the income tax paid to such joint economic development zone or joint economic development district.

(D) If income tax or withholding tax is erroneously paid to another municipality and refund of the erroneous payment by the other municipality is barred by the passage of time, the taxpayer or withholding agent will be given credit for the erroneous payment. The credit shall not exceed the tax assessed by the Municipal Income Tax on the income or wages on which the erroneous payment was made."

Section 6. That § 193.19 of the Codified Ordinances, now reading as follows:

"(A) The Board of Review, consisting of three electors of the City, one appointed by the Mayor, one appointed by the City Treasurer and one appointed by the City Director of Law, is created. No member shall be appointed to the Board who is employed by the City or holds other public offices or appointments. The members of the Board shall serve without compensation.

(B) A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules, and shall keep a record of its transactions. Such records are not public records available for public inspection under §149.43 of the Ohio Revised Code.

(C) All hearings of the Board shall be conducted privately and the provisions of Section 193.11(D) with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal. Hearings requested by a taxpayer before the Board pursuant to this section are not meetings of a public body subject to §121.22 of the Ohio Revised Code.

(D) Any person (petitioner) dissatisfied with any ruling or decision of the Tax Commissioner which is made under the authority conferred by this chapter may appeal therefrom to the Board within thirty days from the announcement of such ruling or decision of the Tax Commissioner. The appeal shall be made in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty days after the Tax Commissioner issues the decision leading to the appeal.

(E) Unless the petitioner waives a hearing, the Board shall schedule a hearing within forty-five days after receiving the request. The petitioner may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative.

(F) The Board may affirm, reverse or modify the Tax Commissioner's decision or any part of that decision, shall issue a decision on the appeal within ninety days after the Board's final hearing on the appeal, and the Board shall notify the petitioner of its decision by ordinary mail within fifteen days after issuing the decision.

(G) Any ruling or decision of the Board may be appealed to a court of competent jurisdiction.

(H) The initial terms of the members of the Board will be as follows:

Appointed by the Mayor expires December 31, 2001

Appointed by the Director of Law expires December 31, 2002

Appointed by the Treasurer expires December 31, 2003

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Following the initial terms of office, members will serve a four year term of office. If a member is unable to complete a full term of office, the elected office which appointed the member shall name another elector to fill the unexpired term."

Is hereby amended to read as follows:

"(A) The Board of Review, consisting of three electors of the City, one appointed by the Mayor, one appointed by the City Treasurer and one appointed by the City Director of Law, is created. No member shall be appointed to the Board of Review who is employed by the City or holds other public offices or appointments. The members of the Board of Review shall serve without compensation.

(B) A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules, and shall keep a record of its transactions. Such records are not public records available for public inspection under §149.43 of the Ohio Revised Code.

(C) All hearings of the Board of Review shall be conducted privately and the provisions of Section 193.11(D) with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board of Review on appeal. Hearings requested by a taxpayer before the Board of Review pursuant to this section are not meetings of a public body subject to §121.22 of the Ohio Revised Code.

(D) Any person (petitioner) dissatisfied with any ruling or decision of the Tax Commissioner which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision of the Tax Commissioner. The appeal shall be made in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty days after the Tax Commissioner issues the decision leading to the appeal.

(E) Unless the petitioner waives a hearing, the Board of Review shall schedule a hearing within forty-five days after receiving the request. The petitioner may appear before the Board of Review and may be represented by an attorney at law, certified public accountant, or other representative.

(F) The Board of Review may affirm, reverse or modify the Tax Commissioner's decision or any part of that decision, shall issue a decision on the appeal within ninety days after the Board of Review's final hearing on the appeal, and the Board of Review shall notify the petitioner of its decision by ordinary mail within fifteen days after issuing the decision.

(G) Any ruling or decision of the Board of Review may be appealed, as provided in § 5717.011 of the Ohio Revised Code, by the taxpayer or the Tax Commissioner to the board of tax appeals or a court of (competent jurisdiction) common pleas as otherwise provided law.

(H) The initial terms of the members of the Board of Review will be as follows:

- Appointed by the Mayor expires December 31, 2001
Appointed by the Director of Law expires December 31, 2002
Appointed by the Treasurer expires December 31, 2003

Following the initial terms of office, members will serve a four year term of office. If a member is unable to complete a full term of office, the elected office which appointed the member shall name another elector to fill the unexpired term."

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Section 7. That § 193.06 of the Codified Ordinances, now reading as follows:

"(A) Each taxpayer whose earnings or profits/losses are subject to the Municipal Income Tax shall, on the 15th day of the fourth month following the end of a tax year, make and file a final return with the Income Tax Department on a form obtainable from the Income Tax Department, setting forth the aggregate amount of salary, wages, or other compensation and net profits/losses earned by him/her during the preceding year or period and subject to said tax, together with other pertinent information as the Income Tax Department may require. The return shall also show the amount of the tax imposed on such earnings and profits/losses. Taxpayers may file substitute tax returns provided the substitute return includes all the information and supporting documents required by the Income Tax Department.

(B) The taxpayer making the said return shall, by the 15th day of the fourth month following the end of a tax year, pay to the Income Tax Department the amount of taxes shown as due thereon. Any portion of said tax that has been paid by such taxpayer pursuant to the provisions of §§ 193.07 and 193.08 of this chapter shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable on the 15th day of the fourth month following the end of a tax year.

(C) (1) Deduction for business and rental losses may be claimed only to the extent of the profit on each tax return. Deduction for business and rental losses on each tax return may be consolidated in the case of one or more businesses and/or one or more rental properties to arrive at a combined profit or loss.

(2) Loss deduction shall not be transferred from one tax year to another.

(3) Business and rental losses will not be deducted against compensation taxed under §193.04(A) and §193.04(B) of this chapter.

(D) The return of an employer or employers showing the amount of tax deducted by said employer or employers from the salaries, wages or compensation of any employee, and paid by him/her or them to the City Treasurer, shall be accepted as the return required of any employee whose sole income subject to the Municipal Income Tax is such salary, wages or compensation.

(E) Upon written request of the taxpayer, the Income Tax Department may extend the time for filing the annual return for a period of not more than six months or not more than thirty days beyond any extension requested of and granted by the Bureau of Internal Revenue for the filing of the Federal Income Tax Return. A taxpayer may request an extension by filing a copy of the federal filing extension with the Income Tax Department. Extension requests shall include a remittance to the Income Tax Department of any remaining tax which the taxpayer estimates is due. The due date for payment of the tax shall not be extended.

(F) Any affiliated group of corporations filing a consolidated return for federal income tax purposes pursuant to §1501 of the Internal Revenue Code may file a consolidated return for the same tax reporting period with the municipality.

(G) (1) For tax years ending after December 31, 2002, each pass-through entity (except S corporations) conducting business within the municipality shall, on the 15th day of the fourth month following the end of a tax year, make and file an information return with the Income Tax Department on a form obtainable from the Income Tax Department, setting forth the net profits/losses earned by the entity during the preceding year or period and subject to said tax, together with other pertinent information as the Income Tax Department may require. The return shall also include a copy of the federal Schedule K-1's showing each owner's distributive share of the entity's

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income. Taxpayers may file substitute information returns provided the substitute return includes all the information and supporting documents required by the Income Tax Department. The entity may request an extension of time to file the return pursuant to paragraph (E) of this section. The entity will be subject to the late filing penalty in §193.12(C).

(2) (i) For tax years ending after December 31, 2002, a pass-through entity (except an S corporation) may elect to pay on behalf the of owners of the entity the tax due on the net profits of the entity earned within the municipality. The election may be made by the entity submitting the payment with the information return or by the entity submitting estimated tax payments under §193.08.

(ii) The electing entity will be subject to the interest and penalty provisions of §193.12.

(iii) The electing entity will be subject to the estimated tax payment requirements for non-individuals of §193.08. §193.08(F) will only apply to the entity and its owners in the first tax year the entity conducts business within the municipality. If the tax was paid by the owners in the prior year and the entity elects to pay the current year tax directly, the prior year tax liability for the entity will be determined by calculating the tax due from the entity's prior year's information return. If the entity elected to pay the tax in the prior year and owners pay the current year tax, the prior year tax liability for the owners will be determined by calculating the tax due on their distributive share of the entity's prior year income.

(iv) Each owner will be liable for his/her/its distributive share of any unpaid tax, penalty and interest of the entity.

(v) If the owner has other business activities subject to the municipal income tax, the owner's distributive share of income from and tax paid by the electing entity shall be included on the owner's return."

Is hereby amended to read as follows:

"(A) Each taxpayer whose earnings or profits/losses are subject to the Municipal Income Tax shall, on the 15th day of the fourth month following the end of a taxable year, make and file a final return with the Income Tax Department on a form obtainable from the Income Tax Department, setting forth the aggregate amount of salary, wages, or other compensation and net profits/losses earned by him/her during the preceding year or period and subject to said tax, together with other pertinent information as the Income Tax Department may require. The return shall also show the amount of the tax imposed on such earnings and profits/losses. Taxpayers may file substitute tax returns provided the substitute return includes all the information and supporting documents required by the Income Tax Department.

(B) The taxpayer making the said return shall, by the 15th day of the fourth month following the end of a taxable year, pay to the Income Tax Department the amount of taxes shown as due thereon. Any portion of said tax that has been paid by such taxpayer pursuant to the provisions of §§ 193.07 and 193.08 of this chapter shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable on the 15th day of the fourth month following the end of a taxable year.

(C) (1) Deduction for business and rental losses may be claimed only to the extent of the profit on each tax return. Deduction for business and rental losses on each tax return may be consolidated in the case of one or more businesses and/or one or more rental properties to arrive at a combined profit or loss.

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(2) Loss deduction shall not be transferred from one taxable year to another.

(3) Business and rental losses will not be deducted against compensation or qualifying wages taxed under §193.04(A) and §193.04(B) of this chapter.

(D) The return of an employer or employers showing the amount of tax deducted by said employer or employers from the salaries, wages or compensation of any employee, and paid by him/her or them to the City Treasurer, shall be accepted as the return required of any employee whose sole income subject to the Municipal Income Tax is such salary, wages or compensation.

(E) (1) For taxable years beginning before January 1, 2004, ~~(U)~~ upon written request of the taxpayer, the Income Tax Department may extend the time for filing the annual return for a period of not more than six months or not more than thirty days beyond any extension requested of and granted by the Bureau of Internal Revenue for the filing of the Federal Income Tax Return. A taxpayer may request an extension by filing a copy of the federal filing extension with the Income Tax Department. Extension requests shall include a remittance to the Income Tax Department of any remaining tax which the taxpayer estimates is due. The due date for payment of the tax shall not be extended.

(2) For taxable years beginning on or after January 1, 2004, upon written request of the taxpayer, the Income Tax Department may extend the time for filing the annual return. A taxpayer may request an extension by filing a copy of the federal filing extension with the Income Tax Department. Extension requests shall include a remittance to the Income Tax Department of any remaining tax which the taxpayer estimates is due. The due date for payment of the tax shall not be extended. The extended due date shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

(F) Any affiliated group of corporations filing a consolidated return for federal income tax purposes pursuant to §1501 of the Internal Revenue Code may file a consolidated return for the same tax reporting period with the municipality.

(G) (1) For taxable years ending after December 31, 2002, each pass-through entity (except S corporations) conducting business within the municipality shall, on the 15th day of the fourth month following the end of a taxable year, make and file an information return with the Income Tax Department on a form obtainable from the Income Tax Department, setting forth the net profits/losses earned by the entity during the preceding year or period and subject to said tax, together with other pertinent information as the Income Tax Department may require. The return shall also include a copy of the federal Schedule K-1's showing each owner's distributive share of the entity's income. Taxpayers may file substitute information returns provided the substitute return includes all the information and supporting documents required by the Income Tax Department. The entity may request an extension of time to file the return pursuant to paragraph (E) of this section. The entity will be subject to the late filing penalty in §193.12(C).

(2) (i) For taxable years ending after December 31, 2002, a pass-through entity (except an S corporation) may elect to pay on behalf the of owners of the entity the tax due on the net profits of the entity earned within the municipality. The election may be made by the entity submitting the payment with the information return or by the entity submitting estimated tax payments under §193.08.

(ii) The electing entity will be subject to the interest and penalty provisions of §193.12.

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(iii) The electing entity will be subject to the estimated tax payment requirements for non-individuals of §193.08. §193.08(F) will only apply to the entity and its owners in the first taxable year the entity conducts business within the municipality. If the tax was paid by the owners in the prior year and the entity elects to pay the current year tax directly, the prior year tax liability for the entity will be determined by calculating the tax due from the entity's prior year's information return. If the entity elected to pay the tax in the prior year and owners pay the current year tax, the prior year tax liability for the owners will be determined by calculating the tax due on their distributive share of the entity's prior year income.

(iv) Each owner will be liable for his/her/its distributive share of any unpaid tax, penalty and interest of the entity.

(v) If the owner has other business activities subject to the municipal income tax, the owner's distributive share of income from and tax paid by the electing entity shall be included on the owner's return.

(H) Any group of S corporations filing as a single S corporation for federal income tax purposes pursuant to §1361(b)(3) of the Internal Revenue Code shall file as a single S corporation for the same reporting period with the municipality."

Section 8. That § 193.12(E) of the Codified Ordinances, now reading as follows:

"(E) Taxpayers, including withholding agents, paying tax after the prescribed due date will be subject to a late payment penalty of \$5.00. Only one late payment penalty will be assessed per tax year or withholding period. The late payment penalty will not be assessed on tax years or withholding periods on which a late filing penalty has been assessed."

Is hereby amended to read as follows:

"(E) Taxpayers, including withholding agents, paying tax after the prescribed due date will be subject to a late payment penalty of \$5.00. Only one late payment penalty will be assessed per taxable year or withholding period. The late payment penalty will not be assessed on taxable years or withholding periods on which a late filing penalty has been assessed."

Section 9. That § 193.13(C) of the Codified Ordinances, now reading as follows:

"(C) A claim for a refund of the Municipal Income Tax must be filed:

(1) Within three (3) years of the overpayment.

(a) Employees who have taxes withheld under §193.07 of this chapter will be deemed to have paid the tax withheld on the due date, including any valid extension of time, for filing a return for that tax year under §193.06 of this chapter.

(b) Estimated tax payments under §193.08 of this chapter will be deemed paid on the due date, including any valid extension of time, for filing a return for that tax year under §193.06 of this chapter provided the payment is received on or before said due date.

(c) Employers who have withheld taxes under §193.07 of this chapter will be deemed to have paid the tax withheld on the due date for filing an annual reconciliation as provided by Resolution 1971-58, Article XIII(§ 193.01) provided the payment is received on or before said due date.

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(2) With regard to overpayments resulting from a recomputation or redetermination, by the Internal Revenue Service or due to litigation initiated by the taxpayer, of the taxpayer's federal taxable income that reduces the taxpayer's tax liability under this Ordinance, the refund claim must be filed within one hundred twenty (120) days of the final determination of the federal taxable income. A refund claim filed under division (C)(2) of this section shall claim a refund based only those items of the taxpayer's annual return that are affected directly or indirectly by the changes to the taxpayer's federal taxable income. It shall not reopen issues not directly or indirectly affected by the taxpayer's federal taxable income."

Is hereby amended to read as follows:

"(C) A claim for a refund of the Municipal Income Tax must be filed:

(1) Within three (3) years of the overpayment.

(a) Employees who have taxes withheld under §193.07 of this chapter will be deemed to have paid the tax withheld on the due date, including any valid extension of time, for filing a return for that taxable year under §193.06 of this chapter.

(b) Estimated tax payments under §193.08 of this chapter will be deemed paid on the due date, including any valid extension of time, for filing a return for that taxable year under §193.06 of this chapter provided the payment is received on or before said due date.

(c) Employers who have withheld taxes under §193.07 of this chapter will be deemed to have paid the tax withheld on the due date for filing an annual reconciliation as provided by Resolution 1971-58, Article XIII (§ 193.01) provided the payment is received on or before said due date.

(2) With regard to overpayments resulting from a recomputation or redetermination, by the Internal Revenue Service or due to litigation initiated by the taxpayer, of the taxpayer's federal taxable income that reduces the taxpayer's tax liability under this Ordinance, the refund claim must be filed within one hundred twenty (120) days of the final determination of the federal taxable income. A refund claim filed under division (C)(2) of this section shall claim a refund based only those items of the taxpayer's annual return that are affected directly or indirectly by the changes to the taxpayer's federal taxable income. It shall not reopen issues not directly or indirectly affected by the taxpayer's federal taxable income."

Section 10. That § 193.08 of the Codified Ordinances, now reading as follows:

"(A) As used in this section:

(1) "Tax liability" means the taxpayer's liability for the tax imposed by this chapter for a year prior to applying any credits or estimated tax payments under this section, or taxes withheld under §193.07 and/or credit for taxes paid to another municipality under §193.09.

(2) "Required amount" means the lesser of:

(a) ninety percent (90%) of the current year's tax liability, or

(b) one hundred percent (100%) of the prior year's tax liability as shown on the return filed under §193.06 by the taxpayer for the preceding year. If such return does not reflect a twelve-month period, the prior year's tax liability shall be

RECORD OF ORDINANCES

0023

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-110, Page 23Passed NOV 24 2003, 20

annualized by dividing the prior year's tax liability by the fraction of the year reflected by such return.

(B) For tax years beginning on or after January 1, 2003, individuals whose estimated tax liability less taxes withheld under §193.07 and/or credit for taxes paid to another municipality under §193.09 is two hundred dollars (\$200.00) or more must remit estimated tax payments for the current tax year as follows:

- 1) twenty-five percent (25%) of the required amount by April 15 of the current year.
- 2) fifty percent (50%) of the required amount by July 31 of the current year.
- 3) seventy-five percent (75%) of the required amount by October 31 of the current year.
- 4) one hundred percent (100%) of the required amount by January 31 of the following year.

(C) Any tax withheld under §193.07 for the year and any credit for taxes paid to other municipalities under §193.09 shall be considered as estimated taxes paid in equal amounts on each of the payment dates prescribed in §193.08(B).

(D) Beginning January 31, 2003, taxpayers who are not individuals whose estimated tax liability is two hundred dollars (\$200.00) or more must remit estimated tax payments for the current tax year as follows:

- 1) twenty-five percent (25%) of the required amount by the fifteenth day of the fourth month of the taxpayer's current taxable year.
- 2) fifty percent (50%) of the required amount by fifteenth day of the sixth month of the taxpayer's current taxable year.
- 3) seventy-five percent (75%) of the required amount by fifteenth day of the ninth month of the taxpayer's current taxable year.
- 4) one hundred percent (100%) of the required amount by fifteenth day of the twelfth month of the taxpayer's current taxable year.

(E) Estimated payments not made by the due date shall be charged interest at the rate prescribed in §193.12. Interest will be calculated from the due date of the payment to the earlier of:

- 1) the date the estimated payment is made, or
- 2) the due date, excluding extensions, for filing the return under §193.07.

(F) No estimated payments will be required the first year that a taxpayer is required to file a return under §193.06."

Is hereby amended to read as follows:

"(A) As used in this section:

(1) "Tax liability" means the taxpayer's liability for the tax imposed by this chapter for a **taxable** year prior to applying any credits or estimated tax payments under

RECORD OF ORDINANCES

Ordinance No. 2003-110, Page 24

Passed NOV 24 2003, 20

this section, or taxes withheld under § 193.07 and/or credit for taxes paid to another municipality under § 193.09.

(2) "Required amount" means the lesser of:

(a) ninety percent (90%) of the current **taxable** year's tax liability,
or

(b) one hundred percent (100%) of the prior **taxable** year's tax liability as shown on the return filed under § 193.06 by the taxpayer for the preceding year. If such return does not reflect a twelve-month period, the prior **taxable** year's tax liability shall be annualized by dividing the prior **taxable** year's tax liability by the fraction of ~~(the)~~ a year reflected by such return.

(B) For **taxable** years beginning on or after January 1, 2003, individuals whose estimated tax liability less taxes withheld under § 193.07 and/or credit for taxes paid to another municipality under § 193.09 is two hundred dollars (\$200.00) or more must remit estimated tax payments for the current **taxable** year as follows:

1) twenty-five percent (25%) of the required amount by April 15 of the current **taxable** year.

2) fifty percent (50%) of the required amount by July 31 of the current **taxable** year.

3) seventy-five percent (75%) of the required amount by October 31 of the current **taxable** year.

4) one hundred percent (100%) of the required amount by January 31 of the ~~(following)~~ year **following the current taxable year**.

(C) Any tax withheld under § 193.07 for the **taxable** year and any credit for taxes paid to other municipalities under § 193.09 shall be considered as estimated taxes paid in equal amounts on each of the payment dates prescribed in §193.08(B).

(D) Beginning January 31, 2003, taxpayers who are not individuals whose estimated tax liability is two hundred dollars (\$200.00) or more must remit estimated tax payments for the current **taxable** year as follows:

1) twenty-five percent (25%) of the required amount by the fifteenth day of the fourth month of the taxpayer's current taxable year.

2) fifty percent (50%) of the required amount by fifteenth day of the sixth month of the taxpayer's current taxable year.

3) seventy-five percent (75%) of the required amount by fifteenth day of the ninth month of the taxpayer's current taxable year.

4) one hundred percent (100%) of the required amount by fifteenth day of the twelfth month of the taxpayer's current taxable year.

(E) Estimated payments not made by the due date shall be charged interest at the rate prescribed in § 193.12. Interest will be calculated from the due date of the payment to the earlier of:

1) the date the estimated payment is made, or

RECORD OF ORDINANCES

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Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-110, Page 25

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2) the due date, excluding extensions, for filing the return under § 193.07.

(F) No estimated payments will be required the first **taxable** year that a taxpayer is required to file a return under § 193.06."

Section 11. That Chapter 193 of the Codified Ordinances be amended by adding § 193.20 reading as follows:

"Pursuant to Ohio Revised Code § 718.051:

(A) For tax years beginning on or after January 1, 2005, a taxpayer may use the Ohio Business Gateway to:

(1) File an income tax return and make payment of any income tax due under § 193.06.

(2) File for an extension of time to file an income return required by § 193.06.

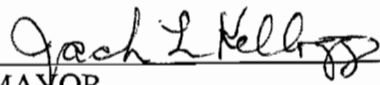
(3) File and make payment of estimated tax due under § 193.08.

(B) For tax years beginning on or after January 1, 2007, an employer may use the Ohio Business Gateway to file a withholding return and make payment of any withholding tax due under § 193.07."

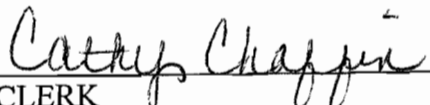
Section 12. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: **NOV 24 2003**


MAYOR

ATTEST:


CLERK

RECORD OF ORDINANCES

6027

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-111

Passed NOV 24 2003, 20

ORDINANCE REESTABLISHING THE SALARY AND BENEFITS FOR THE CITY AUDITOR, TO BE EFFECTIVE THE FIRST DAY OF THE NEXT TERM, AMENDING THE RELEVANT SECTIONS OF PREVIOUS ORDINANCES AND DECLARING AN EMERGENCY

WHEREAS, the Mayor has requested a modification of the City Auditor's salary, and

WHEREAS, the Council finds the following adjustment to be in order,

BE IT ORDAINED, by the Council of the City of Marion, Marion County

SECTION 1. Section 3. of Ordinance 1999-140 now reading as:

Section 1. That commencing on the first day of January, 2000, the annual salary for the office City Auditor shall be \$ 49,500, payable semi-monthly.

Shall be amended to:

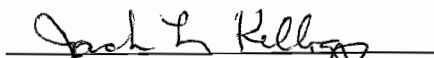
Section 1. That commencing on the first day of 2004 the annual salary for the office of City Auditor shall be \$ 60,000, payable semi-monthly.

SECTION 2. All provisions contained in previously adopted Ordinances not modified by the above shall remain in effect as if fully restated herein.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof given the prohibition against in-term pay increases ; and as such shall take effect and be in force immediately upon its' passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.


President of Council

APPROVED: **NOV 24 2003**


Mayor

ATTEST:


Clerk of Council

Ordinance No. 2003-112

Passed DEC 0 8 2003, 2003

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO PREPARE PLANS AND SPECIFICATIONS AND ADVERTISE FOR BIDS FOR THE 2003 TREE REMOVAL PROGRAM, PROJECT 03-1M, IN THE CITY OF MARION, OHIO AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be directed to prepare plans and specifications and advertise for bids, for the 2003 Tree Removal Program.

Section 2. That said contract shall be payable from the Tree Care Fund (101.7743.530316).

Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and the inhabitants thereof, and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise, it shall become effective from and after the earliest period allowed by law.

Keith A. Krebber
President of Council

Approved: **DEC 0 9 2003**

Jack R. Hill
Mayor

Attest:

Cathy Chappin
Clerk of Council

RECORD OF ORDINANCES

0031

Ordinance No. 2003-113

Passed DEC 0 8 2002, 20

ORDINANCE AUTHORIZING THE MAYOR TO COMPLETE THE TRANSFER OF CERTAIN REAL PROPERTY AT THE AIRPORT INDUSTRIAL PARK PURSUANT TO A LEASE/PURCHASE ENACTED AS A RESULT OF ORDINANCE 1998-69 AND DECLARING AN EMERGENCY

WHEREAS, the Council previously approved the lease/purchase agreement with Douglas F. Stevens proprietor of Stevens Construction Co. Inc. for Lot 17806 located within the Marion Airport Industrial Park Subdivision, and

WHEREAS, all the terms and conditions of the five year lease/purchase have been met and the City is obligated to complete the transaction,

BE IT ORDAINED, by the Council of the City of Marion, Marion County, Ohio:

SECTION 1. The Mayor is hereby authorized and directed to complete all acts necessary to fulfill the City's obligations related to the October 1, 1998 lease/purchase agreement with Douglas F. Stevens, proprietor of Stevens Construction Co. Inc., for lot 17806 located within the Marion Airport Industrial Park Subdivision. The same having been approved by the previous act of Council in Ordinance 1998-69. The authority herein includes the finding that said lands are no longer necessary for any municipal purpose, the deed shall contain each and every restriction of record as provided for in the aforementioned lease/purchase document and further finding that all acts taken pursuant to this authority have taken place in a public forum with proper notice provided.

SECTION 2. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof given the need to proceed without delay due to the obligations contained in the previously approved contract document; and as such shall take effect and be in force immediately upon its' passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.

Keith A. Koehn
President of Council

APPROVED: DEC 0 9 2003

Jack L. Kellogg
Mayor

ATTEST:

Cathy Chappin
Clerk of Council

RECORD OF ORDINANCES

0035

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-114

Passed DEC 08 2003, 20

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$495,672.86 as follows:

SCMR FUND

WAGES	207.6612.510110	\$ 16,000.00
BENEFITS	207.6612.510120	<u>8,000.00</u>
TOTAL SCMR FUND		\$ 24,000.00

VIOLENCE AGAINST WOMEN FUND

WAGES	212.1542.510110	\$ 200.00
BENEFITS	212.1542.510120	<u>1,700.00</u>
TOTAL VIOLENCE AGAINST WOMEN		\$ 1,900.00

SCHOOL RESOURCE OFFICER FUND

WAGES	218.1542.510111	\$ 5,500.00
BENEFITS	218.1542.510120	<u>3,700.00</u>
TOTAL SCHOOL RESOURCE OFFICER		\$ 9,200.00

PARKS FUND

WAGES	221.3421.510110	\$ 1,000.00
BENEFITS	221.3421.510120	<u>10,300.00</u>
TOTAL PARKS		\$ 11,300.00

TRANSIT FUND

WAGES	502.6543.510110	\$ 44,000.00
BENEFITS	502.6543.510120	<u>15,000.00</u>
TOTAL TRANSIT		\$ 59,000.00

POLICE & FIRE PENSION FUND

POLICE BENEFITS	235.1111.510120	\$ 2,900.00
FIRE BENEFITS	235.1131.510120	<u>2,900.00</u>
TOTAL POLICE & FIRE PENSION		\$ 5,800.00

HELP ME GROW FUND

REIMBURSEMENTS	256.2543.570721	\$ (1,791.97)
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SEWER REPLACEMENT FUND

McKINLEY PROJECT	504.5012.550520	\$ (15,598.53)
UNCAPHER PROJECT	504.5013.550520	(54,136.64)
PROFESSIONAL SERVICE	504.5553.530320	(50,000.00)
CAPITAL IMPROVEMENT	504.5553.550520	<u>186,000.00</u>
TOTAL SEWER REPLACEMENT		\$ 66,264.83

SEWER REVENUE FUND

TRANSFER TO REPLACEMENT	505.5552.580715	\$ 330,000.00
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SWIMMING POOL FUND

WAGES	516.3423.510110	\$ (10,000.00)
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Section 2. That this ordinance shall become effective from and after the earliest period allowed by law.

APPROVED: DEC 09 2003

Kevin A. Koehner
PRESIDENT OF COUNCIL

Jack L. Kelly
MAYOR

ATTEST:

Cathy Chappin
CLERK

Ordinance No. 2003-115 Passed DEC 08 2003, 20

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO EXECUTE ALL DOCUMENTS NECESSARY IN ORDER TO COMPLETE THE ELECTRICAL COMPONENT OF THE WATER POLLUTION CONTROL PLANT UPGRADE AND IMPROVEMENT HAVING FOUND A REAL AND PRESENT EMERGENCY EXISTS WITHIN THE DIVISION OF PUBLIC SAFETY PURSUANT TO O.R.C. 735.051 AND DECLARING SAME AN EMERGENCY

WHEREAS, by previous act of Council, Ordinance 2000-151, the Administration was authorized to enter into contract with various prime contractors for the completion of the Water Pollution Control Plant Upgrade and Improvement 2000, a project with an estimated cost in excess of 22 million dollars, and

WHEREAS, after evaluation of all bids received, the City's contracted project engineer/consultant/ co-coordinator recommended the City select Superior Electric Co. of Dublin, Ohio as the lowest and best contractor on the electrical portion of the project, and

WHEREAS, Superior Electric Co. was selected and subsequently thereto a contract was entered on the 27th day of October, 2000, however to date Superior has not performed all acts required under the terms and conditions of said contract the they continue to be in default, even after numerous opportunities provide them by the Administration to fulfill their obligations, and

WHEREAS, as a direct result of the failures to perform by Superior Electric the project cannot be completed, the City's engineer BBS and the Administration after due consideration and evaluation find no other course other than the declaration of default by Superior and find it necessary to enter into contract with a firm with the capabilities to complete the itemized tasks remaining,

WHEREAS the Council finds it to be in the best interests of the Citizens of Marion, Ohio by recognizing an immediate need to move forward without delay in order to ensure the people of Marion are not negatively impacted. The Council also having found, any delay will cause additional significant financial hardship upon the City, along with other various detrimental effects.

BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. The Council having found a real and present emergency to exist within the Department of Public Service, specifically within the Division of Water Pollution Control in regard to the Water Pollution Control Plant Upgrade and Improvement 2000, by the default in the contractual obligations of Superior Electric Co. As a direct result of Superior's failures to perform the Council after due deliberation finds there exists a real and present emergency. As a direct result thereof, the Council authorizes and directs the Safety/Service Director complete all acts necessary to complete the electrical component of the aforementioned public improvement project, including but not limited to entering into contract with an able party possessing the capabilities to complete the project, contracting the services of a project "auditor" to document the deficiencies on the part of Superior in order to pursue all remedies available to the City in order to mitigate any and all damages incurred.

Section 2. That due to the real likelihood that failure to find a real and present emergency exists will cause financial hardship upon the citizens of Marion, Ohio and without this action the improvement project cannot be completed in a timely manner and if same is not completed, the City could incur significant additional financial and physical hardships. Therefore, this Ordinance is hereby declared to be a real and present emergency, as set forth in O.R.C. 735.051 being an emergency measure necessary for the welfare of the City of Marion and the inhabitants thereof, and as shall take effect and be enforce immediately upon it's passage by two thirds vote of all members elected and by approval of the Mayor, otherwise it shall become effective from and after the earliest period allowed by law.

APPROVED: DEC 15 2003

Kathy G. Krehman
President of Council

Jack L. Kell
Mayor

ATTEST:

Cathy Chappin
Clerk of Council

Ordinance No. 2003-116

Passed DEC 22 2003, 20

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH OBERLANDERS TREE & LANDSCAPE FOR THE TREE REMOVAL PROGRAM, PROJECT 03-1M FOR THE CITY OF MARION, OHIO AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance no. 2003-112 authorized the preparation of plans, specifications and advertising for bids for the 2003 Tree Removal Program Project 03-1M for the City of Marion, Ohio, and

WHEREAS, Oberlanders Tree & Landscape submitted the lowest and best bid.

BE IT ORDAINED BY the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be directed to enter into contract with Oberlanders Tree & Landscape, for the 2003 Tree Removal Program, Project 03-1M.

Section 2. That said contract shall be payable from the Tree Care Fund (101.7743.530316).

Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion, and the inhabitants thereof, and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.

Keith A. Kerkham

 President of Council

Approved: DEC 23 2003

Jack L. Kellogg

 Mayor

Attest:

Cathy Chappin

 Clerk of Council

RECORD OF ORDINANCES

6039

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-117

Passed DEC 22 2003, 20

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN THE HEALTH FUND FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$455.00 as follows:

Administration	214.2221.540324	\$455.00
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Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.


President of Council

APPROVED: **DEC 23 2003**


Mayor

ATTEST:


Clerk of Council

RECORD OF ORDINANCES

0041

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-118

Passed DEC 22 2003, 2003

ORDINANCE AUTHORIZING THE CITY AUDITOR TO ENTER INTO CONTRACT WITH THE LOCAL GOVERNMENT SERVICES SECTION OF THE OFFICE OF THE AUDITOR OF STATE TO PROVIDE ASSISTANCE FOR THE IMPLEMENTATION OF GASB 34, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Marion must comply with the reporting requirements contained in GASB Statement No. 34 for the year ending December, 31, 2003, and

WHEREAS, the City Auditor has requested that the Local Government Service Section (LGS) of the Office of the Auditor of State assist in the implementation of GASB 34, therefore

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:


Section 1. That the City Auditor is hereby authorized to enter into contract with LGS for assistance in the implementation of GASB Statement No. 34.

Section 2. That the cost of said contract shall not exceed \$10,000.00 and is payable from the General Fund.

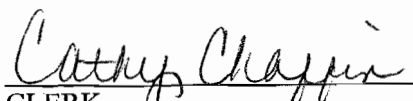
Section 2. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof and for the further reason that the contract must be signed and returned by December 26, 2003; and as such shall take effect and be in force immediately upon its' passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: DEC 23 2003


MAYOR

ATTEST:


CLERK

RECORD OF ORDINANCES

6646

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-119

Passed DEC 22 2003, 2003

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$844,996.97 as follows:

SCMR

Supplies & Materials	207.6612.540420	\$ 50,000.00
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Sewer System Improvement Fund

OWDA Loan Interest	503.8913.560639	\$200,966.34
OWDA Loan Principal	503.8913.560640	<u>594,030.63</u>

Total Sewer System Improvement Fund		\$794,996.97
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Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Keith A. Kuehner
President of Council

APPROVED: **DEC 23 2003**

Josh L. Kelly
Mayor

ATTEST:

Cathy Chappin
Clerk of Council

RECORD OF ORDINANCES

10-75

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-120

Passed DEC 22 2003, 20

AN ORDINANCE TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF MARION AND THE MARION REGIONAL PLANNING COMMISSION FOR ADMINISTERING THE CDBG AND HOME PROGRAMS, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Marion (CITY) entered into an Agreement with the Regional Planning Commission (PLANNING COMMISSION) to apply for and administer the FY'94, '96, '98 and FY 2000 and 2002 CHIP Grants, an Agreement now needs to be approved for administration of the FY 2004 CHIP; and

WHEREAS, the CITY desires the PLANNING COMMISSION to apply for and administer all of its CDBG and HOME programs, as well as the Community Distress Grant, Downtown Grant and CDBG Small Business Revolving Loan Fund, and other grant related Program Income;

NOW, THEREFORE, BE IT ORDAINED that:

Section 1. The CITY and PLANNING COMMISSION enter into the attached agreement for administering all of its CDBG and HOME programs, as well as the Community Distress Grant, Downtown Grant and CDBG Small Business Revolving Loan Fund, and other grant related Program Income.

Section 2. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety of the City of Marion and the inhabitants thereof, and for the further reason that it is necessary for the daily operation of the City; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to council, otherwise, it shall become effective from and after the earliest period allowed by law.


President of Council

APPROVED: DEC 23 2003


Mayor

ATTEST:


Clerk of Council

AGREEMENT

BETWEEN: THE CITY OF MARION AND THE MARION COUNTY REGIONAL PLANNING COMMISSION

WHEREAS, the City of Marion (CITY) entered into an Agreement with the Regional Planning Commission (PLANNING COMMISSION) to apply for and administer the FY '94, '96, '98 and FY 2000 and 2002 CHIP Grants, an Agreement now needs to be approved for administration of the FY 2004 CHIP; and

WHEREAS, the CITY desires the PLANNING COMMISSION to apply for and administer all of its CDBG and HOME programs, as well as the Community Distress Grant, Downtown Grant and CDBG Small Business Revolving Loan Fund, and other grant related Program Income;

The CITY and the PLANNING COMMISSION agree to the following:

The PLANNING COMMISSION will assist the CITY in applying for and administering the CDBG and HOME Grants for the duration of the grants with the understanding that the CITY is ultimately responsible for the grants, deciding on projects to be funded, deciding on transfer of funds, for directing other CITY personnel, and retaining legal counsel.

The PLANNING COMMISSION shall be paid for the following duties:

1. Coordination of meetings and public hearings.
2. Giving routine public information on the CDBG and HOME Grants.
3. Coordination of notices, bids, program timing, and program implementation with all parties involved.
4. Establishing the project, and program files.
5. Providing necessary maps, charts, and background information on sites or activities.
6. Coordination of activities of any consultant with staff, elected officials, and specialists.
7. Assuring compliance with local regulations.
8. Preparing documents necessary, under the direction of a consultant or CITY legal counsel, to meet federal and state regulations.

In return for services provided by the PLANNING COMMISSION, the PLANNING COMMISSION shall be reimbursed for the following expenses out of funds designated in the grants

RECORD OF ORDINANCES

6647

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-121

Passed DEC 22 2003, 20

ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A
HOUSING REVOLVING LOAN ADMINISTRATION AGREEMENT WITH
THE STATE OF OHIO, DEPARTMENT OF DEVELOPMENT, AND
DECLARING AN EMERGENCY

WHEREAS, The State of Ohio Department of Development has requested as a part of the CDBG Revolving Loan Fund, an Administration Agreement to be executed prior to December 31, 2003; and


BE IT ORDAINED, by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Mayor is authorized to enter into said Administration Agreement, attached hereto as Exhibit A.

Section 2. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof and for the further reason that said agreement must be executed prior to December 31, 2003, and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.


President of Council

APPROVED: **DEC 23 2003**


Mayor

ATTEST:


Clerk of Council

RECORD OF ORDINANCES

0203

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-20

Passed MAR 10 2003 20

ORDINANCE AUTHORIZING THE CITY AUDITOR TO PAY BILLS FROM VARIOUS CITY DEPARTMENTS PURSUANT TO OHIO REVISED CODE §5705.41(D), AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the City Auditor is hereby authorized to pay bills from various city departments pursuant to O.R.C. §5705.41(D) which reads in part as follows: "No subdivision or taxing unit shall make any contract or give any order involving the expenditure of money unless there is attached thereto a certificate of the fiscal officer of the subdivision that the amount required to meet the same. . . such taxing authority may authorize the issuance of a warrant in payment of such amounts due upon such contract, but such resolution or ordinance shall be passed within thirty days from the receipt of such certificate."

Storm Water Utility Fund \$1,950.00

Section 2. That this ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and the inhabitants thereof and for the further reason that it provides for the daily operation of the City; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall become effective from and after the earliest period allowed by law.

Keith A. Koehn
PRESIDENT OF COUNCIL

APPROVED: MAR 11 2003

Jack L. Kelley
MAYOR

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

ATTEST:

Cathy Chappin
CLERK

RECORD OF ORDINANCES

6-35

Ordinance No. 2003-21 Passed MAR 24 2003 20

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO EXECUTE ALL DOCUMENTS NECESSARY IN ORDER TO ENTER INTO CONTRACT WITH SHELL ENERGY SERVICE CO. LLC FOR THE PROVISION OF NATURAL GAS FOR THE CITY OF MARION AGGREGATION PROGRAM HAVING FOUND A REAL AND PRESENT EMERGENCY EXISTS WITHIN THE DIVISION OF PUBLIC SAFETY PURSUANT TO O.R.C. 735.051 AND DECLARING AN EMERGENCY

WHEREAS, by previous Ordinance and the vote of the people of Marion, Ohio, the City Government was authorized and directed to take advantage of legislation passed by the State Legislature and put in place a natural gas aggregation program, and

WHEREAS, the City selected a program consultant who possess a particular expertise within the industry and it has evaluated the City's needs and the available suppliers, and

WHEREAS, the E Group, the City's expert consultant, has advised it has completed the second RFP process, the first resulting in no adequate offer, and after analysis of the offers received, it has determined the submission by Shell Energy Services Co. LLC to be the best available and recommends the City enter into agreement with Shell to provide natural gas to the program, and

WHEREAS the Council finds it to be in the best interests of the Citizens of Marion, Ohio by recognizing an immediate need to move forward without delay. The Council also having found, any delay will cause additional financial hardship upon natural gas consumers within the City as all natural gas consumers are experiencing record high gas prices and many are finding their initial suspicions coming to fruition, to wit: the utility deregulations have benefitted the utilities and harmed the consumers.

BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. The Council having found a real and present emergency to exist within the Department of Public Safety, specifically the City of Marion Natural Gas Aggregation project wherein after thorough evaluation by Administrative officials and the expert energy consultant find little competition and after two RFP's find Shell Energy Services Co. LLC to be the best supplier available. Further, the Council finds any delay in entering into contract with Shell will cause substantial hardship to the City's consumers of natural gas and therefore the Council has determined a real and present emergency exists. Therefore the Safety/Service Director is authorized and directed to execute all documents necessary in order to enter into contract with Shell Energy Services Co. LLC services for the supply and provision of natural gas for the City of Marion, Ohio Natural Gas Aggregation Program.

Section 2. That due to the real likelihood that failure to find a real and present emergency exists will cause financial hardship upon the programs participants, especially given the fact that the price of natural gas is at all time record highs and if the opportunity is not seized at this time, additional savings will be lost forever and the community will suffer additional financial hardship. Therefore this Ordinance is hereby declared to be a real and present emergency, as set forth in O.R.C. 735.051 being an emergency measure necessary for the welfare of the City of Marion and the inhabitants thereof, and as shall take effect and be enforce immediately upon it's passage by two thirds vote of all members elected and by approval of the Mayor, otherwise it shall become effective from and after the earliest period allowed by law.

Keith A. Koehlbeiser
President of Council

Approved: MAR 25 2003

Jack E. Kelly
Mayor

Attest: Cathy Chappin
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-22, Page One

Passed MAR 24 2003, 20

ORDINANCE AMENDING MARION CITY CODE TRAFFIC CODE SECTION 331.25 DRIVING ACROSS GRADE CROSSINGS IN ORDER TO HAVE OUR CITY ORDINANCE CONTAIN THE EXACT LANGUAGE WHICH EXISTS IN THE OHIO REVISED CODE.

WHEREAS, the Council has received a request to modify the existing Code section related to obligations of motor vehicle operators approaching railroad grade crossings, and

WHEREAS, the Council finds the request to modify the existing Code to be well taken,

BE IT ORDAINED by the Council of Marion, Marion County, Ohio:

Section 1. Marion City Code, Part Three -Traffic Code - Title Five, Chapter 331, section 331.25 DRIVING ACROSS GRADE CROSSINGS, now reading as:

(A) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances state in this section, he/she shall stop within 50 feet but not less than 15 feet from the nearest rail of the railroad, **and shall not proceed until he/she can do so safely.** The foregoing requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train;

(2) A crossing gate is lowered;

(3) A human flagman gives or continues to give a signal of the approach or passage of a train;

(4) A train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from that distance and the train, by reason of its speed or nearness to the crossing, is an immediate hazard; or

(5) An approaching train is plainly visible and is in hazardous proximity to the crossing.

(B) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. (last amended 1970)

SHALL BE AMENDED TO READ AS:

331.25 DRIVING ACROSS GRADE CROSSINGS,

(A)(1) Whenever any person driving a vehicle approaches a railroad grade crossing, the person shall stop within 50 feet, but not less than 15 feet from the nearest rail of the railroad if any of the following circumstances exist at the crossing:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train;

(b) A crossing gate is lowered.

(c) A **flagperson** gives or continues to give a signal of the approach or passage of a train;

(d) There is insufficient space on the other side of the railroad crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.

Ordinance No. 2003-22, Page Two

Passed MAR 24 2003, 20

(e) An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.

(2) A person who is driving a vehicle approaching a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (A)(1)(a) to (e) of this section exist at the crossing.

(B) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed **unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.**

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

Kurt A. Koehner
President of Council

APPROVED: MAR 25 2003

Jack E. Kelly
Mayor

Attest;

Cathy Chappin
Clerk of Council

RECORD OF ORDINANCES

1239

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-23, Page One Passed MAR 24 2003, 20

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$1,780,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY THE COSTS OF CONSTRUCTING, EQUIPPING AND FURNISHING A CENTRAL GARAGE BUILDING AND RELATED SALT STORAGE DOME, TOGETHER WITH ALL NECESSARY APPURTENANCES, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 2002-39 passed April 8, 2002, a note in anticipation of bonds in the amount of \$1,780,000 dated April 24, 2002 (the "Outstanding Note") was issued for the purpose stated in Section 1, to mature on April 22, 2003;

WHEREAS, this Council finds and determines that the City should retire the Outstanding Note with the proceeds of the Notes described in Section 3; and

WHEREAS, the Auditor as fiscal officer of this City has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is twenty years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds is April 24, 2021.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Marion, Marion, Ohio, that:

Section 1. It is necessary to issue bonds of this City in the aggregate principal amount of \$1,780,000 (the Bonds) to pay the costs of constructing, equipping and furnishing a central garage building and related salt storage dome, together with all necessary appurtenances.

Section 2. The Bonds shall be dated approximately January 1, 2004, shall bear interest at the now estimated rate of five percent per year, payable semiannually until the principal amount is paid, and are estimated to mature in twenty annual principal installments on December 1 of each year that are in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal. The first principal payment of the Bonds is estimated to be December 1, 2004.

Section 3. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$1,780,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire the Outstanding Note. The Notes shall be dated April 22, 2003 and shall mature January 22, 2004. The Notes shall bear interest at a rate or rates not to exceed six percent per year (computed on the basis of a 360-day year consisting of twelve 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate or rates of interest on the Notes shall be determined by the Auditor in the certificate awarding the Notes (the "Certificate of Award") in accordance with Section 6.

Section 4. The debt charges on the Notes shall be payable in lawful money of the United States of America, or in Federal Reserve funds of the United States of America as determined by the Auditor in the Certificate of Award, and shall be payable, without deduction for services of the City's paying agent, at the office of a bank or trust company designated by the Auditor in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose (the Paying Agent).

Section 5. The Notes shall be signed by the Mayor and Auditor, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the original purchaser and approved by the Auditor, provided that no Note shall be issued in a denomination less than \$100,000. The entire principal amount may be represented by a single

RECORD OF ORDINANCES

MAR 24 2003

Ordinance No. 2003-23, Page Two

Passed _____, 20____

Section 6. note and may be issued as fully registered securities (for which the Auditor will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Auditor that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Auditor and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this section and this ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Participant” means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Notes for use in a book entry system, the Auditor may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Auditor does not or is unable to do so, the Auditor, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Auditor is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

Section 7. The Notes shall be sold at not less than par plus accrued interest at private sale by the Auditor in accordance with law and the provisions of this Ordinance. The Auditor shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the original

RECORD OF ORDINANCES

0201

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-23, Page ThreePassed MAR 24 2003, 20

Section 8. purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the original purchaser, to the original purchaser upon payment of the purchase price. The Mayor, the Auditor, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The Auditor is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

Section 9. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

Section 10. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

Section 11. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due.

Section 12. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103(a) of the Code applies, and (b) the interest on the Notes will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The City hereby represents that the Outstanding Notes were designated or are treated as "qualified tax-exempt obligations" pursuant to Section 265(b)(3) of the Code. The City hereby covenants that it will redeem the Outstanding Notes from proceeds of, and within 90 days after issuance of, the Notes, and represents that all other conditions are met for treating the Notes as "qualified tax-exempt obligations" and as not to be taken into account under subparagraph (D) of Section 265(b)(3) of the Code, without necessity for further designation,

RECORD OF ORDINANCES

Ordinance No. 2003-23, Page Four

Passed MAR 24 2003, 20

by reason of subparagraph (D)(ii) of Section 265(b)(3) of the Code. Further, the City represents and covenants that, during any time or in any manner as might affect the status of the Notes as "qualified tax-exempt obligations", it has not formed or participated in the formation of, or benefitted from or availed itself of, any entity in order to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the formation of, or benefit from or avail itself of, any such entity. The City further represents that the Notes are not being issued as part of a direct or indirect composite issue that combines issues or lots of tax-exempt obligations of different issuers.

The Auditor, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

Each covenant made in this section with respect to the Notes is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Notes (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure exclusion of interest on the Notes from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this section to take with respect to the Notes.

Section 13. The Clerk of Council is directed to deliver a certified copy of this Ordinance to the County Auditor.

Section 14. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

Section 15. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

RECORD OF ORDINANCES

0206

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-23, Page Five Passed MAR 24 2003, 20

Section 16. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

APPROVED: **MAR 25 2003**

Keith A. Kalkreuth
President of Council

Mayor Jack L. Kellogg

Attest: Cathy Chappin
Clerk of Council

RECORD OF ORDINANCES

0205

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-24

Passed MAR 24 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH MANSFIELD TRUCK SALES & SERVICE, INC. FOR THE PURCHASE OF A POTHOLE PATCHING MACHINE & CHASSIS FOR THE STREETS DEPARTMENT AND DECLARING AN EMERGENCY.

WHEREAS, this Council by passage of Ordinance No. 1991-136, requires approval of all capital expenditures exceeding \$2,500.00 except for expenditures necessary for the health and safety of the citizens of the City of Marion, Marion County, Ohio and

WHEREAS, Mansfield Truck Sales & Service, Inc. submitted the best proposal for the purchase of a pothole patching machine & chassis, therefore

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be authorized and is hereby directed to enter into contract with Mansfield Truck Sales & Service, Inc. to purchase one pothole patching machine & chassis for the use in the Streets Department. The cost is \$93,700.00 funded from the S.C.M.R. Fund.

Section 2. That this ordinance is hereby declared to be an emergency measure for the welfare and safety of the City of Marion and the inhabitants thereof and for the further reason that is necessary for the daily operation of the City; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise, it shall become effective from and after the earliest period allowed by law.

Keith A. Heppner

PRESIDENT OF COUNCIL

APPROVED: **MAR 25 2003**

Joseph E. Kilgus

MAYOR

ATTEST:
Cathy Chappin

CLERK OF COUNCIL

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0207

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-25

Passed **MAR 24 2003**, 2003

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$304,506.76 as follows:

SCMR FUND

Equipment	207.6612.550450	\$	93,700.00
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VIOLENCE AGAINST WOMEN FUND

Salaries	212.1541.510110		996.98
Benefits	212.1541.510120		<u>(990.22)</u>

TOTAL VAWA		\$	6.76
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HEALTH FUND

Inspection Prof. Service	214.2222.530320	\$	3,000.00
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SEWER REPLACEMENT FUND

Professional Services	504.5555.550320	\$	207,800.00
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Section 2. That this ordinance shall become effective from and after the earliest period allowed by law.

APPROVED: **MAR 25 2003**

Keith A. Koehne
PRESIDENT OF COUNCIL

Jack L. Killip
MAYOR

ATTEST:

Cathy Chappin
CLERK

RECORD OF ORDINANCES

0269

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-26

Passed APR 14 2003, 2003

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$37,154.00 as follows:

GENERAL FUND

Engineering			
HHS/309 Signal Project	101.7743.550520	\$	28,639.32

STATE HIGHWAY IMPROVEMENT FUND

Professional Services	208.6613.530320	\$	(73,586.00)
Resurfacing Project	208.6613.530531		(50,000.00)
HHS/309 Signal Project	208.6613.550520		<u>132,100.68</u>
Total State Highway Improvement Fund		\$	8,514.68

Section 2. That all expenses paid from the General Fund shall be reimbursed by the State Highway Improvement Fund in 2004.

Section 3. That this ordinance shall become effective from and after the earliest period allowed by law.

APPROVED: **APR 15 2003**

Keith A. Koehn

PRESIDENT OF COUNCIL

Jack L. Kelly

MAYOR

ATTEST:

Cathy Chappin

CLERK

RECORD OF ORDINANCES

0271

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-27

Passed **APR 28 2003**, 20

ORDINANCE AUTHORIZING AND DIRECTING THE
SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT
WITH LANNIS FENCE SYSTEMS FOR SECURITY FENCING
AT THE AIRPORT AND DECLARING AN EMERGENCY

WHEREAS, Council by previous Ordinance authorized the Safety/Service Director to prepare specifications and advertise for bids for several Airport improvement projects, and

WHEREAS, the City has received Federal Aviation Association funding to complete the project

BE IT ORDAINED by the Council for the City of Marion, Ohio:

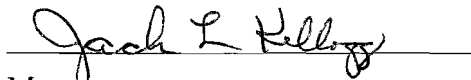
Section 1. The Mayor and/or Safety/Service Director are authorized to enter into all documents necessary to accept and administer the Federal Aviation Association grant funding. Further, the Safety/Service Director is authorized and directed to enter into contract with Lannis Fence Systems once the funding is secured.

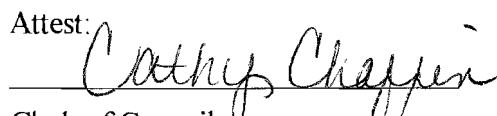
Section 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the O.R.C..

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, welfare and safety of the City of Marion and the inhabitants thereof, due to the real and present need to enhance the security of the Airport; and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise it shall become effective from and after the earliest period allow by law.

APPROVED: **APR 29 2003**


President of Council


Mayor

Attest:

Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0273

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-28

Passed **APR 14 2003**, 20

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO PREPARE SPECIFICATIONS AND ADVERTISE FOR BIDS FOR THE DEMOLITION OF A FIRE DAMAGED STRUCTURE AT 658 MT. VERNON AVENUE, AND DECLARING AN EMERGENCY.

WHEREAS, On May 5, 2002 a fire severely damaged the property located at 658 Mt. Vernon Avenue, and;

WHEREAS, numerous discussions have taken place and written notices made to the property owners Ed and Dorothy Conley regarding the fact this nuisance must be abated within one year of the fire, and

WHEREAS, Chapter 1360 of the Marion Codified Ordinances requires the property owner to abate the nuisance within one year of the fire, and

WHEREAS, the City is holding in escrow an amount of \$14,880 in insurance proceeds to cover the cost of said demolition.

THEREFORE, BE IT ORDAINED by the Council of Marion, Ohio, Marion County,

Section 1. That the Safety/Service Director be authorized and directed to demolish the structure located at 658 Mt. Vernon Avenue in Marion, Ohio.

Section 2. That proper notification has been made to the owners of the property,

Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate protection, welfare and safety of the City of Marion and the inhabitants thereof and for further reason that a nuisance does exist; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise, it shall become effective from and after the earliest period allowed by law.

Keith G. Kuehner
PRESIDENT OF COUNCIL

APPROVED: **APR 15 2003**

Jack L. Kelly
MAYOR

ATTEST:
Cathy Chappin
CLERK OF COUNCIL

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

02/5

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-29

Passed APR 14 2003, 2003

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$10,000.00 as follows:

GENERAL FUND

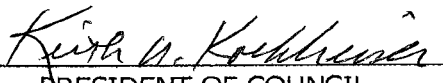
City Auditor			
Schooling	101.7711.530221	\$	2,500.00

SEWER REPLACEMENT FUND

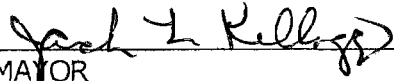
Refunds	505.5552.570720	\$	7,500.00
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Section 2. That this ordinance shall become effective from and after the earliest period allowed by law.

APPROVED: **APR 15 2003**

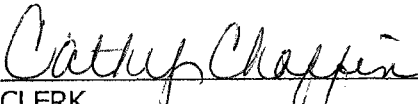


PRESIDENT OF COUNCIL



MAYOR

ATTEST:



CLERK

Ordinance No. 2003-30, Page 1, As Amended Passed MAY 12 2003, 20

ORDINANCE AMENDING THE MARION CITY CODE, MORE PARTICULARLY PART SIX GENERAL OFFENSES CHAPTER 618.16 DANGEROUS ANIMALS *AS AMENDED*

WHEREAS, the Council has conducted significant debate and investigation into existing City Ordinance 618.16 and has found said section to be in need of revision as it currently fails to adequately address the acknowledged nuisance of dangerous and vicious animals, and

WHEREAS, the Council finds dangerous and vicious animals to be a nuisance in need of abatement as same have been determined to be a risk to public health and safety. The Council finds it to be in the peoples best interest to modify the existing City Code requirements as to said animals, and

BE IT ORDAINED by the Council of Marion, Marion County, Ohio:

Section 1. Marion City Code, Part Six -General Offenses Code - Chapter 618 - Animals ; 618.16 DANGEROUS ANIMALS now reading as:

§ 618.16 DANGEROUS ANIMALS.

(A) (1) No person shall harbor or keep a vicious or dangerous animal within the municipality. Proof that such animal has, without sufficient provocation, bitten or otherwise attacked any person shall be prima-facie evidence of the fact that such animal is vicious or dangerous. Any animal warden, police officer or other person so authorized may impound any animal which has bitten or attacked a person without sufficient provocation. Such officer or other authorized person shall give prompt notice of such impounding to the owner, if the owner is known and can be reasonably notified. If the owner so desires, he/she may have the animal impounded with any licensed veterinarian of his/her choice and at his/her expense. If, within ten days after such impounding, the owner fails to pay the cost of impounding and to make suitable arrangements for the care and control of such animal, then such animal may be destroyed, unless it is deemed advisable to keep it under observation for a longer period of time, in which case the owner shall be given additional time within which to pay such cost.

(2) The determination of the care and control of such animal shall be made by the Health Department of the municipality after due notice of hearing. Such orders shall be appealable under R.C. Chapter 2506 entitled Appeals from Orders of Administrative Officers and Agencies.

(B) Any animal determined by the Municipal Court, or any other court of law to have bitten or attacked a person without sufficient provocation, shall be ordered immediately and permanently removed from this municipality or destroyed.

(C) Whoever violates this section is guilty of a misdemeanor of the fourth degree; on a second offense; such offender is guilty of a misdemeanor of the first degree.

('70 Code, § 618.16) (Ord. 1982-70, passed 6-14-82) Penalty, see § 698.02

SHALL BE AMENDED TO READ AS:

Marion City Code, Part Six -General Offenses Code - Chapter 618 - Animals ; 618.16 VICIOUS AND DANGEROUS ANIMALS:

§ 618.16 VICIOUS AND DANGEROUS ANIMALS.

(A) No owner, keeper, or harbinger of any female dog shall permit it to go beyond the premises of the owner, keeper, or harbinger at any time the dog is in heat unless the dog is properly in leash.

Ordinance No. 2003-30, Page 2, As Amended Passed MAY 12 2003, 20

(B) Except when a dog is lawfully engaged in hunting and accompanied by the owner, keeper, harborer, or handler of the dog, no owner, keeper, or harborer of any dog shall fail at any time to do either of the following:

(1) Keep the dog physically confined or restrained upon the premises of the owner, keeper, or harborer by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape;

(2) Keep the dog under the reasonable control of some person.

(C) Except when a dangerous or vicious dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harborer, or handler of the dog, no owner, keeper, or harborer of a dangerous or vicious dog shall fail to do either of the following:

(1) While that dog is on the premises of the owner, keeper, or harborer, securely confine it at all times in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top, except that a dangerous dog may, in the alternative, be tied with a leash or tether so that the dog is adequately restrained;

(2) While that dog is off the premises of the owner, keeper, or harborer, keep that dog on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:

(a) Keep that dog in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top;

(b) Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person;

(c) Muzzle that dog.

(D) No owner, keeper, or harborer of a vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars because of damage or bodily injury to or death of a person caused by the vicious dog.

(E) No person shall do any of the following:

(1) Debark or surgically silence a dog that the person knows or has reason to believe is a vicious dog;

(2) Possess a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

(3) Falsely attest on a waiver form provided by the veterinarian under division (F) of this section that the person's dog is not a vicious dog or otherwise provide false information on that written waiver form.

(F) Before a veterinarian debarks or surgically silences a dog, the veterinarian may give the owner of the dog a written waiver form that attests that the dog is not a vicious dog. The written waiver form shall include all of the following:

(1) The veterinarian's license number and current business address;

(2) The number of the license of the dog if the dog is licensed;

RECORD OF ORDINANCES

000279

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-30, Page 3, As Amended Passed MAY 12 2003, 20

(3) A reasonable description of the age, coloring, and gender of the dog as well as any notable markings on the dog;

(4) The signature of the owner of the dog attesting that the owner's dog is not a vicious dog;

(5) A statement that section 618.18(E) of the Marion City Code prohibits any person from doing any of the following:

(a) Debarking or surgically silencing a dog that the person knows or has reason to believe is a vicious dog;

(b) Possessing a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

(c) Falsely attesting on a waiver form provided by the veterinarian under division (F) of this section that the person's dog is not a vicious dog or otherwise provide false information on that written waiver form.

(G) It is an affirmative defense to a charge of a violation of division (E) of this section that the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with division (F) of this section and that attests that the dog is not a vicious dog.

(H) Any animal warden, police officer or other person so authorized may impound any animal which has bitten or attacked a person without sufficient provocation. Such officer or other authorized person shall give prompt notice of such impounding to the owner, if the owner is known and can be reasonably notified. If the owner so desires, he/she may have the animal impounded with any licensed veterinarian of his/her choice and at his/her expense. If, within ten days after such impounding, the owner fails to pay the cost of impounding and to make suitable arrangements for the care and control of such animal, then such animal may be destroyed, unless it is deemed advisable to keep it under observation for a longer period of time, in which case the owner shall be given additional time within which to pay such cost. The determination of the care and control of such animal shall be made by the Health Department of the municipality after due notice of hearing. Such orders shall be appealable under R.C. Chapter 2506 entitled Appeals from Orders of Administrative Officers and Agencies.

(I) Any animal that is vicious by definitions contained herein may, by Order of the Municipal Court, ordered immediately and permanently removed from this municipality or destroyed.

(J) As used in this section:

(1)(a) "Dangerous dog" means a dog that, without provocation, and subject to division (J)(1)(b) of this section, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person, while that dog is off the premises of its owner, keeper, or harbinger and not under the reasonable control of its owner, keeper, harbinger, or some other responsible person, or not physically restrained or confined in a locked pen which has a top, locked fenced yard, or other locked enclosure which has a top.

(b) "Dangerous dog" does not include a police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

(2) "Menacing fashion" means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

Ordinance No. 2003-30, Page 4, As Amended Passed MAY 12 2003, 20

(3) "Police dog" means a dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties.

(4)(a) "Vicious dog" means a dog that, without provocation and subject to division (J)(4)(b) of this section, meets any of the following:

(i) Has killed or caused serious injury to any person;

(ii) Has caused injury, other than killing or serious injury, to any person, or has killed another dog.

(iii) Belongs to a breed that is commonly known as a pit bull dog. The ownership, keeping, or harboring of such a breed of dog shall be prima-facie evidence of the ownership, keeping, or harboring of a vicious dog.

(b) "Vicious dog" does not include either of the following:

(i) A police dog that has killed or caused serious injury to any person or that has caused injury, other than killing or serious injury, to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;

(ii) A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.

(5) "Without provocation" means that a dog was not teased, tormented, or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

(K) Within ten days after the transfer of ownership or possession of any dog, if the seller or other transferor of the dog has knowledge that the dog is a dangerous or vicious dog, he shall give to the buyer or other transferee, the board of health for the district in which the buyer or other transferee resides, and the dog warden of the county in which the buyer or other transferee resides, a completed copy of a written form on which the seller shall furnish the following information:

(1) The name and address of the buyer or other transferee of the dog;

(2) The age, sex, color, breed, and current registration number of the dog.

In addition, the seller shall answer the following questions which shall be specifically stated on the form as follows:

"Has the dog ever chased or attempted to attack or bite a person? if yes, describe the incident(s) in which the behavior occurred."

"Has the dog ever bitten a person? if yes, describe the incident(s) in which the behavior occurred."

Ordinance No. 2003-30, Page 5, As Amended Passed MAY 12 2003, 20

"Has the dog ever seriously injured or killed a person? if yes, describe the incident(s) in which the behavior occurred."

The dog warden of the county in which the seller resides shall furnish the form to the seller at no cost.

(L) No seller or other transferor of a dog shall fail to comply with the applicable requirements of divisions (K) to (M) of this section.

(M) Whoever violates any of the following sections: C, D, E or subsections of anyone thereof is guilty of a misdemeanor of the first degree. Whoever violates any of the following sections: A, B, H, K, L or subsections of anyone thereof is guilty of a misdemeanor of the fourth degree. Whoever violates a section or subsection herein for which no penalty is provided shall be guilty of a minor misdemeanor on the first offense, a subsequent violation of the same section within twelve months shall be a misdemeanor of the fourth degree.

Section 4. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

APPROVED: **MAY 13 2003**

Jack L. Kelly
Mayor

Keith A. Kothman
President

Attest;

Cathy Chappin
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

6203

Ordinance No. 2003-31, Page One

Passed APR 28 2003, 20

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN VARIOUS FUNDS
FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$2,039,280.71 as follows:

GENERAL FUND

Engineering		
HHS/309 Signal Project	101.7743.550520	\$ 41,056.00
Transfers		
Airport Improvement Fund	101.7745.580707	<u>109,482.00</u>
Total General Fund		\$ 150,538.00

PARKS FUND

Land & Bldg Maintenance	221.3421.530370	\$ 10,000.00
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COMMUNITY CORRECTIONS FUND

Salaries	224.7543.510110	\$ 31.00
Benefits	224.7543.510120	243.39
Travel	224.7543.520220	(141.08)
Schooling	224.7543.530221	(1,100.00)
Professional Services	224.7543.530320	(900.00)
Service Contracts	224.7543.530321	(390.00)
Supplies	224.7543.540420	<u>(237.00)</u>
Total Community Corrections Fund		\$ (2,493.69)

HEALTH LICENSE FUND

Tattoo & Body Piercing	247.2224.530722	\$ 387.38
Trailer Park	247.2224.530723	651.92
Food Service	247.2224.530724	(5,000.00)
Solid Waste	247.2224.530729	<u>575.00</u>
Total Health License Fund		\$ (3,385.70)

G.O. BOND RETIREMENT FUND

Note Interest	343.8911.560609	\$ 45,845.88
Note Principal	343.8911.560610	<u>1,780,000.00</u>
Total G.O. Bond Retirement Fund		\$1,825,845.88

AIRPORT IMPROVEMENT FUND

Project 11		
Fencing Contract	446.6401.550520	\$ 23,938.48
L&B Maintenance	446.6401.530370	(18,708.72)
Project 12		
Fencing Contract	446.6402.550520	\$ 54,979.23
Professional Service	446.6402.530320	<u>(1,432.77)</u>
Total Airport Improvement Fund		\$ 58,776.22

RECORD OF ORDINANCES

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-31, Page Two

Passed APR 23 2003, 2003

Section 2. That all expenses paid from the General Fund on the HHS/309 Signal Project shall be reimbursed by the State Highway Improvement Fund in 2004.

Section 3. That should the City be awarded additional FAA Funds, said amounts expended by the General Fund shall be reimbursed to the General Fund.

Section 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: APR 23 2003


MAYOR

ATTEST:


CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0285

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-32

Passed APR 28 2003, 2003

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH THE STATE PURCHASE CONTRACTOR, HOLT CAT., COLUMBUS, OHIO, FOR THE PURCHASE OF ONE 2003 TRACTOR LOADER BACKHOE MODEL CATERPILLAR 420D FOR THE USE IN THE WATER POLLUTION CONTROL DIVISION

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be and is hereby authorized and is directed to utilize Ohio Department of Administrative Services Contract Index No. STS515 for the purchase of One Tractor Loader Backhoe Model Caterpillar 420D for use in the Water Pollution Control Division.

State Purchase Contractor


Holt Cat
5252 Walcutt Ct.
Columbus, OH 43228

One Model Year 2003

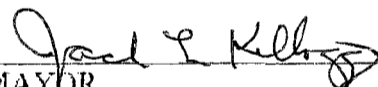
Caterpillar 420D
\$61,401.00
(Quotation Number GIS320466)

Section 2. That the cost of said contract shall be payable from the Sewer Replacement Account (504.5553.550450).

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


PRESIDENT OF COUNCIL

APPROVED: **APR 29 2003**


MAYOR

ATTEST:


CLERK OF COUNCIL

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0207

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-33

Passed APR 28 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO PURCHASE THREE (3) VEHICLES THROUGH THE STATE OF OHIO COOPERATIVE PURCHASING PROGRAM FOR THE POLICE DEPARTMENT; AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance 2003-15, the Safety Director was authorized to advertise for bids for the purchase of three (3) vehicles for the Police Department; and

WHEREAS, Mathews-Kennedy Dodge submitted a bid for the three (3) marked vehicles; and

WHEREAS, the State of Ohio Cooperative Purchasing Program offers these vehicles at a substantial savings to the city;

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

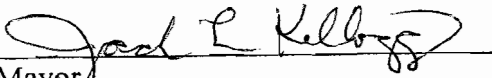
Section 1. That the Safety Director be, and he is hereby authorized to enter into contract with the State of Ohio Cooperative Purchasing Program, for the purchase of said vehicles.

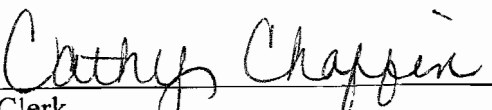
Section 2. That the vehicles purchased from the State of Ohio Cooperative Purchasing Program, being three (3) Dodge Intrepids at a cost of \$55,125.00, and shall be payable from the Capital Improvement Fund.

Section 3. That this ordinance is hereby declared an emergency measure necessary for the immediate preservation of health, welfare, and safety of the City of Marion and the inhabitants thereof and for the further reason it is necessary for the daily operation of said City; and such shall take effect and be in force immediately upon it's passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall become effective from and after the earliest period allowed by law.


President of Council

APPROVED: **APR 29 2003**


Mayor


Clerk

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

1209

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-34

Passed MAY 12 2003, 2003

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN
VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER
31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$33,638.05 as follows:

Senior Citizens Association

Senior Center Expense	233.3819.570735	\$16,000.00
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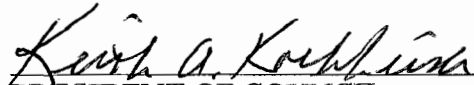
Sanitary Sewer Improvement Fund

G.O. Bond Interest	550.5553.560619	\$13,138.05
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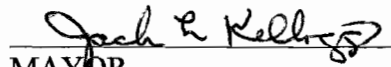
Central Garage Construction Fund

Professional Services	651.9601.550320	\$ 4,500.00
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Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: **MAY 13 2003**


MAYOR

ATTEST:


CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0271

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-35

Passed MAY 12 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT FOR THE PURCHASE OF ONE (1) 2003 FORD TAURUS TO BE USED IN THE CITY ENGINEERING DEPARTMENT, THROUGH THE OHIO COOPERATIVE PURCHASE PROGRAM, AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance Number 2003-15 authorized the Safety/Service Director to prepare specifications and advertise for bids for one (1) new vehicle for the City Engineering Department, and to trade in one (1) 1992 Plymouth Sundance, and

WHEREAS, 32 Ford Mercury, Inc. submitted the lowest and best bid.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

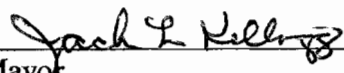
Section 1. That the Safety/Service Director is hereby authorized and directed to enter into contract with 32 Ford Mercury, Inc. for the purchase of one (1) 2003 Ford Taurus for the Engineering Department at a cost of \$13,684.24 payable from 401.7743.553450 (Capital Improvement/Equipment).

Section 2. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion, and the inhabitants thereof and for the further reason that it is necessary for the daily operation of the City; and as such, shall take effect and be in force immediately upon passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.




President of Council

Approved: **MAY 13 2003**



Mayor

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Attest:


Clerk of Council

RECORD OF ORDINANCES

6275

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-36

Passed MAY 13 2003, 2003

**ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR
TO ENTER INTO CONTRACT WITH BIOMEDICAL INSTRUMENTATION SERVICES
TO PURCHASE A REHAB DEFIBRILLATOR FOR USE AT THE MARION FIRE
DEPARTMENT AND DECLARING AN EMERGENCY.**

WHEREAS, this Council, by passage of Ordinance No. 1991-136, requires approval of all capital expenditures exceeding \$2,500.00 except for expenditures necessary for the health and safety of the citizens of the City of Marion, Marion County, Ohio, and

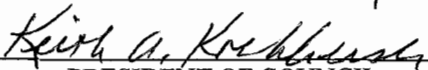
WHEREAS, Biomedical Instrumentation Services submitted the best proposal for the purchase of one (1) rehab defibrillator, therefore

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be authorized and is hereby directed to enter into contract with Biomedical Instrumentation Services, to purchase one (1) Rehab Defibrillator for use at the Fire Department.

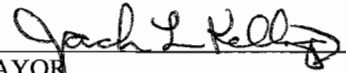
Section 2. That the \$5,000.00 cost of said contract shall be payable from the Fire Department Fund Account No. 401.1131.551450 in the amount of \$89.15 & 401.1131.553450 in the amount of \$4,910.85.

Section 3. That this ordinance is hereby declared to be an emergency measure for the welfare and safety of the City of Marion and the inhabitants thereof and for the further reason that it is necessary for the daily operation of the City; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall become effective from and after earliest period allowed by law.



PRESIDENT OF COUNCIL

APPROVED: **MAY 13 2003**



MAYOR

ATTEST:



CLERK OF COUNCIL

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-37 Passed **MAY 27 2003**, 2003

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH S. E. PARK ENTERPRISES OF MARION FOR THE DEMOLITION OF 658 MT. VERNON AVENUE AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance 2003-28 authorized the Safety/Service Director to prepare specifications and advertise for bids the demolition of the fire damaged property at 658 Mt Vernon Avenue, and

WHEREAS, the structure was heavily damaged by fire on May 5, 2002 and is declared a public nuisance and has not been remediaded in accordance with Chapter 1360 of the Marion Codified Ordinances, and

WHEREAS, the property owners of Ed and Dorothy Conley have been served proper notification; and

WHEREAS, S.E. Park Enterprises submitted the lowest and best bid for the demolition of 658 Mt. Vernon Avenue.

BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. That the Safety/Service Director be authorized and directed to enter into contract with S.E. Park Enterprises for the demolition of 658 Mt. Vernon Avenue.

Section 2. The demolition cost of \$7,999 will be paid for through insurance proceeds.

Section 3. That this ordinance is hereby declared to be an emergency measure for the welfare and safety of the City of Marion and inhabitants thereof; and as such shall take effect and be in force upon passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall come effective from and after the earliest period allowed by law.

APPROVED: JUN 30 2003

Keith A. Koehner
PRESIDENT OF COUNCIL

Jack L. Kelley
MAYOR

ATTEST:

Cathy Chappin
CLERK OF COUNCIL

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-38, Page #One Passed JUN 09 2003, 20

ORDINANCE AMENDING MARION CITY CODE CHAPTER 1185
AND THE RELEVANT SECTIONS CONTAINED THEREIN TO
INCORPORATE AND MAKE A PART THEREOF MARION DESIGN
REVIEW BOARD GUIDELINES AS 1185.07(C) (1)-(17)

WHEREAS, the Council has conducted considerable debate related to the request of the Marion Regional Planning Commission and the City Planning Commission to modify the previous Marion Design Review Board Guidelines and incorporate the updated version into the actual codified Ordinances, primarily for ease of access, and

WHEREAS, the Council finds after due consideration the applicable existing Code should be modified to further carry out the intent of the Design Review District's mandates and to enhance the ease of access to the already existing requirements in addition to the most recent recommended amendments,

BE IT ORDAINED by the Council of Marion, Marion County, Ohio:

Section 1. Marion City Code Chapter 1185, now reading, in relevant part:

1185.07 DUTIES OF THE REVIEW BOARD.

The Review Board shall have the following rules:

(A) The Review Board shall review and act upon all applications for certificates of appropriateness as required in §1185.11 of this zoning code.

(B) The Review Board may establish additional criteria, rules and regulations not otherwise included in this chapter for evaluating applications for certificates of appropriateness submitted to it and the manner in which they shall be processed. Such criteria, rules and regulations shall not be adopted by the Review Board until after review and recommendations by the City Planning Commission and approved by Council.

(Ord. 1989-182, passed 1-22-90)

SHALL BE AMENDED TO INCLUDE THE FOLLOWING:

1185.07 DUTIES OF THE REVIEW BOARD.

The Review Board shall have the following rules:

(A) The Review Board shall review and act upon all applications for certificates of appropriateness as required in §1185.11 of this zoning code.

(B) The Review Board may establish additional criteria, rules and regulations not otherwise included in this chapter for evaluating applications for certificates of appropriateness submitted to it and the manner in which they shall be processed. Such criteria, rules and regulations shall not be adopted by the Review Board until after review and recommendations by the City Planning Commission and approved by Council.

RECORD OF ORDINANCES

Ordinance No. 2003-38, Page Two

Passed JUN 0 9 2003, 20

(C) In addition to using the Secretary of Interior's Standards for Rehabilitation, when evaluating applications for Certificates of Appropriateness, the Design Review Board has adopted the following General Design Guidelines. The purpose of these policies is to help business and property owners, and design professionals undertaking construction, demolition and rehabilitation projects in the Design Review District by identifying guidelines intended to preserve the architectural integrity of the district by promoting sensitive renovation and compatible new construction.

1. Site Development/Setback:

On blocks where no front yard set back is present, development will be required at the property line. Maintaining the historic facade lines of the streetscape will be achieved by locating the front walls of new buildings in the same place as the existing buildings. Storefronts should be contiguous to produce non-stop impulses for the pedestrian to keep moving. Putting buildings in front or behind the existing setback or at odd angles to the street should be avoided.

2. Directional Expression:

Buildings should be oriented or have a facade character similar to the pre-dominant directional expression of other buildings on the block and in the near vicinity. Special attention should be given to corner lots, which face more than one street. Corner buildings should announce the block by being larger or having a dominant building element that sets them off from the rest of the street, such as a corner entrance, corner tower, canopy or cupola. All facades that are visible to the public, including approaches from parking areas, shall be treated in a sensitive manner. Side and rear walls may remain plainer, but should relate to the main elevation by color, material and detail as much as possible.

3. Parking Lots:

Parking lots should not be in front of the building. Zero setback from the street is preferred in areas where it is common, such as on Center Street. Instead parking should be to the rear of the building or the side of the building wherever possible. Side parking shall incorporate pedestrian scale fencing or landscaping to screen the parking area. Thus the open lot will be less likely to create an uncharacteristic gap or void along the streetscape. Parking areas shall be treated with decorative elements, building wall expansions, plantings, berms, or other innovative means to screen parking areas from public ways. Signage should clearly and neatly identify whether or not the lot is open to the public or for a specific use.

4. Height:

Buildings should relate the overall height of new construction to the average height of existing adjacent buildings. Downtown Marion has many two- and three- story buildings. It is preferred that new structures are comparable in height to maintain the character of the district.

5. Scale:

Size and proportion of new structures shall be related to the scale of the adjacent buildings. Height, width, and or massing create the rhythm of the streetscape. New construction should compliment the existing rhythm.

6. Massing:

Variety of form and massing are important elements in establishing the character of an historic streetscape. For example, it is common on N. Main Street to have a 2 or 3 story building which is taller than it is wide, and has a flat roof line. A one story, horizontally oriented building with a gabled roof would be an example of a different, inappropriate massing.

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7. Sense of Entry:

Entries in downtown Marion typically face the street and are flanked by storefront windows. The Italianate buildings common along Center Street have their entrances at grade level. For example, in typical Italianate commercial buildings, it is common to have a recessed entrance which allows enough space for the slight incline between the sidewalk and the higher main floor level. Meanwhile, some buildings found on South Main Street were originally residential in nature, and may have raised porches with entries a few steps above grade. Consideration should be given to which type of entry is most appropriate.

8. Projections into the required yards:

Section 1151.065 of the zoning code eaves, cornices, window sills and belt courses may project into any yard a distance not to exceed three feet. If a proposed building or renovation will project into the street or alley right-of-way, it may be necessary to obtain an easement from the City before proceeding with said project.

Section 1161.025 states that no part of any accessory sign may project beyond the property line except in the C-3 district, where signs may project into the street right-of-way as follows:

- A. Projecting signs may extend into the street right-of-way no more than three feet and the bottom thereof shall be no less than ten feet above the grade of the sidewalk beneath it.
- B. Awnings, canopies or marquees extending beyond the property line may have signs upon them, which shall be affixed flat to the surface thereof, unless extending vertically beneath such awning, canopy, or marquee, complying with height limits of Section 1161.026.(E).
- C. Wall signs may project into a street right-of-way no more than twelve (12) inches.

9. Roof Shapes:

Applicants should relate the roof form of new buildings to those found in the area. Using similar shapes, pitches and materials on roofs new construction and rehabilitation projects makes the buildings more compatible to the overall district.

Similarly, the presence of cornices and friezes are common decorative features at the top of many downtown buildings. These decorative elements are an important crowning feature, and should be maintained whenever possible. Removing these features results in a unfinished look to the building. Maintaining and repairing is preferred to removing them. If possible, new construction should be designed to incorporate a comparable feature at the top of the proposed building, at a minimum a decorative corbelled brick pattern or a series of crown molding should be used to allude to a cornice.

10. Rhythm of Openings:

The alternation of wall areas with door and window elements as well as width-to height ratio of bays in the facade create the rhythm of a building. When this rhythm is found in series of adjacent buildings, it creates a rhythm to the streetscape. For example, it is common in downtown Marion for first floor storefronts to consist of large store front windows on the first floor and a series of narrow, tall, rectangular, double-hung windows on upper stories. The facades are often symmetrical in nature. Buildings with large expanses of windowless walls, or bricking in existing windows disrupt the rhythm of the openings, and should be avoided.

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Passed JUN 09 2003, 20

11. Windows:

The Italianate style became popular in the 1860's. It emphasized vertical proportions. The tall, narrow, double-hung window were used in upper stories. The exceptions are store front display windows. Storefront windows should contain clear glass to allow visual access of the interior space. Smoked and mirror glass should be avoided. Repair of original windows is preferable to replacing them with windows of different size or material. Unused windows should not be closed or covered by bricks, metal or wooden boards.

12. Material:

Care should be given especially when altering first floor storefronts, not to use modern, incompatible materials such as vinyl and aluminum siding, mirrored or tinted glass, wood-shaké shingles, artificial stone and brick veneer. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials or materials that will be architecturally harmonious, for all walls and other exterior components wholly or partly visible from public ways. Materials shall be of durable material.

13. Storefront Signage:

Preserve and maintain historic signage on the building. Historically, commercial signage was pedestrian oriented. A sign band was often found between the lintel between the first floor and the second story. Locating wall-mounted fascia signs or projecting signs in this space or placing signage in the storefront windows is preferred. Ensure that size and placement of signage compliments the building's architectural style. Place signage where it cannot obscure significant architectural detail or block the view of buildings beyond either side. For new signage, use external illumination as opposed to internal.

While content is not regulated, signs that are small, easily read with simple messages are preferred to large signs that are visually cluttered with multiple messages. Restraint in the number of colors and letter styles used on signage is urged. Buildings with multiple tenants or storefronts should develop an overall sign plan for the entire building to create a neat, balanced, complimentary appearance and prevent information overload and visual disorder.

Do not install large scale wall signs on massive buildings. Instead, add a small plaque-style wall or small projecting sign scaled to the size of the entrance. The top and bottom of an awning may also be used to provide signage. It is not uncommon to see a business name or address printed on the front panel or lower flap of a canvas awning.

Use a detached sign whenever signage was not an integral part of the structures original use. For example, in residential area with a front yard setback, consider using a low ground sign or a pole sign in the front yard. Portable, trailer-mounted temporary signs and large scale billboards are not desired within the district. Existing billboards may remain, but new ones will not be permitted in the district.

In order to create a signage system for visitors that is user friendly, uniform appearance of directional and parking signs throughout the district is desired. Parking signs should clearly indicate whether the spaces are open to the public or are reserved for private use.

14. Lighting:

Exterior lighting, where permitted, can enhance the building design, signage and landscape. Lighting shall be restrained in design and excessive brightness shall be avoided.

RECORD OF ORDINANCES

0001

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-38, Page Five

Passed JUN 09 2003, 20

15. **Building Site:**

The relationship between a building and its site features help define the historic character and should be considered an important part of the design of a rehabilitation or new construction project within the design district. Site features can include, but are not limited to driveways, walkways, streetscape features, lighting, fencing, benches, landscaping, planters, fountains, terraces and the visible presence of mechanical units, loading docks and dumpsters. Attention to detail, especially scale and material, should be given when removing, adding or drastically changing such site features. For example, chain-link or tall, wooden privacy fences shall be discouraged, while smaller iron or brick fences may be more appropriate.

16. **Awnings:**

Awnings were commonly used in the downtown. They act as a transition between the building, the sidewalk and the street. They also shelter pedestrians and reduce glare. Fixed aluminum canopies, awnings made of plastic or wood shingles or those simulating mansard roofs are generally incompatible with older commercial buildings. Awnings should look traditional and be made of soft canvass or vinyl. Install awnings with a fixed or retractable pipe frame construction having a canvas cover in an opaque muted color. The color should compliment the building and not clash with properties in the near vicinity. Awnings should be installed in a way that does not damage the building or obscure important architectural features. Place a low level light above, rather than underneath it. Do not try to use an awning to replace a porch that has been removed from a residential building. Awnings should mounted high enough to provide adequate clearance beneath them and to minimize potential vandalism.

17. **Patios and decks:**

Decks are a feature of suburban development and not appropriate in an historic commercial district. Porches and patios are more acceptable in residential section of the district. When appropriate, brick pavers are the preferred materials for patios.

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

APPROVED: JUN 10 2003

Jack L Kellogg
Mayor

Keith A. Kuhlhusen
President

Attest;

Cathy Chappell
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-39

Passed **MAY 12 2003**, 2003

ORDINANCE ACCEPTING THE PLAT OF THE ADCARE
SUBDIVISION, FOR THE CONSTRUCTION OF THE
SOUTHERN PORTION OF INDEPENDENCE AVENUE
WITHIN THE CITY OF MARION, COUNTY OF MARION,
STATE OF OHIO AND CONFIRMING THE DEDICATION
OF THE STREET AND RIGHT OF WAYS THEREIN
AND DECLARING AN EMERGENCY

WHEREAS, the developer Dale Kibbey has submitted to the Planning Commission of the City of Marion a plat for the construction of Independence Avenue (southern portion) coming north off of Barks Rd., all within the City of Marion, Ohio, and

WHEREAS, the Commission has approved the Plat and the City Engineer and Zoning Inspector have given their respective approvals,

BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. The Plat of the Adcare Subdivision for the construction of Independence Avenue as depicted on the Plat, with accompanying property description both being attached hereto and made a part hereof, dated May 6, 2003, be and the same is hereby approved and accepted and dedicated to the public use of the street and right of ways shown thereon be and the same is hereby accepted and confirmed.

Section 2. This ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, welfare and safety of the City of Marion and the inhabitants thereof, due to impending deadlines and the need to move forward without delay ; and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise it shall become effective from and after the earliest period allow by law.

APPROVED: **MAY 13 2003**

Keith A. Koehne
President of Council

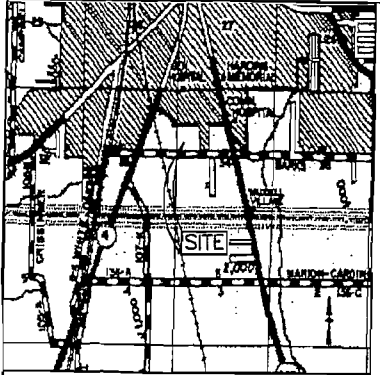
Jack L. Kellogg
Mayor

Attest:
Cathy Chapman
Clerk of Council

ADCARE SUBDIVISION

MEDCENTER'S HEARTH & HOME, LTD.
O.R. 445 PG. 753
OUTLOT 781

O.R. 340 PG. 591



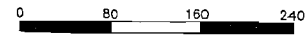
VICINITY MAP
(N.T.S.)

CURVE "A"
Δ = 90°00'42"
D = 190°59'10"
R = 30.00'
L = 47.13'
T = 30.01'
CH. = N 45°58'20" E
42.43'

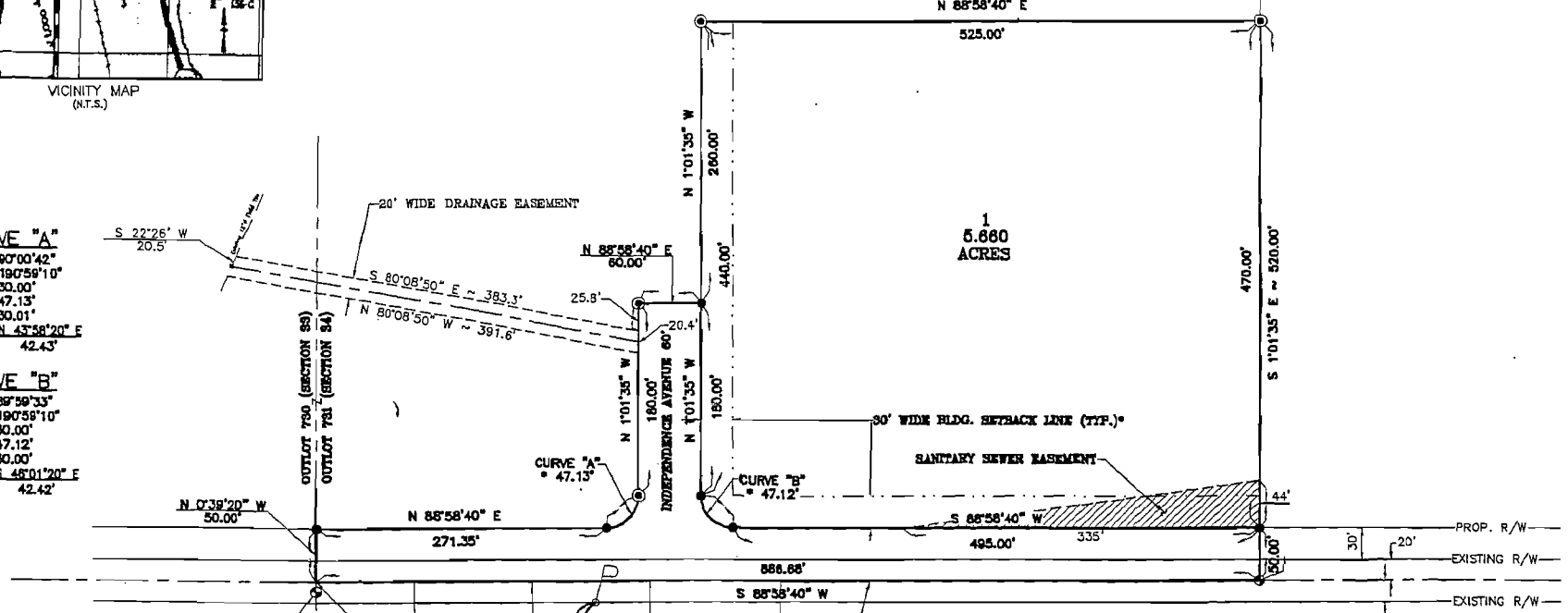
CURVE "B"
Δ = 89°59'33"
D = 190°59'10"
R = 30.00'
L = 47.12'
T = 30.00'
CH. = S 48°01'20" E
42.42'

- LEGEND**
- - 5/8" DIA. IRON PIN SET (U.N.)
 - ⊙ - R.R. SPIKE FOUND
 - ⊙ - 1" DIA. IRON PIN SET

- NOTES:**
- *1. BUILDING SETBACK IS HEIGHT OF BUILDING BUT NOT LESS THAN 30 FT. FROM RIGHT-OF-WAY LINE.
 - *2. FOR BASIS OF BEARING, SEE OFFICIAL RECORD 340 PG. 591, MARION COUNTY RECORDER'S OFFICE.
 - *3. ALL 5/8" & 1" DIA. IRON PINS SET HAVE A PLASTIC IDENTITY CAP WITH THE FOLLOWING CAPTION: "TLB & ASSOC."
 - *4. ALL DISTANCES ALONG CURVES ARE ARC DISTANCES.



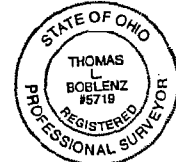
DRIVEWAY ACCESS TO BARKS ROAD IS PROHIBITED.



POINT OF BEGINNING
FND. 0.35' SOUTH
D.J. & B.M. HARRAMAN, TRUSTEES
O.R. 296 PG. 197
D.A. CARR
O.R. 162 PG. 55
D.J. HARRAMAN
O.R. 329 PG. 414
D.J. & B.M. HARRAMAN, TRUSTEES
O.R. 296 PG. 197

LAND USE DISTRIBUTION:
ZONED: O-1-A
AREA IN LOT ~ 5.660 ACRES
AREA IN STREETS ~ 1.316 ACRES
TOTAL AREA ~ 6.976 ACRES

BENCHMARK:
SPIKE IN N. SIDE OF POWER POLE 71' WEST OF CENTERLINE PROP. INDEPENDENCE AVENUE ON SOUTH SIDE BARKS ROAD
ELEV. 1005.30



THESE PLANS WERE PREPARED BY MYSELF OR UNDER MY DIRECT SUPERVISION AS A REGISTERED PROFESSIONAL ENGINEER/SURVEYOR IN THE STATE OF OHIO. FURTHER, THIS PLAN WAS PREPARED FROM AN ACTUAL SURVEY, ALL MONUMENTS EXIST AS SHOWN AND ALL DIMENSIONS ARE CORRECT.
Thomas L. Boblenz 5/6/03
THOMAS L. BOBLENZ
REGISTERED ENGINEER #34458
REGISTERED SURVEYOR #5719

2003-39.

OWNER & DEVELOPER:
HEARTH & HOME OF MARION LLC
(FORMERLY MEDCENTER'S HEARTH & HOME, LTD.)
5503 MISTY WOODS CIRCLE
POWELL, OH. 43065

T.L. BOBLENZ & ASSOCIATES, INC.
3597 MARION-BUCYRUS ROAD
MARION, OH. 43302
CIVIL / STRUCTURAL ENGINEERS / LAND SURVEYORS
FILE # 12234 DATE 11/2002 DRAWN S.B. CHECKED APPROVED
SCALE 1"=80' TRACED

ADCARE SUBDIVISION
BEING PART OF OUTLOT 781, SECTION 34,
T-5-S, R-15-E, CITY OF MARION,
MARION COUNTY, STATE OF OHIO

ADCARE SUBDIVISION

MARION, OHIO

DESCRIPTION

6.976 ACRES

BEING PART OF OUTLOT 731, SECTION 34, TOWNSHIP 5 SOUTH, RANGE 15 EAST, CITY OF MARION, MARION COUNTY, STATE OF OHIO

Being part of a tract now or formerly owned by Medcenter's Hearth & Home, Ltd., (O.R. 445 Pg. 753); and being more particularly described as follows;

Beginning at the intersection of the centerline of County Road 138 (also being the South Corporation Line of the City of Marion) with the West Line of Section 34 (said point being referenced by an existing railroad spike 0.35 feet South); thence along said West Line N 0° 39' 20" W (for basis of bearing, see Official Record 340 Pg. 591, Marion County Recorder's Office) for a distance of 50.00 feet to a 5/8" dia. iron pin set; thence N 88° 58' 40" E for a distance of 271.35 feet to a 5/8" dia. iron pin set; thence Northeasterly along a curve to the left having a radius of 30.00 feet for an arc distance of 47.13 feet (chord N 43° 58' 20" E 42.43 feet) to a 1" dia. iron pin set on the proposed West Right-of-Way Line of Independence Avenue; thence along said proposed West Right-of-Way Line N 1° 01' 35" W for a distance of 180.00 feet to a 1" dia. iron pin set; thence N 88° 58' 40" E for a distance of 60.00 feet to a 5/8" dia. iron pin set on the proposed East Right-of-Way Line of Independence Avenue; thence N 1° 01' 35" W for a distance of 260.00 feet to a 1" dia. iron pin set; thence N 88° 58' 40" E for a distance of 525.00 feet to a 1" dia. iron pin set; thence S 1° 01' 35" E for a distance of 520.00 feet to a railroad spike set on the centerline of County Road 138 (passing over a 5/8" dia. iron pin set at 470.00 feet); thence along said centerline S 88° 58' 40" W for a distance of 886.68 feet to a point on the West Line of Section 34 and the point of beginning.

Containing 6.976 acres more or less, of which 1.316 acres more or less are dedicated to public streets, leaving 5.660 acres more or less in one lot and being subject to legal highways, easements, restrictions, and agreements of record. This description prepared from a survey performed by Thomas L. Boblenz, Registered Surveyor 5719, and dated December 23, 2002. All 5/8" dia. Iron pins & all 1" dia. iron pins set have a plastic identity cap with the following caption, "TLB & Associates."

DEDICATION

THE UNDERSIGNED, BEING THE OWNER OF THE ABOVE DESCRIBED LAND, DO HEREBY CONSENT TO THE EXECUTION OF SAID PLAT, AND DO DEDICATE THE ROAD RIGHT-OF-WAY AS SHOWN HEREON, COMPRISING 1.316 ACRES, FOR PUBLIC USE. EASEMENTS AS SHOWN ARE PROVIDED FOR THE MAINTENANCE OF SANITARY SEWERS, STORM SEWERS, ELECTRIC, TELEPHONE AND OTHER UTILITIES. IN WITNESS WHEREOF, DAVID A. TENWICK, PRESIDENT, FOR HEARTH & HOME OF MARION LLC (FORMERLY MEDCENTER'S HEARTH & HOME, LTD.), HAS CAUSED THIS INSTRUMENT TO BE EXECUTED THIS 9th DAY OF MAY, 2003.

OWNER

David A. Tenwick
DAVID A. TENWICK, HEARTH & HOME OF MARION LLC

WITNESSES

Robert Gilpin
WITNESS
Wendy D. ...
WITNESS

NOTARY

BEFORE ME, A NOTARY IN AND FOR THE COUNTY OF Marion, STATE OF Ohio, DAVID A. TENWICK, PRESIDENT, HEARTH & HOME OF MARION LLC (FORMERLY MEDCENTER'S HEARTH & HOME, LTD.), HAS PERSONALLY APPEARED AND ACKNOWLEDGED THE SIGNING AND EXECUTION OF THE INSTRUMENT TO BE HIS FREE ACT AND DEED; IN TESTIMONY WHEREOF I HEREUPON SUBSCRIBE MY NAME AND AFFIX MY SEAL THIS 9th DAY OF MAY, 2003. MY COMMISSION EXPIRES Nov. 3rd, 2005



ROBERT GILPIN - Notary Public
State of Ohio
My Commission Expires Nov. 3, 2005

ZONING INSPECTOR

I STATE THAT THIS PLAT CONFORMS TO THE MARION CITY ZONING REGULATIONS NOW IN EFFECT.

MARION CITY ZONING INSPECTOR DATE

MARION COUNTY RECORDER

I HEREBY STATE THAT THIS PLAT WAS FILED FOR RECORDING ON 5/14/03, 2003, TIME: 1:00 PM, IN VOLUME 11, PG. 3

MARION COUNTY RECORDER FEE: \$100.00

MARION COUNTY AUDITOR

I HEREBY STATE THAT THIS PLAT WAS PRESENTED TO ME AND TRANSFERRED THIS 14th DAY OF MAY, 2003.

MARION COUNTY AUDITOR FEE: \$100.00

PLANNING COMMISSION

I HEREBY STATE THAT THIS PLAT WAS APPROVED AT A DULY CALLED AND REGULAR MEETING OF THE MARION CITY PLANNING COMMISSION HELD ON 5/14/03, 2003.

SEC. MARION CITY PLANNING COMM. DATE

ACCEPTANCE BY GOVERNING BODY

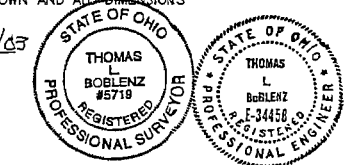
DEDICATION OF THE LAND SHOWN ON THIS PLAT FOR ROADS, STREETS OR OTHER PUBLIC PURPOSES IS HEREBY APPROVED AS OF 5/14/03, 2003, BY ORDINANCE NUMBER 11-03-003

PRESIDENT DATE
MAYOR DATE
CLERK DATE

SURVEYOR'S CERTIFICATION

THESE PLANS WERE PREPARED BY MYSELF OR UNDER MY DIRECT SUPERVISION AS A REGISTERED PROFESSIONAL ENGINEER/SURVEYOR IN THE STATE OF OHIO. FURTHER, THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY, ALL MONUMENTS EXIST AS SHOWN AND ALL DIMENSIONS ARE CORRECT.

THOMAS L. BOBLENZ
REGISTERED SURVEYOR 5719
REGISTERED ENGINEER 34458
DATE 5/14/03



MARION CITY ENGINEER CERTIFICATION

I HEREBY STATE THAT THE REQUIRED CONSTRUCTION DRAWINGS FOR ALL IMPROVEMENTS, PREPARED BY OR UNDER THE DIRECT SUPERVISION OF A REGISTERED ENGINEER IN THE STATE OF OHIO, HAVING BEEN SUBMITTED AND APPROVED BY ME IN MY OFFICIAL CAPACITY; FURTHER THAT ALL OF SAID IMPROVEMENTS HAVE BEEN INSTALLED, INSPECTED AND APPROVED BY ME (OR) FURTHER THAT A CERTIFIED CHECK (OR) BOND SUFFICIENT TO ASSURE THE INSTALLATION OF SAID IMPROVEMENTS HAS BEEN PROVIDED BY THE OWNERS.

MARION CITY ENGINEER DATE

2003-39

3 of 11

Table with project details: T.L. BOBLENZ & ASSOCIATES, INC., 3597 MARION-BUCYRUS ROAD, MARION, OH. 43302. CIVIL / STRUCTURAL ENGINEERS / LAND SURVEYORS. FILE # 12234, DATE 12/2002, DRAWN SR, CHECKED, DWG. #, SCALE N.T.S., TRACED, APPROVED.

ADCARE SUBDIVISION
BEING PART OF OUTLOT 731, SECTION 34, T-5-S, R-15-E, CITY OF MARION, MARION COUNTY, STATE OF OHIO

RECORD OF ORDINANCES

0305

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-40 Passed MAY 12 2003, 20

ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT FOR THE SALE OF CERTAIN CITY OWNED LAND INCLUDING THEREWITH PERMANENT EASEMENTS AS THE AREA IN QUESTION HAS BEEN DETERMINED TO BE NO LONGER NECESSARY FOR ANY MUNICIPAL PURPOSE AND THAT THE COMPLETION OF THE TRANSACTION WILL PROMOTE ECONOMIC DEVELOPMENT IN THE DOWNTOWN AND DECLARING AN EMERGENCY

WHEREAS, the Council has considered the request of the Regional Planning Office, the downtown property owners abutting City Parking Lot I, and the Administration for the transfer of real property on the eastern most and western most property lines and the granting of a permanent easement to the respective adjoining property owners for a sum certain, and

WHEREAS, the Council has listened to all arguments for and against, and has deliberated over the costs versus benefits of the proposal, including both tangibles and intangibles and has concluded that it is in the subject real property is not longer necessary for any public purpose, that the transfer of the premises will directly serve to create much needed jobs and economic development in the downtown, the City will be able to continue for all time the use of the subject parking lot as a public parking lot for the benefit of the entire community, for these and all additional reasons voiced during the debate on the matter, the Council declares its support for the City Lot I development project,

BE IT ORDAINED by the Council of Marion, Marion County, Ohio:

Section 1. The Mayor is authorized and directed to enter into agreement and complete all tasks necessary to complete the City Lot I parking lot development project, including the transfer of eight feet along the eastern edge to Brenda Gilliam and eight feet along the western edge to Lois Fisher and in addition thereto, permanent easements along the newly created property lines extending for a distance of 23 feet each toward the center of the remaining tract (all as is more accurately depicted upon the descriptions attached hereto as Exhibits A and B and the Plat Survey attached hereto as Exhibit C. Each adjoining property owner compensating the City the sum of \$ 5,000.00 for both the real property transferred and the granting of the aforementioned permanent easements. The total sum of \$ 10,000.00 to be deposited into an account as designated by the Auditor which shall be committed for the further improvement of the City's downtown parking lots, as the Council further directs. All forms must be approved by Law Director and said transfer being contingent upon the commitment of economic development of the adjoining properties, consistent with the mandates contained within the Ohio Revised Code, including but not limited to the approval of the Community Improvement Corporation.

Section 2. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof: in order to foster economic development in the downtown and assist in the development and retention of jobs and all the opportunity that goes therewith and to enhance the appearance and character of the downtown; and as such shall take effect and be in force immediately upon its' passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.

APPROVED: **MAY 13 2003**

Jack L. Kellogg
Mayor

Attest:
Cathy Chapman
Clerk of Council

Keith A. Koehn
President

Ex A (1)



FOX SURVEYING COMPANY

106 S. Elm Street
P.O. Box 133

Prospect, Ohio 43342

Phone (740) 494-2028
Fax (740) 494-2730

Description of 0.0273 Acre

Being part of Lot 234 in Bain, Butler & Powell's Addition to the City of Marion, and being part of a 13.50 ft. vacated alley, and being part of land, now or formerly owned by the City of Marion, Deed Vol. 423, page 500, Marion County, State of Ohio and being more particularly described as follows:

Commencing at a survey nail set 0.30 ft. north of the Northeast corner of said Lot 234, said point being on the West line of a 16.5 ft public alley;

Thence South 00 deg. 00 min. 00 sec. West for a distance of 0.30 ft to the Northwest corner of Lot 234, said point being at the intersection of the South Line of West Center Street with the West Line of a 16.5 ft. public alley;

Thence along the North Line of Lot 234 and South Line of West Center Street North 89 deg. 53 min. 10 sec. West for a distance of 124.10 feet to a survey nail set at the Northeast corner of hereinafter described 0.0273 acre tract (passing over survey nails set at distance of 58.00 feet, 81.00 feet and 101.10 feet) and the point of beginning.

Thence South 00 deg. 00 min. 00 sec. West for a distance of 148.50 feet to a survey nail set;

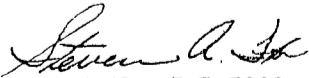
Thence North 89 deg. 53 min. 10 sec. West for a distance of 8.00 feet to a survey nail set (passing over the West Line of Lot 234 at a distance of 5.30 feet);

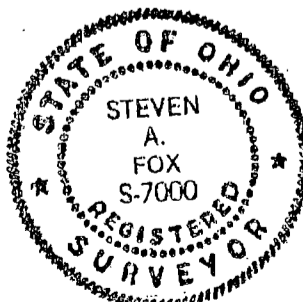
Thence North 00 deg. 00 min. 00 sec. East for a distance of 148.50 feet to a point on the South Line of West Center Street, said point referenced North 00 deg. 00 min. 00 sec. East for a distance of 0.30 ft to a survey nail found;

Thence along said South Line South 89 deg. 53 min. 10 sec. East for a distance of 8.00 feet to a survey nail set (passing over the Northeast corner of Lot No. 234 at a distance of 2.70 ft.) and the place of beginning.

Containing 0.0273 acre, (1188.00 sq. ft.) more or less, of which 0.0092 acre, more or less, is in vacated alley, and 0.0181 acre, more or less is in Lot No. 234, and subject to legal highways, easements, restrictions and agreements of record. This description prepared from a survey performed by Steven A. Fox, Registered Professional Surveyor 7000, and dated May 10, 2003.

Prior Deed Vol. 423, page 500
Basis of bearings, Survey by T.L. Boblenz and Assoc., dated 12/06/1994, South 89 deg. 53 min. 10 sec. East


Steven A. Fox, P.S. 7000



May 10, 2003
Date of Survey

Ex A(2)



FOX SURVEYING COMPANY

106 S. Elm Street
P.O. Box 133

Prospect, Ohio 43342

Phone (740) 494-2028
Fax (740) 494-2730

Description of 0.0784 Acre Permanent Easement

Being part of Lot 234 in Bain, Butler & Powell's Addition to the City of Marion, and being part of land, now or formerly owned by the City of Marion, Deed Vol. 423, page 500, Marion County, State of Ohio and being more particularly described as follows:

Commencing at a survey nail set 0.30 ft. north of the Northeast corner of said Lot 234, said point being on the West line of a 16.5 ft public alley;

Thence South 00 deg. 00 min. 00 sec. West for a distance of 0.30 ft to the Northwest corner of Lot 234, said point being at the intersection of the South Line of West Center Street with the West Line of a 16.5 ft. public alley;

Thence along the North Line of Lot 234 and South Line of West Center Street North 89 deg. 53 min. 10 sec. West for a distance of 101.10 feet to a survey nail set at the Northeast corner of hereinafter described 0.0784 acre tract (passing over survey nails set at distance of 58.00 feet and 81.00 feet) and the point of beginning.

Thence South 00 deg. 00 min. 00 sec. West for a distance of 148.50 feet to a survey nail set;

Thence North 89 deg. 53 min. 10 sec. West for a distance of 23.00 feet to a survey nail set;

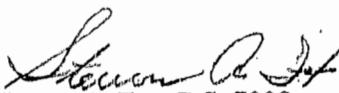
Thence North 00 deg. 00 min. 00 sec. East for a distance of 148.50 feet to a survey nail set on the North Line of Lot 234 and South Line of West Center Street;

Thence along said Line South 89 deg. 53 min. 10 sec. East for a distance of 23.00 feet to a survey nail set and the place of beginning.

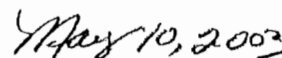
Containing 0.0784 acre, (3415.49 sq. ft.) more or less, and subject to legal highways, easements, restrictions and agreements of record. This description prepared from a survey performed by Steven A. Fox, Registered Professional Surveyor 7000, and dated May 10, 2003,

Prior Deed Vol. 423, page 500

Basis of bearings, Survey by T.L. Boblenz and Assoc., dated 12/06/1994, South 89 deg. 53 min. 10 sec. East


Steven A. Fox, P.S. 7000




Date of Survey



FOX SURVEYING COMPANY

106 S. Elm Street
P.O. Box 133

Prospect, Ohio 43342

Phone (740) 494-2028
Fax (740) 494-2730

Description of 0.0462 Acre

Being part of Lot 234 in Bain, Butler & Powell's Addition to the City of Marion, and being part of land, now or formerly owned by the City of Marion, Deed Vol. 423, page 500, Marion County, State of Ohio and being more particularly described as follows:

Commencing at a survey nail set 0.30 ft. north of the Northeast corner of said Lot 234, said point being on the West line of a 16.5 ft public alley;

Thence South 00 deg. 00 min. 00 sec. West for a distance of 0.30 ft to the Northwest corner of Lot 234, said point being at the intersection of the South Line of West Center Street with the West Line of a 16.5 ft. public alley;

Thence along the North Line of Lot 234 and South Line of West Center Street North 89 deg. 53 min. 10 sec. West for a distance of 50.00 feet to a point, said point being the Northeast corner of hereinafter described 0.0462 acre tract, and said point referenced North 00 deg. 00 min. 00 sec. East for a distance of 0.30 feet to a survey nail set, and the point of beginning.

Thence South 00 deg. 00 min. 00 sec. West for a distance of 132.00 feet to a survey nail set;

Thence South 89 deg. 53 min. 10 sec. East for a distance of 50.00 feet to a survey nail set on the West Line of aforesaid 16.5 ft. public alley;

Thence along said West Line South 00 deg. 00 min. 00 sec. West for a distance of 16.50 feet to a 5/8 inch dia. iron pin found;

Thence North 89 deg. 53 min. 10 sec. West for a distance of 58.00 feet to a survey nail set;

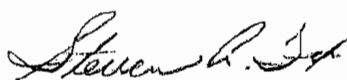
Thence North 00 deg. 00 min. 00 sec. East for a distance of 148.50 feet to a survey nail set on the North Line of Lot 234 and South Line of West Center Street;

Thence along said Line South 89 deg. 53 min. 10 sec. East for a distance of 8.00 feet to a point and the place of beginning.

Containing 0.0462 acre, (2013.00 sq. ft.) more or less, and subject to legal highways, easements, restrictions and agreements of record. This description prepared from a survey performed by Steven A. Fox, Registered Professional Surveyor 7000, and dated May 10, 2003,

Prior Deed Vol. 423, page 500

Basis of bearings, Survey by T.L. Boblenz and Assoc., dated 12/06/1994, South 89 deg. 53 min. 10 sec. East


Steven A. Fox, P.S. 7000



May 10, 2003
Date of Survey



FOX SURVEYING COMPANY

106 S. Elm Street
P.O. Box 133

Prospect, Ohio 43342

Phone (740) 494-2028
Fax (740) 494-2730

**Description of 0.0784 Acre
Permanent Easement**

Being part of Lot 234 in Bain, Butler & Powell's Addition to the City of Marion, and being part of land, now or formerly owned by the City of Marion, Deed Vol. 423, page 500, Marion County, State of Ohio and being more particularly described as follows:

Commencing at a survey nail set 0.30 ft. north of the Northeast corner of said Lot 234, said point being on the West line of a 16.5 ft public alley;

Thence South 00 deg. 00 min. 00 sec. West for a distance of 0.30 ft to the Northwest corner of Lot 234, said point being at the intersection of the South Line of West Center Street with the West Line of a 16.5 ft. public alley;

Thence along the North Line of Lot 234 and South Line of West Center Street North 89 deg. 53 min. 10 sec. West for a distance of 58.00 feet to a survey nail set at the Northeast corner of hereinafter described 0.0784 acre tract and the point of beginning.

Thence South 00 deg. 00 min. 00 sec. West for a distance of 148.50 feet to a survey nail set;

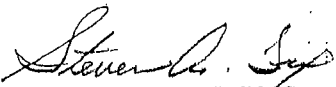
Thence North 89 deg. 53 min. 10 sec. West for a distance of 23.00 feet to a survey nail set;

Thence North 00 deg. 00 min. 00 sec. East for a distance of 148.50 feet to a survey nail set on the North Line of Lot 234 and South Line of West Center Street;

Thence along said Line South 89 deg. 53 min. 10 sec. East for a distance of 23.00 feet to a survey nail set and the place of beginning.

Containing 0.0784 acre, (3415.49 sq. ft.) more or less, and subject to legal highways, easements, restrictions and agreements of record. This description prepared from a survey performed by Steven A. Fox, Registered Professional Surveyor 7000, and dated May 10, 2003.

Prior Deed Vol. 423, page 500
Basis of bearings, Survey by T.L. Boblenz and Assoc., dated 12/06/1994, South 89 deg. 53 min. 10 sec. East


Steven A. Fox, P.S. 7000



May 10, 2003
Date of Survey

Ordinance No. 2003-41 Passed MAY 27 2003, 20

**ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/
SERVICE DIRECTOR TO PREPARE SPECIFICATIONS, AND
ADVERTISE FOR BIDS FOR THE FAIRGROUND/MARK STREET
SEWERS, SIDEWALKS AND PAVEMENT IMPROVEMENTS.
PROJECT 03-1P, AND DECLARING AN EMERGENCY**

WHEREAS, Ordinance Number 2003-18, as amended authorized the Safety/Service Director to prepare final construction plans

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director is hereby authorized and directed to prepare specifications, and advertise for bids for the Fairground/Mark Street Sewers, Sidewalks and Pavement Improvement, Project 03-1P.

Section 2. That the cost of such contract shall be payable from the Sewer Replacement Fund (504.5031.550520), the Community Distress Grant and the Storm Water Utility Fund (509.5031.550520).

Section 3. That this ordinance is hereby declared an emergency measure for the welfare and safety of the City of Marion and the inhabitants thereof and for the further reason this project must be completed during the 2003 construction season, and as such, shall take effect and be in force upon passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.

Keith A. Koehne

President of Council

Approved: **MAY 28 2003**

Josh E. Kelley

Mayor

Attest:
Cathy Chappi

Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-42

Passed MAY 27 2003, 2003

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO PREPARE PLANS AND SPECIFICATIONS, AND ADVERTISE FOR BIDS FOR THE 2003 SIDEWALK PROGRAM, PROJECT 03-2M AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director is hereby authorized and Directed to prepare plans and specifications, and advertise for bids for the 2003 Sidewalk Program,

Section 2. That the cost of such contract shall be payable from the Community Distress Grant.

Section 3. That this ordinance is hereby declared an emergency measure for the welfare and safety of the City of Marion and the inhabitants thereof and for the further reason this project must be completed during the 2003 construction season, and as such, shall take effect and be in force upon passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.

Keith A. Koehner
President of Council

Approved: **MAY 28 2003**

Jack L. Kelly
Mayor

Attest:
Cathy Chappin
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-43

Passed MAY 27 2003, 20

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$37,760.79 as follows:

SENIOR CITIZENS IIB FUND

Salaries	203.3543.510110	\$	(318.00)
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SENIOR CITIZENS STATE BLOCK GRANT FUND

Salaries	205.3543.510110	\$	(1,084.00)
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WIC FUND

Salaries	215.2543.510110	\$	10,416.01
Benefits	215.2543.510120		11,742.45
Utilities	215.2543.530310		118.20
Equipment Maintenance	215.2543.530360		447.00
Janitorial Service	215.2543.530424		800.00
Supplies	215.2543.540420		(1,107.76)
Postage	215.2543.540423		50.00
Equipment	215.2543.550450		<u>1,500.00</u>
Total WIC Fund		\$	23,965.90

ANTI-DRUG PATROL FUND

Reimbursements	223.1541.570721	\$	(468.52)
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ENFORCEMENT & EDUCATION FUND

Supplies	227.1111.540420	\$	(635.13)
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CHIP FUND

FY '2k Administration	272.4540.530324	\$	(901.28)
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FORMULA FUND

FY'02 Administration	275.4542.530324	\$	7.60
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CAPITAL IMPROVEMENT FUND

Fire Equipment	401.1131.551450	\$	(1,651.76)
Fire Equipment	401.1131.552450		16,338.83
Fire Equipment	401.1131.553450		(14,687.07)
Contingency	401.9543.570624		17,194.22

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

Keith A. Koehner
PRESIDENT OF COUNCIL

APPROVED: **MAY 28 2003**

Jack L. Kilby
MAYOR

ATTEST:

Cathy Chappin
CLERK

Ordinance No. 2003-44

Passed MAY 27 2003, 2003

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH JACK DOHENY SUPPLIES FOR THE PURCHASE OF (1) 2000 AMERICAN ROAD MACHINERY MODEL 30/30 LEAF VACUUM FOR USE IN THE STREETS DEPARTMENT AND APPROPRIATING THE NECESSARY FUNDS

WHEREAS, this Council by passage of Ordinance No. 1991-136, requires approval of all capital expenditures exceeding \$2,500.00 except for expenditures necessary for the health and safety of the citizens of the City of Marion, Marion County, Ohio and

WHEREAS, Jack Doheny Supplies, submitted the best proposal for the purchase of the 2000 American Road Machinery Model 30/30 Leaf Vacuum - \$14,900.00, therefore

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be authorized and is hereby directed to enter into contract with Jack Doheny Supplies to purchase (1) 2000 American Road Machinery Model 30/30 Leaf Vacuum for use in the Streets Department. The cost is funded from the Fire Insurance Fund - \$3,000.00 & S.C.M.R. Appropriation - \$11,900.00.

Section 2. That there be appropriated \$11,900.00 in the S.C.M.R. account 207.6612.550450.

Section 3. This ordinance shall take effect and be in force from and after the earliest period allowed by law.

Keith A. Koehne

PRESIDENT OF COUNCIL

APPROVED: **MAY 28 2003**

Paul L. Kelly

MAYOR

ATTEST:

Cathy Chappin

CLERK OF COUNCIL

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0018

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-45

Passed JUN 09 2003, 20

ORDINANCE TO ESTABLISH A COMMUNITY DEVELOPMENT PROGRAM THROUGH THE STATE OF OHIO'S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SMALL CITIES' PROGRAM AND TO AUTHORIZE THE MAYOR TO APPLY FOR THE FORMULA FUNDS AND ADMINISTER THE GRANT, AND DECLARING AN EMERGENCY.

WHEREAS, this Council recognizes the need for programs which remove slum and blight, benefit low- and moderate-income households or meet other urgent community development needs; and

WHEREAS, the CDBG Small Cities Program makes funds available for projects which address these problems; and

WHEREAS, the Mayor must submit an application to the State of Ohio Department of Development, to receive funds which have been authorized for the City of Marion to be used on eligible activities which address the community and economic development problems.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1 That this Council hereby authorizes the Mayor to submit an application for CDBG Small Cities funds, including the following projects:

1. Adams St. Sidewalks	\$ 8,500
2. Sugar St. street improvements	\$ 128,350
3. Free Medical Clinic	\$ 24,150
4. <u>Environmental Review/Audit/Admin/Fair Hsg</u>	<u>\$ 28,000</u>
TOTAL	\$189,000

Section 2 That upon approval of the City of Marion's grant application, the Mayor is hereby authorized to accept the grant and administer the CDBG Small Cities Program in the City of Marion.

Section 3 This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety of the City of Marion and the inhabitants thereof and for the further reason that the grant application must be filed immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; it shall become effective from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: JUN 10 2003


MAYOR

ATTEST:


CLERK OF COUNCIL

RECORD OF ORDINANCES

0017

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-46

Passed JUN 23 2003, 20

ORDINANCE TO VACATE A CERTAIN 12' WIDE PORTION OF THE NORTH/SOUTH ALLEY SITUATED WEST OF LINCOLN AVENUE, EAST OF NORTH SEFFNER STREET IN THE MILLER & CRAWLEY'S ADDITION TO THE CITY OF MARION, OHIO. (APPLICANT MR. BRIAN REED)

WHEREAS, in the opinion of this Council, there is good cause for vacating the north/south alley west of Lincoln Avenue, east of North Seffner Street in the Miller & Crawley's Addition to the City of Marion, Ohio, and,

WHEREAS, the petition to vacate this alley was considered and approved by the Marion City Planning Commission at its meeting of May 6, 2003, and

WHEREAS, notice to all abutting landowners was given in accordance with Marion Codified Ordinances 903.08, and

WHEREAS, Council, upon hearing, is satisfied that said vacation will not be detrimental to the general interest and ought to be made;

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the alley as described in the attached Exhibit "A", be and is hereby vacated.

Section 2. That title to the real estate comprising said alley shall revert to the abutting property owners in accordance with the laws of Ohio.

Section 3. That nothing in this Ordinance shall be construed to affect any right-of-way or easement now held by the City of Marion, in, under, over or across the above mentioned alley for sewer purposes or fur use by any public utility operating under a franchise with the City of Marion, and the vacation of said alley herein is specifically made subject to the continued existence of any such existing right-of-way or easement.

Section 4. The Clerk of Council be and she is hereby authorized and directed to certify a copy of the within ordinance to the Auditor of Marion County and to the Recorder of Marion County, Ohio.

Section 5. That this ordinance shall become effective from and after the earliest period allowed by law.

APPROVED: **JUN 24 2003**

Keith A. Koehler
PRESIDENT OF COUNCIL

Jack L. Kelley
MAYOR

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

ATTEST:
Cathy Chappin
CLERK

Ordinance No. 2003-47

Passed JUN 09 2003, 2003

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO SPEC AND BID THE DEMOLITION OF 569 N. STATE ST., MARION, OHIO PURSUANT TO THE AUTHORITY GRANTED BY THE COMMON PLEAS COURT IN RESPONSE TO THE SUIT BROUGHT BY THE LAW DIRECTOR AND DECLARING AN EMERGENCY

WHEREAS, the Council, Law Director and Administration have been pro-active in the abatement and removal of dilapidated and neglected properties within the City, and

WHEREAS, as part of the comprehensive approach of the Council, Law Director and Administration in order to make the community more safe and more secure the Law Director brought suit against the owners of 569 N. State St. and obtained a Judgment therein declaring 569 N. State to be a public nuisance in need of immediate abatement by demolition,

BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. The Council herein authorizes and directs the Safety/Service Director to spec and bid the demolition of 569 N. State St. without delay.

Section 2. This ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, welfare and safety of the City of Marion and the inhabitants thereof, due to the real and present need to eliminate the declared nuisance and the danger it is causing the immediate neighborhood in which it sets; and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise it shall become effective from and after the earliest period allow by law.

APPROVED: JUN 10 2003

Keith A. Koehne
President of Council

Joseph L. Kelly
Mayor

Attest: *Cathy Chapin*
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-48

Passed JUN 09 2003, 2003

ORDINANCE AUTHORIZING AND DIRECTING THE CITY ENGINEER TO PREPARE AND EXTEND REQUESTS FOR PROPOSALS AND ENTER INTO CONTRACT WITH A QUALIFIED ENGINEERING FIRM FOR THE DUAL RAIL INDUSTRIAL PARK RAILROAD LOOP PROJECT AND DECLARING AN EMERGENCY

WHEREAS, previous Council by passage of Ordinances 1999-39 and 1999-90 did create the Dual Rail Industrial Park TIFFs 2 and 3, and

WHEREAS, the aforementioned TIFFs 2 and 3 each contain a listing of anticipated projects in need of completion within the Dual Rail Industrial Park, and

WHEREAS, the next anticipated and necessary public infrastructure improvement within the Park is the Railroad Loop Project and in order to progress according to plan it is necessary to have the underlying project engineering completed,

BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. The Council finds it necessary, in order to progress according to the plans contained within Ordinances 1999-39 and 1999-90, to direct the City Engineer to prepare and extend Requests for Proposals and enter into contract with a qualified engineering firm to complete all work deemed necessary by said City Engineer in order to complete the engineering related to the Railroad Loop Project. The costs of said engineering contract to be paid from the Dual Rail Industrial Park TIFF #2 and # 3. The contract herein authorized shall be for no more than that amount of funds on hand and available as is determined by the City Auditor as of the date of passage of this Ordinance.

Section 2. This ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, welfare and safety of the City of Marion and the inhabitants thereof, due to the real and present need to move forward without delay to ensure a strong local economy and to support existing jobs; and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise it shall become effective from and after the earliest period allow by law.

APPROVED: JUN 10 2003

Keith A. Koehring
President of Council

Joel E. Kelley
Mayor

Attest: *Cathy Chappin*
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-50

Passed JUN 23 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO PURCHASE COMPUTER EQUIPMENT THROUGH THE STATE OF OHIO COOPERATIVE PURCHASING PROGRAM FOR THE POLICE DEPARTMENT; AND DECLARING AN EMERGENCY.

WHEREAS, the Police Department needs to update their current computer system, consisting of three (3) laptop computers, one (1) server, twenty (20) work stations two (2) computer towers (for Dispatch Center), and

WHEREAS, the State of Ohio Cooperative Purchasing Program offers these computers at a substantial savings to the City.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio;

Section 1 That the Safety Director be, and he is hereby authorized to enter into contract with the State of Ohio Cooperative Purchasing Program, for the purchase of said computers and computer items.

Section 2 That said computers and computer items purchased from the State of Ohio Cooperative Purchasing Program at a cost of \$34,246.00

Section 3 That this ordinance is hereby declared an emergency measure necessary for the immediate preservation of health, welfare and safety of the City of Marion and the inhabitants thereof and for the further reason it is necessary for the daily operation of said City; and such shall take effect and be in force immediately upon it's passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.

Keith A. Krehmer
President of Council

APPROVED: **JUN 24 2003**

Jack L. Kelly
Mayor

Cathy Chapin
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-51

Passed JUN 09 2003, 2003

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO PURCHASE A MODEL STT 61A-27 KA SCAG TRACTOR/MOWER FROM E.E. JOHNSON PROPERTY SERVICES, LLC., TRADE-IN (1) MODEL B2150 KUBOTA TRACTOR, FOR USE AT THE MARION MUNICIPAL AIRPORT AND DECLARING AN EMERGENCY.

WHEREAS, the Model B2150 Kubota Tractor is inadequate in meeting the needs of the Marion Municipal Airport, and

WHEREAS, there is a new Model STT 61A-27 KA Scag Tractor/Mower available through E.E. Johnson Property Services, LLC.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be authorized and is hereby directed to enter into contract with E.E. Johnson Services, LLC., 570 West Center Street, Marion, Ohio 43302, for the purchase of a new Model STT 61A-27 Scag Tractor/Mower for use at the Marion Municipal Airport.

Section 2. That the contract price shall be \$7,679.20 and the trade-in of (1) Model B2150 Kubota Tractor s/n 56515/10103/21145 valued at \$6,399.20 now in use at the Marion Municipal Airport.

Section 3. That said price difference \$1,280.00 shall be payable from the Industrial Park Capital Equipment Fund account 410.4539.550450 and General Fund account 101.6621.550450.

Section 4. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 5. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, welfare and safety of the City of Marion and the inhabitants thereof, and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall become effective from and after the earliest period allowed by law.

Keith A. Koehne

PRESIDENT OF COUNCIL

APPROVED: JUN 10 2003

Jack L. Kelley

MAYOR

ATTEST:
Cathy Chappie

CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-52 Passed JUN 09 2003, 20

ORDINANCE APPROPRIATING FUNDS, RATIFYING AND APPROVING THE BARGAINING AGREEMENT BETWEEN THE CITY OF MARION AND INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 379 AND DECLARING AN EMERGENCY.

WHEREAS, Council will hereby appropriate monies to implement a bargaining agreement with International Association of Fire Fighters Local 379 and

WHEREAS, an agreement with International Association of Fire Fighters Local 379 has been reached on behalf of said Bargaining Unit and the City of Marion and ratified by the bargaining unit, to be effective retroactive to April 1, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. The Auditor is authorized and directed to appropriate the necessary funds of \$86,000 to comply with the bargaining agreement and shall do so upon passage of this ordinance.

Section 2. That Council hereby ratifies and approves the bargaining agreement between the City of Marion and International Association of Fire Fighters Local 379, for the above specified bargaining unit.

Section 3. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof and for the further reason that the current contract has expired on March 31, 2003 and as such shall take effect and be in force immediately upon its' passage and approval by the Mayor, provided it received the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.

Keith A. Koshewer
 PRESIDENT OF COUNCIL

APPROVED: JUN 10 2003

Jack L. Kelly
 MAYOR

Crothy Chappie
 CLERK OF COUNCIL

Approved As Submitted Pursuant
 To M.C.C.
 MARK D. RUSSELL
 DIRECTOR OF LAW
 CITY OF MARION

RECORD OF ORDINANCES

0231

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-53

Passed JUN 09 2003, 20

ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COMPREHENSIVE AGREEMENT WITH GE MARION CO LTD PROVIDING FOR MUTUAL OBLIGATIONS RELATED TO THE IMPROVEMENT OF DELAWARE AVENUE AND DECLARING AN EMERGENCY

WHEREAS, the Council has been advised of a substantial project to be completed along Delaware Avenue, and

WHEREAS, the aforementioned project is dependant upon a number of contingencies related to the provision of City services, and

WHEREAS, the Council has pro-actively and consistently served those parties and projects which benefit the economic welfare of the community,

BE IT ORDAINED, by the Council of the City of Marion, Marion County, Ohio:

SECTION 1. The Council authorizes the Mayor to enter into a comprehensive agreement with GE Marion Co. Ltd and any of its related partners in regard to the anticipated improvement along Delaware Ave.. Said agreement shall include provisions to address existing contingencies such as requested services, and in addition, but not limited to road improvements which the City has been advised by the State of Ohio Department of Transportation must be addressed. The Mayor is authorized to complete all acts necessary to ensure the project's success, however this authorization is limited only in the respect that it shall not replace existing procedures as to subdivision review, planning approval or TIFF approval.

SECTION 2. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof: given the immediacy of the project and the need to proceed without delay and avoid the loss of the project while further delineating the parties obligations related to the improvements; and as such shall take effect and be in force immediately upon its' passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.

Keith A. Kucharski
President of Council

APPROVED: JUN 10 2003

Jack L. Kelley
Mayor

ATTEST:
Cathy Chappin
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-54

Passed JUN 23 2003, 20

ORDINANCE APPROVING THE PURCHASE OF A TRIPLE WORKSTATION FROM THOMAS RUFF & COMPANY AT A COST OF \$5,997.20 FOR THE HEALTH DEPARTMENT AND DECLARING AN EMERGENCY.

WHEREAS, this Council by passage of Ordinance No. 1991-136, requires approval of all capital expenditures exceeding \$2,500.00 except for expenditures necessary for the health and safety of the citizens of the City of Marion, Marion County, Ohio, and

WHEREAS, Thomas Ruff & Company, state and local government contractee, submitted the best proposal for the purchase of the triple workstation, therefore

BE IT ORDAINED by Council of the City of Marion, Marion, Ohio:

Section 1. That the Health Commissioner be authorized and is hereby directed to enter into contract to purchase a triple workstation for the Division of Vital Statistics in the Health Department.

Section 2. That the \$5997.20 cost of said contract shall be payable from the Health Department Capital Improvement Fund Account No. 401.2221.553450.

Section 3. That this ordinance is hereby declared to be an emergency measure to improve the daily operations of the City Health Department and its obligation to be HIPAA compliant; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall become effective from and after the earliest period allowed by law.

Keith A. Koschuski
PRESIDENT OF COUNCIL

APPROVED: JUN 24 2003

Jack H. Kellogg
MAYOR

ATTEST:
Cathy Chappi
CLERK OF COUNCIL

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0775

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-55

Passed JUN 23 2003, 2003

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$97,867.06 as follows:

SCMR FUND

Clothing Allowance	207.6612.510140	\$	2,000.00
Equipment Maintenance	207.6612.530360		67,000.00
Building Rent	207.6612.530371		6,000.00
TOTAL SCMR FUND		\$	75,000.00

DRIP TIF RIDGEDALE SCHOOLS FUND

OPWC Loan	346.8430.560653	\$	(3,205.05)
Transfer to DRIP TIF Marion City Schools	346.8430.580347		17,751.50
TOTAL DRIP TIF FUND		\$	14,546.45

TRANSIT FUND

Building Rent	502.6543.530371	\$	6,000.00
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SANITATION FUND

Equipment	506.5561.550450	\$	(16,000.00)
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SWIMMING POOL FUND

Equipment	516.3423.550450	\$	4,425.00
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STORM SEWER IMPROVEMENT FUND

Uncapher Avenue Project	560.5013.550520	\$	10,366.61
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CENTRAL GARAGE CONSTRUCTION FUND

Professional Services	651.9601.550320	\$	3,529.00
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Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Kevin A. Koehner
PRESIDENT OF COUNCIL

APPROVED: JUN 24 2003

Jack E. Kellogg
MAYOR

ATTEST:

Cathy Chappie
CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-56

Passed JUN 23 2003, 20

ORDINANCE APPROVING THE PURCHASE OF THREE LIFEGUARD CHAIRS FROM BROCK ENTERPRISE, INC. FOR USE AT LINCOLN POOL WITH EMERGENCY CLAUSE

WHEREAS, this council, by passage of Ordinance No. 1991-136 requires approval of all capital expenditures exceeding \$2,500.00 except for expenditures necessary for the health and safety of the citizens of the City of Marion, Marion County, Ohio, and

BE IT ORDAINED BY THE council of the City of Marion, Marion County, Ohio;

Section 1. That the Safety/Service Director be authorized and is hereby directed to enter into contract with Brock Enterprise, Inc., to purchase three lifeguard chairs for a total of \$4425.00.

Section 2. That the cost of \$4,425.00 shall be payable from the Capital Improvement Fund, Account 516.3423.550456.

Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the safety and welfare of the City of Marion and the inhabitants thereof and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.

Kevin A. Koehner
 PRESIDENT OF COUNCIL

APPROVED: **JUN 24 2003**

Paul H. Kelly
 MAYOR

ATTEST:
Cathy Chappin
 CLERK OF COUNCIL

Ordinance No. 2003-57 Passed JUN 23 2003, 2003

ORDINANCE APPROPRIATING FUNDS, RATIFYING AND APPROVING THE NEGOTIATED WAGE RE-OPENER BETWEEN THE CITY OF MARION AND FOP/OLC BLUE UNIT AND DECLARING AN EMERGENCY.

WHEREAS, Council will hereby appropriate monies to implement a wage re-opener agreement with FOP/OLC Blue Unit and

WHEREAS, an agreement with FOP/OLC Blue Unit has been reached on behalf of said Bargaining Unit and the City of Marion and ratified by the bargaining unit, to be effective the 1st full pay period after July 1, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. The Auditor is authorized and directed to appropriate the necessary funds of \$46,500 to comply with the bargaining agreement and shall do so upon passage of this ordinance.

Section 2. That Council hereby ratifies and approves the bargaining agreement between the City of Marion and FOP/OLC Blue Unit, for the above specified bargaining unit.

Section 3. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof and for the further reason that the current wage will expire on July 1, 2003 and as such shall take effect and be in force immediately upon its' passage and approval by the Mayor, provided it received the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.

Keith A. Koepf

PRESIDENT OF COUNCIL

APPROVED: JUN 24 2003

Jack L. Kelley

MAYOR

Cathy Chappin

CLERK OF COUNCIL

RECORD OF ORDINANCES

0011

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-58

Passed JUL 14 2003, 20

ORDINANCE AUTHORIZING THE MARION CITY HEALTH DEPARTMENT TO ENTER INTO CONTRACT WITH MACKAY TELEPHONE SYSTEMS, INC AND APPROPRIATING THE NECESSARY FUNDS FOR THE REPLACEMENT OF SAID DEPARTMENTS PHONE SYSTEM IN ORDER TO COMPLY WITH REGULATIONS RELATED TO ACCESSIBILITY AND DECLARING AN EMERGENCY

WHEREAS, Council has been advised by the Health Commissioner of the immediate need to replace the existing phone system within the Department of Health in order to comply with accessibility requirements related to the Department's operations, and

WHEREAS, the Council finds the Commissioner's recommendation to be well taken,

BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. The City Health Department is authorized to enter into contract with Mackay Telephone Systems, Inc. for the replacement of its phone system in order to be compliant with existing regulations. The Auditor is directed to appropriate the necessary funds for said contract. The contract amount being \$ 9,333.02 with a portion to be paid by grant funding.

Section 2. This ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, welfare and safety of the City of Marion and the inhabitants thereof, due to the real and present need to update the Health Department phone system ; and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise it shall become effective from and after the earliest period allow by law.

APPROVED: JUL 15 2003

Jack L. Kelly

Mayor

Keith A. Karpowicz
President of Council

Attest:

Cathy Chappin

Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0315

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-60

Passed JUL 14 2003, 20

ORDINANCE AMENDING MARION CODIFIED ORDINANCE 193.14(C),
ALLOCATION OF FUNDS WITHIN CHAPTER 193: MUNICIPAL INCOME
TAX.

WHEREAS, due to the need to repair the road base in various locations of Church Street
at an estimated cost of \$150,000.00, and

WHEREAS, State Issue 2 LTIP funds will not be available in 2003, and

WHEREAS, this Council desires to have an economically feasible street resurfacing
program in 2003, and

WHEREAS, there are insufficient revenues in the SCMR fund to provide such a program.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That Chapter 193.14(C) of the Codified Ordinances shall be amended by
adding the following:

"In 2003 an additional \$300,000.00 of unvoted municipal income tax shall be allocated for
street resurfacing projects; In 2005 the 5% unvoted municipal income tax shall be reduced by
\$300,000.00"

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


PRESIDENT OF COUNCIL

APPROVED: **JUL 15 2003**


MAYOR

ATTEST:


CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0317

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-61 Passed JUL 14 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ADVERTISE FOR BIDS FOR RUNWAY 12/30 PAVEMENT REHABILITATION AND TO CLEAR AND GRUB AROUND SAFETY ZONE, AT THE MARION MUNICIPAL AIRPORT AND DECLARING AN EMERGENCY.

WHEREAS, The City of Marion has been tentatively allocated \$311,000.00 FAA Grant and \$175,000.00 ODOT Grant, known as Project 14, toward construction estimate of \$515,000.00

WHEREAS, The final grant award is offered as a result of these bids.

BE IT ORDAINED by the Council of the City of Marion, Marion, County, Ohio:

Section 1. That the Safety/Service Director is hereby authorized and directed to advertise for bids for pavement rehabilitation to Runway 12/30 and to clear and grub around safety zone, at the Marion Municipal Airport.

Section 2. The specifications were prepared by Yager and Associates of Toledo, Ohio, who was selected per FAA guidelines and authorized by Ordinance 1997-111.

Section 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, welfare and safety of the City of Marion and the inhabitants thereof, and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall become effective from and after the earliest period allowed by law.

Keith A. Koelher
PRESIDENT OF COUNCIL

APPROVED: **JUL 15 2003**

Paul L. Kellogg
MAYOR

ATTEST:
Cathy Chappin
CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-62 Passed JUL 14 2003, 20

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO PREPARE SPECIFICATIONS AND ADVERTISE FOR BIDS FOR THE DEMOLITION OF A FIRE DAMAGED STRUCTURE AT 603 DAVIDS STREET, AND DECLARING AN EMERGENCY.

WHEREAS, On February 4, 2001 a fire severely damaged the property located at 603 Davids Streets, and;

WHEREAS, Chapter 1360 of the Marion Codified Ordinances requires the property owner to remediate the nuisance within one year of the fire, and

WHEREAS, the City is holding in escrow an amount of \$8,000 in insurance proceeds to cover the cost of said demolition.

THEREFORE, BE IT ORDAINED by the Council of Marion, Ohio, Marion County,

Section 1. That the Safety/Service Director be authorized and directed to demolish the structure located at 603 Davids Street in Marion, Ohio.

Section 2. That cost of Demolition will be paid through insurance proceeds,

Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate protection, welfare and safety of the City of Marion and the inhabitants thereof and for further reason that a nuisance does exist; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise, it shall become effective from and after the earliest period allowed by law.

Keith A. Koehner
PRESIDENT OF COUNCIL

APPROVED: JUL 15 2003

Josh L. Kellogg
MAYOR

ATTEST:
Cathy Chappin
CLERK OF COUNCIL

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-63

Passed JUL 14 2003, 20

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH LUTZ CONCRETE, INC. FOR THE 2003 SIDEWALK PROGRAM, PROJECT 03-2M FOR THE CITY OF MARION, OHIO AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance No. 2003-42 authorized the preparation of plans, specifications and advertising for bids for the 2003 Sidewalk Program, Project 03-2M for the City of Marion, Ohio, and

WHEREAS, Lutz Concrete, Inc. submitted the lowest and best bid.

BE IT ORDAINED BY the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be directed to enter into contract with Lutz Concrete, Inc., for the 2003 Sidewalk Program, Project 03-2M.

Section 2. That said contract shall be payable from the Community Distress Grant.

Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion, and the inhabitants thereof, and for the further reason that construction must be completed in 2003, and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.

Keith A. Korshak

President of Council

Approved: **JUL 15 2003**

Jack L. Kelly

Mayor

Attest:
Cathy Chappin

Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-64

Passed JUL 14 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO PREPARE PLANS AND SPECIFICATIONS, ADVERTISE FOR BIDS, AND ENTER INTO CONTRACT FOR THE 2003 STREET RESURFACING PROGRAM, PROJECT 03-1R, IN THE CITY OF MARION, OHIO AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be directed to prepare plans and specifications, advertise for bids, and enter into contract for the 2003 Street Resurfacing Program.

Section 2. That said contract shall be payable from the \$5.00 Permissive Auto Tax Fund, and the Streets Resurfacing Fund (S.C.M.&R.).

Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and the inhabitants thereof, and for the further reason that this project must be completed during warm weather; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise, it shall become effective from and after the earliest period allowed by law.

Keith A. Koehner
President of Council

Approved: **JUL 15 2003**

Jack L. Kelley
Mayor

Attest:
Cathy Chappin
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0035

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-65

Passed JUL 14 2003, 2003

ORDINANCE ACCEPTING THAT PORTION OF WELLNESS DRIVE NOW COMPLETED AND DEDICATING SAME AS A PUBLIC STREET WITH CERTAIN CONDITIONS AS CONTAINED WITHIN THE AGREEMENT ATTACHED HERETO, ALL BEING WITHIN THE CITY OF MARION, COUNTY OF MARION, STATE OF OHIO AND CONFIRMING THE DEDICATION OF THE STREET AND RIGHT OF WAYS THEREIN AND DECLARING AN EMERGENCY, As Amended

WHEREAS, the initial phase of Wellness Dr., located off of Barks Rd East within the City of Marion, has now been completed and is ready for dedication, and

WHEREAS, the City Planning Commission has approved the acceptance of the completed portion of Wellness Drive on the condition that Center Park of Marion, Ltd. provide the City adequate assurances that it will complete the Barks Rd. E. / Wellness Dr. intersection in compliance with City standards and in a timely manner, and

WHEREAS, Center Park of Marion, Ltd. has tendered the attached Agreement (See Exhibit B) providing for the terms and conditions as required by City Planning,

BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. That portion of Wellness Drive now completed, as depicted on Exhibit A attached hereto and made a part hereof, shall be approved and accepted and dedicated to the public use of the street and right of ways shown thereon. Said roadway is hereby accepted and confirmed conditioned only upon the agreement attached hereto as Exhibit B. The Council, recognizing the City Planning Commission has voted to accept the said street conditioned upon the terms and conditions contained within the attached agreement, does hereby accept said terms and conditions and further authorizes the Mayor to enter into said agreement. Further, the Council finds the equities of the entire Wellness Drive project to demand the waiver of any conflicting rules or regulations and finds the agreement referenced herein to be adequate assurance that the developer of lots # 2 and # 3 will complete the intersection improvements in a timely manner.

Section 2. This ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, welfare and safety of the City of Marion and the inhabitants thereof, due to impending deadlines and the need to move forward without delay or stand the risk of losing significant and beneficial projects to the City ; and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise it shall become effective from and after the earliest period allow by law.

APPROVED: JUL 15 2003

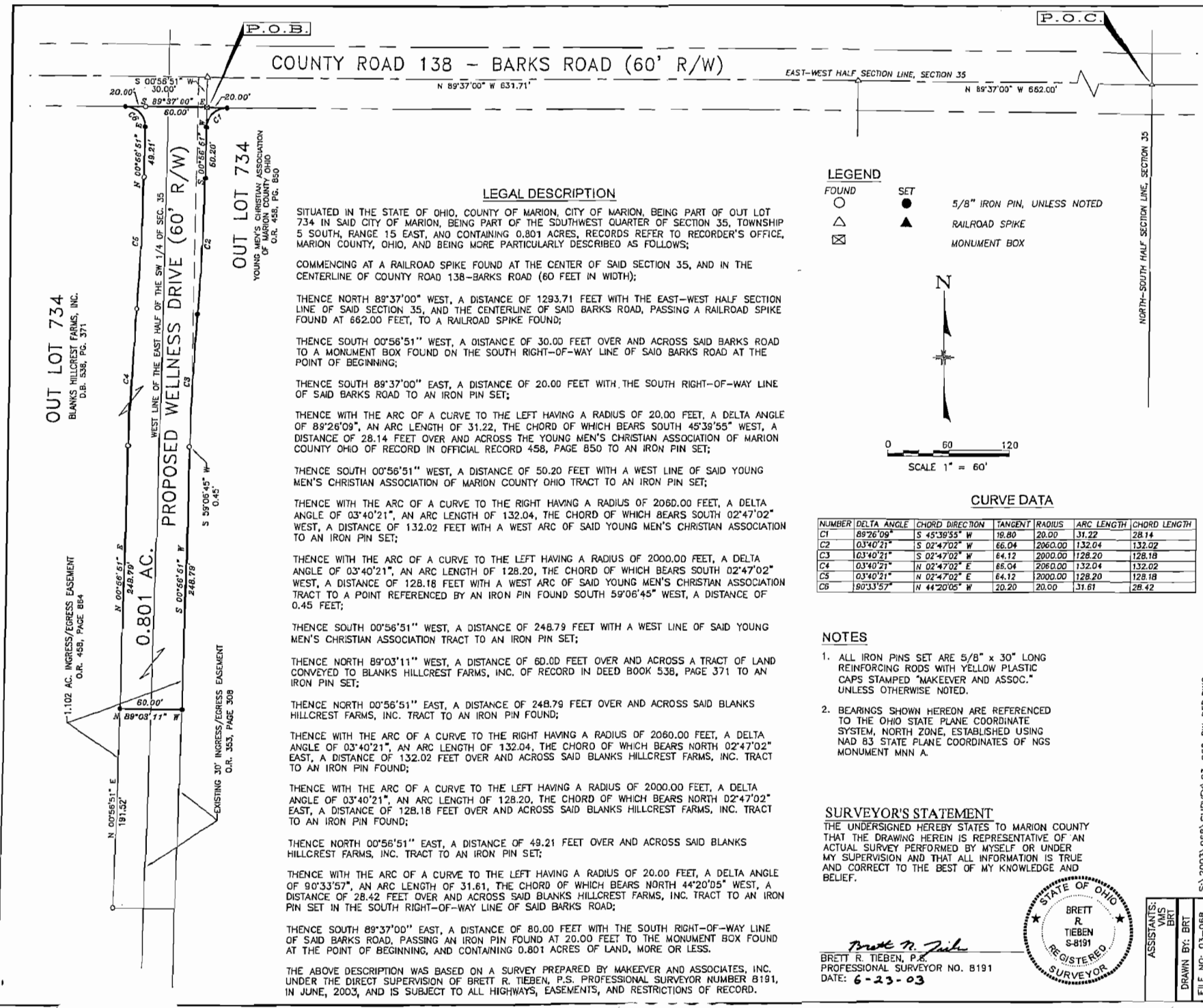
Keith A. Koshman
President of Council

Jack L. Keller
Mayor

Attest
Cathy Chappin
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

EXHIBIT A



OUT LOT 734
YOUNG MEN'S CHRISTIAN ASSOCIATION
OF MARION COUNTY OHIO
O.R. 458, PG. 850

OUT LOT 734
BLANKS HILLCREST FARMS, INC.
O.B. 538, PG. 371

1.102 AC. INGRESS/EGRESS EASEMENT
O.R. 458, PAGE 864

0.801 AC.

EXISTING 30' INGRESS/EGRESS EASEMENT
O.R. 353, PAGE 308

LEGAL DESCRIPTION

SITUATED IN THE STATE OF OHIO, COUNTY OF MARION, CITY OF MARION, BEING PART OF OUT LOT 734 IN SAID CITY OF MARION, BEING PART OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 5 SOUTH, RANGE 15 EAST, AND CONTAINING 0.801 ACRES, RECORDS REFER TO RECORDER'S OFFICE, MARION COUNTY, OHIO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT A RAILROAD SPIKE FOUND AT THE CENTER OF SAID SECTION 35, AND IN THE CENTERLINE OF COUNTY ROAD 138-BARKS ROAD (60 FEET IN WIDTH);

THENCE NORTH 89°37'00" WEST, A DISTANCE OF 1293.71 FEET WITH THE EAST-WEST HALF SECTION LINE OF SAID SECTION 35, AND THE CENTERLINE OF SAID BARKS ROAD, PASSING A RAILROAD SPIKE FOUND AT 662.00 FEET, TO A RAILROAD SPIKE FOUND;

THENCE SOUTH 00°56'51" WEST, A DISTANCE OF 30.00 FEET OVER AND ACROSS SAID BARKS ROAD TO A MONUMENT BOX FOUND ON THE SOUTH RIGHT-OF-WAY LINE OF SAID BARKS ROAD AT THE POINT OF BEGINNING;

THENCE SOUTH 89°37'00" EAST, A DISTANCE OF 20.00 FEET WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID BARKS ROAD TO AN IRON PIN SET;

THENCE WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 20.00 FEET, A DELTA ANGLE OF 89°26'09", AN ARC LENGTH OF 31.22, THE CHORD OF WHICH BEARS SOUTH 45°39'55" WEST, A DISTANCE OF 28.14 FEET OVER AND ACROSS THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF MARION COUNTY OHIO OF RECORD IN OFFICIAL RECORD 458, PAGE 850 TO AN IRON PIN SET;

THENCE SOUTH 00°56'51" WEST, A DISTANCE OF 50.20 FEET WITH A WEST LINE OF SAID YOUNG MEN'S CHRISTIAN ASSOCIATION OF MARION COUNTY OHIO TRACT TO AN IRON PIN SET;

THENCE WITH THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2060.00 FEET, A DELTA ANGLE OF 03°40'21", AN ARC LENGTH OF 132.04, THE CHORD OF WHICH BEARS SOUTH 02°47'02" WEST, A DISTANCE OF 132.02 FEET WITH A WEST ARC OF SAID YOUNG MEN'S CHRISTIAN ASSOCIATION TO AN IRON PIN SET;

THENCE WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2000.00 FEET, A DELTA ANGLE OF 03°40'21", AN ARC LENGTH OF 128.20, THE CHORD OF WHICH BEARS SOUTH 02°47'02" WEST, A DISTANCE OF 128.18 FEET WITH A WEST ARC OF SAID YOUNG MEN'S CHRISTIAN ASSOCIATION TRACT TO A POINT REFERENCED BY AN IRON PIN FOUND SOUTH 59°06'45" WEST, A DISTANCE OF 0.45 FEET;

THENCE SOUTH 00°56'51" WEST, A DISTANCE OF 248.79 FEET WITH A WEST LINE OF SAID YOUNG MEN'S CHRISTIAN ASSOCIATION TRACT TO AN IRON PIN SET;

THENCE NORTH 89°03'11" WEST, A DISTANCE OF 60.00 FEET OVER AND ACROSS A TRACT OF LAND CONVEYED TO BLANKS HILLCREST FARMS, INC. OF RECORD IN DEED BOOK 538, PAGE 371 TO AN IRON PIN SET;

THENCE NORTH 00°56'51" EAST, A DISTANCE OF 248.79 FEET OVER AND ACROSS SAID BLANKS HILLCREST FARMS, INC. TRACT TO AN IRON PIN FOUND;

THENCE WITH THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2060.00 FEET, A DELTA ANGLE OF 03°40'21", AN ARC LENGTH OF 132.04, THE CHORD OF WHICH BEARS NORTH 02°47'02" EAST, A DISTANCE OF 132.02 FEET OVER AND ACROSS SAID BLANKS HILLCREST FARMS, INC. TRACT TO AN IRON PIN FOUND;

THENCE WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2000.00 FEET, A DELTA ANGLE OF 03°40'21", AN ARC LENGTH OF 128.20, THE CHORD OF WHICH BEARS NORTH 02°47'02" EAST, A DISTANCE OF 128.18 FEET OVER AND ACROSS SAID BLANKS HILLCREST FARMS, INC. TRACT TO AN IRON PIN FOUND;

THENCE NORTH 00°56'51" EAST, A DISTANCE OF 49.21 FEET OVER AND ACROSS SAID BLANKS HILLCREST FARMS, INC. TRACT TO AN IRON PIN SET;

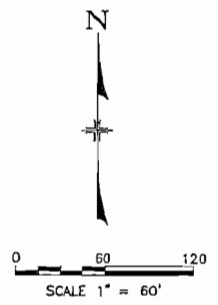
THENCE WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 20.00 FEET, A DELTA ANGLE OF 90°33'57", AN ARC LENGTH OF 31.61, THE CHORD OF WHICH BEARS NORTH 44°20'05" WEST, A DISTANCE OF 28.42 FEET OVER AND ACROSS SAID BLANKS HILLCREST FARMS, INC. TRACT TO AN IRON PIN SET IN THE SOUTH RIGHT-OF-WAY LINE OF SAID BARKS ROAD;

THENCE SOUTH 89°37'00" EAST, A DISTANCE OF 80.00 FEET WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID BARKS ROAD, PASSING AN IRON PIN FOUND AT 20.00 FEET TO THE MONUMENT BOX FOUND AT THE POINT OF BEGINNING, AND CONTAINING 0.801 ACRES OF LAND, MORE OR LESS.

THE ABOVE DESCRIPTION WAS BASED ON A SURVEY PREPARED BY MAKEEVER AND ASSOCIATES, INC. UNDER THE DIRECT SUPERVISION OF BRETT R. TIEBEN, P.S. PROFESSIONAL SURVEYOR NUMBER 8191, IN JUNE, 2003, AND IS SUBJECT TO ALL HIGHWAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

LEGEND

- | | | |
|-------|-----|-----------------------------|
| FOUND | SET | |
| ○ | ● | 5/8" IRON PIN, UNLESS NOTED |
| △ | ▲ | RAILROAD SPIKE |
| ⊠ | ⊠ | MONUMENT BOX |



CURVE DATA

NUMBER	DELTA ANGLE	CHORD DIRECTION	TANGENT	RADIUS	ARC LENGTH	CHORD LENGTH
C1	89°26'09"	S 45°39'55" W	16.80	20.00	31.22	28.14
C2	03°40'21"	S 02°47'02" W	66.04	2060.00	132.04	132.02
C3	03°40'21"	S 02°47'02" W	64.12	2000.00	128.20	128.18
C4	03°40'21"	N 02°47'02" E	65.04	2060.00	132.04	132.02
C5	03°40'21"	N 02°47'02" E	64.12	2000.00	128.20	128.18
C6	90°33'57"	N 44°20'05" W	20.20	20.00	31.61	28.42

NOTES

- ALL IRON PINS SET ARE 5/8" x 30" LONG REINFORCING RODS WITH YELLOW PLASTIC CAPS STAMPED "MAKEEVER AND ASSOC." UNLESS OTHERWISE NOTED.
- BEARINGS SHOWN HEREON ARE REFERENCED TO THE OHIO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, ESTABLISHED USING NAD 83 STATE PLANE COORDINATES OF NGS MONUMENT MNN A.

SURVEYOR'S STATEMENT

THE UNDERSIGNED HEREBY STATES TO MARION COUNTY THAT THE DRAWING HEREIN IS REPRESENTATIVE OF AN ACTUAL SURVEY PERFORMED BY MYSELF OR UNDER MY SUPERVISION AND THAT ALL INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Brett R. Tieben
BRETT R. TIEBEN, P.S.
PROFESSIONAL SURVEYOR NO. 8191
DATE: 6-23-03



ASSISTANTS:
VMS
BRT
DRAWN BY: BRT

FILE NO: 03-06B S:\2003\06B\SURVEY\03-06B RW DED.DWG

Makeever & Associates, Inc.
ENGINEERS • SURVEYORS
Phone: (419) 562-7757
Fax: (419) 562-4717
P.O. Box 335, 207 B S. SANDUSKY AVE. BUCFTRUS, OHIO 44830

RIGHT-OF-WAY DEDICATION PLAT FOR WELLNESS DRIVE
BEING PART OF OUT LOT 734 IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 5 SOUTH, RANGE 15 EAST, CITY OF MARION, MARION COUNTY, OHIO.

DATE: 06-17-03
SCALE: 1" = 60'

1 2

EXHIBIT B

AGREEMENT FOR CONSTRUCTION OF ROADWAY IMPROVEMENTS

THIS AGREEMENT, made this ____ day of July, 2003, by and between THE CITY OF MARION, (hereinafter the "City"), and CENTER PARK OF MARION, LTD., (hereafter "Center Park).

WITNESSETH:

WHEREAS, the City has approved the plans for the construction of Wellness Drive and inspected its construction which is not yet completed or approved; and

WHEREAS, improvements are still required that will involve the construction of a left hand turn lane and right hand turn lane from Barks Road onto Wellness Drive; and

WHEREAS, Center Park is committed to the construction of the intersection improvements upon the completion of engineering work which is dependent upon the approval of speed limit recommendations relating to Barks Road; and

WHEREAS, Center Park desires to formally plat and dedicate to public use Wellness Drive which will permit the creation of two land splits on Wellness Drive for two new development projects; and

WHEREAS, the City desires to accommodate the new development projects, but the City also requires adequate assurances that the intersection improvements will be completed in a timely manner.

NOW, THEREFORE, in consideration of the mutual promises herein contained the parties agree as follows:

1. The City agrees to accept as a dedicated public street the now constructed Wellness Drive upon the following terms and conditions:

a. Final acceptance of the improvements shall not occur until the completion of all construction.

b. Center Park providing "as built" drawings of the now improved Wellness Drive to the Marion City Engineer.

c. That Center Park's below described intersection improvement bond also include the installation of the required street lights along the now existing Wellness Drive, including the installation of a street light at the intersection on an existing power pole. (Center Park represents that the underground electric line for the street lights has already been installed.)

d. Center Park paying to attorney Kevin R. Hall, as trustee, the sum of Twenty Thousand (\$20,000.00), to be held in trust until such time as Center Park posts the bond as provided for below in paragraph 4.

2. Within forty-five (45) days following the return from the Ohio Department of Transportation to the County Engineer of the recommendation of the speed limit on Barks Road, and Center Park c/o Kevin R. Hall, 355 East Center Street, Marion, Ohio, 43302, receiving such written notice from the City, Center Park shall submit to the Marion City Engineer completed engineering drawings for the intersection improvement.

3. Within thirty days after the approval by the Marion City Engineer of the completed engineering drawings, Center Park, through its construction contractor, shall post a bond in the amount of the projected cost of the intersection improvements with the City.

Amended Section 5 to Exhibit B

5. The city will not approve THE TWO LOT SPLITS ON WELLNESS DRIVE UNTIL FINANCIAL ASSURANCE TO COVER THE COST OF CONSTRUCTION OF THE TURNING LANES IS POSTED, AND will not approve any additional land splits for land owned by Center Park of Blanks Hillcrest Farms until such time as the stated intersection improvements have been completed and accepted by the City of Marion

4. In the event that Center Park fails to post the bond within the stated period, unless otherwise extended by the City, the \$20,000.00 being held in escrow by Kevin R. Hall, Attorney at Law, shall be paid to the City upon notification by the City that it has not been provided actual notice of the posting of the bond which requires the intersection improvements to be completed by May 31, 2004. Any disagreement or required modifications because submitted intersection improvement plans do not meet the requirements or approval of the Marion City Engineer, shall cause the automatic extension of the approval of the plans not to exceed sixty (60) days.

5. The City will not approve any additional land splits for land owned by Center Park or Blanks Hillcrest Farms until such time as the stated intersection improvements have been completed and accepted by the City of Marion.

6. Any delays caused by the inability of Ohio Edison to remove the power poles that are within the proposed lane improvement areas shall not be reason to penalize Center Park for the failure to timely complete the contemplated lane improvements or prevent further land splits.

IN WITNESS WHEREOF, said applicants have hereunto set their hand to duplicates hereof, on the day and year first above written.

CITY OF MARION, Ohio

CENTER PARK OF MARION, LTD.
By Domo Development Corp.,
Its Manager

By _____
Dale Osborn, its Safety/Service Director

By _____
John M. Domo, President

Ordinance No. 2003-66, Page One

Passed JUL 28 2003, 20

ORDINANCE AMENDING PORTIONS OF THE MARION CITY CODE, SPECIFICALLY 1183.011; 1183.012; 1183.013; 1183.015 AND 1169.04 AS CONTAINED IN PART ELEVEN – PLANNING AND ZONING CODE TO PROVIDE FOR A UNIFORM STRUCTURE OF FEES. As Amended

WHEREAS, the Marion City Code currently provides applicants who seek Zoning Permits, Use Permits and Home Occupation Permits, Sign Permits and Zoning Variances to place a deposit with the City of Marion, the purpose of which is to ensure all costs associated with the requests are paid for by the applicant, and

WHEREAS, the Council for the City of Marion, Ohio finds the request to modify the existing Code to be well taken, and

BE IT ORDAINED by the Council of Marion, Marion County, Ohio:

Section 1. Marion City Code Section 1183.011 ZONING PERMITS now reading as follows:

§ 1183.011 ZONING PERMITS.

For any zoning permit for construction, extension, addition or structural remodeling, the zoning permit fee shall be as follows:

Improvement having a contract price or estimated cost as follows:

Fee

0 to \$100	\$1.00
More than \$100 to \$1,000	7.00

Improvement having a contract price or estimated cost as follows:

Fee

More than \$1,000	\$7.00 plus 1.50 per additional 1,000 or fraction thereof
Maximum zoning permit fee	\$300

SHALL BE AMENDED TO READ AS FOLLOWS:

§ 1183.011 ZONING PERMITS.

For any zoning permit for construction, extension, addition or structural remodeling, the zoning permit fee shall be as follows:

RESIDENTIAL FEES

Improvement having a contract price or estimated cost as follows:

Fee

0 to \$100	\$1.00
More than \$100 to \$1,000	\$7.00
More than \$1,000	\$7.00 plus 1.50 per additional 1,000 or fraction thereof
Maximum zoning permit fee	\$300

NON-RESIDENTIAL FEES

Improvement having a contract price or estimated cost as follows:

MINIMUM OF \$25.00 PLUS \$1.50 PER ADDITIONAL \$1,000 OR FRACTION THEREOF MAXIMUM ZONING PERMIT FEE \$1,000

Ordinance No. 2003-66, Page Two

Passed JUL 28 2003 20

Section 2. Marion City Code Section 1183.012 USE PERMIT now reading as follows:

§ 1183.012 USE PERMIT.

In cases where a zoning permit has been issued no fee shall be charged for the issuance of the use permit which pertains thereto. In all other cases the fee for the issuance of a use permit shall be \$25.

SHALL BE AMENDED TO READ AS FOLLOWS:

§ 1183.012 USE PERMIT; HOME OCCUPATION PERMIT.

In cases where a zoning permit has been issued no fee shall be charged for the issuance of the use permit which pertains thereto. In all other cases the fee for the issuance of a use permit shall be \$50.00.

The fee for Home Occupation Permits shall be \$25.00.

Section 3. Marion City Code Section 1183.013 SIGN PERMIT now reading as follows:

§ 1183.013 SIGN PERMIT.

Fees for sign permits shall be as follows:

Type	Fee
Roof or moving sign	\$20
Trailer-mounted mobile signs	10
Other types of signs	10
Temporary signs	None

SHALL BE AMENDED TO READ AS FOLLOWS:

§ 1183.013 SIGN PERMIT.

All types of signs ---- \$25.00 minimum plus \$1.00 for each square foot of signage over 50 square feet. AMENDED TO ADD: MAXIMUM SIGN PERMIT FEE \$200.00

Section 4. Marion City Code Section 1183.015 MATTERS COMING BEFORE THE BOARD OF ZONING APPEALS now reading as:

§ 1183.015 MATTERS COMING BEFORE BOARD OF ZONING APPEALS.

Matters	Fee
Application for variance or application for special exception or conditional use	\$30 plus cost of publication

Interpretation of zoning code or map:

- (1) Appeal from decision of Safety/Service Director, except if Appeals Board overrules Safety Director, fee will be refunded. \$25
- (2) Request initiated by the city. No fee
 - Application for change in or extension of nonconforming use. \$25
 - All other matters coming before the Board. \$25

Ordinance No. 2003-66, Page Three Passed JUL 28 2003, 20

SHALL BE AMENDED TO READ AS FOLLOWS:

§ 1183.015 MATTERS COMING BEFORE BOARD OF ZONING APPEALS.
Matters *Fee*

Application for variance \$75.00 deposit
Special exception or conditional use or any other matter to come before the board.
All fees are to be paid by Check or Money Order made payable to the City of Marion.
(no cash will be accepted)

Section 5. Marion City Code Section 1169.04 FEE REQUIRED now reading as:

§ 1169.04 FEE REQUIRED.

Each application or appeal shall be accompanied by a check, payable to the Treasurer of the municipality, or a cash payment in the amount specified in Chapter 1183. The Secretary shall not accept any application or appeal until such payment is received.

SHALL BE AMENDED TO READ AS FOLLOWS:

§ 1169.04 FEE REQUIRED.


Each application or appeal shall be accompanied by a check OR MONEY ORDER MADE payable to the Treasurer of the municipality, in the amount specified in Chapter 1183. The Secretary shall not accept any application or appeal until such payment is received. NO CASH WILL BE ACCEPTED.

Section 6. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.



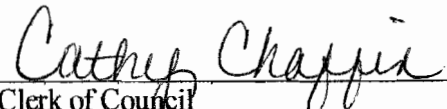
President of Council

APPROVED: JUL 29 2003



Mayor

Attest;



Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0251

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-67

Passed JUL 28 2003, 2003

ORDINANCE MAKING AN ADDITIONAL APPROPRIATION IN THE AIRPORT IMPROVEMENT FUND FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be an additional appropriation made in the Airport Improvement Fund in the amount of \$13,500.00 as follows:

Professional Services	446.6404.530320	\$13,500.00
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Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Keith A. Kalkbrenner
PRESIDENT OF COUNCIL

APPROVED: JUL 29 2003

Paul L. Kelley
MAYOR

ATTEST:

Cathy Chappie
CLERK

RECORD OF ORDINANCES

0303

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-68

Passed JUL 28 2003, 2003

ORDINANCE MAKING APPROPRIATION ADJUSTMENTS IN
VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31,
2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be appropriation adjustments made in various funds in the amount of \$288,343.00 as follows:

SCMR Fund

Resurfacing Projects	207.6612.530531	\$300,000.00
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Community Corrections

Salaries	224.7544.510110	\$(12,169.00)
Benefits	224.7544.510120	(1,367.00)
Travel	224.7544.520220	(159.00)
Schooling	224.7544.530221	(1,100.00)
Professional Service	224.7544.530320	1,580.00
Service Contracts	224.7544.530321	1,080.00
Supplies	224.7544.540420	478.00
TOTAL COMMUNITY CORRECTIONS		\$(11,657.00)

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

Keith A. Krehbiel
PRESIDENT OF COUNCIL

APPROVED: JUL 29 2003

Jack L. Killings
MAYOR

ATTEST:

Cathy Chappie
CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0705

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-69

Passed JUL 28 2003, 20

ORDINANCE AMENDING ORDINANCE 1968-41, COMMONLY KNOWN AS THE PERSONNEL POLICIES, AS AMENDED BY ORDINANCES 1997-4 AND 1994-127, BY CHANGING BENEFIT LEVELS APPLICABLE TO VARIOUS CLASSES OF POSITIONS, WITHIN THE SERVICE OF THE CITY, THAT ARE NOT COVERED BY A COLLECTIVE BARGAINING AGREEMENT. As Amended

WHEREAS, the Council of the City of Marion passed Ordinance 1968-41 and applicable amendments that established benefit levels for non-bargaining unit employees of the City, and

WHEREAS, these benefit levels have remained unchanged for a number of years while bargaining unit employee benefit levels have changed as a result of the collective bargaining process, and

WHEREAS, the Council of the City of Marion desires to have equity among the benefit levels afforded to all employees regardless of bargaining unit status, now therefore,

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That this ordinance shall amend Ordinance 1968-41 and related sections of the aforementioned Ordinance(s) 1997- 4 and 1994-127 and establish the following benefit levels for non-bargaining unit employees of the City of Marion.

(Amending 1968-41 and 1997-4) Annual Sick Leave Sell-back: Up to 80 hours of sick leave may be sold back at the employees regular rate of pay on an annual basis, as long as 400 hours remain in the employee's sick leave bank following the sell-back. The employee's ability to sell-back sick leave hours shall be reduced at a ratio of two hours for every hour of sick leave used during the previous 12 months.

(Amending 1968-41 and 1994-127) Compensatory Time: Employees may elect to receive compensatory time instead of over-time up to a maximum compensatory time bank accumulation of 80 hours. Employees deemed exempt under the Fair Labor Standards Act shall not earn compensatory time.

(Amending 1968-41) Holidays: Employees may elect to have unused holiday hours converted to vacation hours on a one to one basis at the conclusion of the calendar year in which they were earned.

(Amending 1968-41 and 1994-127) Sick Leave Pay-out at Retirement: Employees who separate from employment with the City through retirement shall be eligible to receive a payment equivalent to one-half of the sick leave hours remaining in their sick leave bank up to a maximum pay-out of 845 hours at their current rate of regular pay.

Amended to add:

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

Keith A. Kochheim
President of Council

APPROVED: JUL 29 2003

Jack L. Kellogg
Mayor

ATTEST:

Cathy Chappell
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0007

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-70

Passed JUL 28 2003, 20

ORDINANCE REJECTING THE BID RECEIVED IN
RESPONSE TO THE SAFETY/SERVICE DIRECTOR'S
FIRST SPEC AND BID FOR THE DEMOLITION OF 569
N. STATE ST., PURSUANT TO THE TERMS OF SAID
SPEC AND BID ; DIRECTING THE SAFETY/SERVICE
DIRECTOR RE-BID THE PROJECT AND DECLARING AN
EMERGENCY

WHEREAS, by Ordinance 2003-47 the Council directed the Safety/Service Director spec and bid the demolition of 569 N. State St. pursuant to 1360 et.al. and the Order of the Marion Common Pleas Court, and

WHEREAS, five prospective contractors requested bid packets, however only one submitted a bid and that bid was in excess of the Director's estimates,

BE IT ORDAINED by the Council for the City of Marion, Ohio:

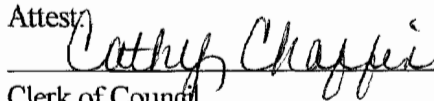
Section 1. The Council having reviewed the bid specs, the bid packages and the bids received pursuant to Ordinance 2003- 47, the bid opening being held on the 3rd day of July, 2003, hereby rejects the bid received from Baumann Enterprises of \$ 18,800.00 finding same as non-conforming and in excess of the Director's estimates. Further, Council directs the Safety/Service Director re-let the demolition project without delay.

Section 2. This ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, welfare and safety of the City of Marion and the inhabitants thereof, due to the real and present need to eliminate the declared nuisance and the danger it is causing the immediate neighborhood in which it sets; and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise it shall become effective from and after the earliest period allow by law.

APPROVED: JUL 29 2003


President of Council


Mayor

Attest:

Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-71

Passed JUL 28 2003, 20

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH ELITE EXCAVATING CO., INC. FOR THE FAIRGROUND AND MARK STREET PAVEMENT IMPROVEMENTS PROJECT 03-1P FOR THE CITY OF MARION, OHIO AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance No. 2003-41 authorized the preparation of specifications and advertising for bids for the Fairground and Mark Streets Pavement Improvements Project 03-1P for the City of Marion, Ohio, and

WHEREAS, Elite Excavating Co., Inc. submitted the lowest and best bid.

BE IT ORDAINED BY the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be directed to enter into contract with Elite Excavating Co., Inc., for the Fairground and Mark Streets Pavement Improvements, Project 03-1P.

Section 2. That said contract shall be payable from the Community Distress Grant, CDBG Grants, Sewer Replacement Fund (504.5031.550520) and the Storm Water Utility Fund (509.5031.550520).

Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion, and the inhabitants thereof, and for the further reason that construction must be completed in 2003, and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.

Keith A. Kothmann
President of Council

Approved: JUL 29 2003

Jack L. Kelley
Mayor

Attest:
Cathy Chappin
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-72

Passed JUL 28 2003, 20

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO PREPARE SPECIFICATIONS AND ADVERTISE FOR BIDS FOR THE PURCHASE OF A CARD VEETER ROOT MONITORING SYSTEM FOR THE DIESEL TANK AT THE CENTRAL GARAGE THAT WAS DESTROYED IN THE FIRE

BE IT ORDAINED BY the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service director is hereby authorized and directed to prepare specifications and advertise for bids for the purchase of a card veeter root monitoring system for the diesel tank at the central garage that was destroyed in the fire.

Section 2. That the cost of such contract shall be payable from the Central Garage Fire Fund.

Section 3. This ordinance shall take effect and be in force from and after the earliest period allowed by law.

Kevin A. Lamberson
President of Council

Approved: **JUL 29 2003**

Paul E. Kelley
Mayor

Attest:

Cathy Chappin
Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-73

Passed JUL 28 2003, 2003

ORDINANCE APPROPRIATING FUNDS, RATIFYING AND APPROVING THE NEGOTIATED WAGE RE-OPENER BETWEEN THE CITY OF MARION AND FOP/OLC GOLD UNIT AND DECLARING AN EMERGENCY.

WHEREAS, Council will hereby appropriate monies to implement a wage re-opener agreement with FOP/OLC Gold Unit, and

WHEREAS, an agreement with FOP/OLC Gold Unit has been reached on behalf of said Bargaining Unit and the City of Marion and ratified by the bargaining unit, to be effective the 1st full pay period after July 1, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. The Auditor is authorized and directed to appropriate the necessary funds of \$21,200 to comply with the bargaining agreement and shall do so upon passage of the ordinance.

Section 2. That Council hereby ratifies and approves the bargaining agreement between the City of Marion and the FOP/OLC Gold Unit, for the above specified bargaining unit.

Section 3. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof and for the further reason that the current wage expired on July 1, 2003 and as such shall take effect and be in force immediately upon its' passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.

Kirk A. Koehn

PRESIDENT OF COUNCIL

APPROVED: JUL 29 2003

Paul L. Kelly

MAYOR

ATTEST:

Cathy Chappie

CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-74

Passed JUL 28 2003, 20

ORDINANCE APPROPRIATING FUNDS, RATIFYING AND APPROVING THE NEGOTIATED WAGE RE-OPENER BETWEEN THE CITY OF MARION AND FOP/OLC CO-CO UNIT.

WHEREAS, Council will hereby appropriate monies to implement a wage re-opener agreement with FOP/OLC Co-Co Unit and

WHEREAS, an agreement with FOP/OLC Co-Co Unit has been reached on behalf of said Bargaining Unit and the City of Marion and ratified by the bargaining unit, to be effective the 1st full pay period after September 1, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. The Auditor is authorized and directed to appropriate the necessary funds of \$6,500 to comply with the bargaining agreement and shall do so upon passage of this ordinance.

Section 2. That Council hereby ratifies and approves the bargaining agreement between the City of Marion and FOP/OLC Co-Co Unit, for the above specified bargaining unit.

Section 3. That this Ordinance take effect and be in force the earliest date allowed by law.

Keith A. Koshlitz

 PRESIDENT OF COUNCIL

APPROVED: JUL 29 2003

Paul L. Killip

 MAYOR

Cathy Chappie

 CLERK OF COUNCIL

Approved As Submitted Pursuant
 To M.C.C.
 MARK D. RUSSELL
 DIRECTOR OF LAW
 CITY OF MARION

RECORD OF ORDINANCES

0377

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-75, Page OnePassed JUL 28 2003, 20

ORDINANCE AMENDING ORDINANCE NO. 1999-39, AN ORDINANCE DECLARING IMPROVEMENTS TO CERTAIN PARCELS OF REAL PROPERTY TO BE A PUBLIC PURPOSE, DESCRIBING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE TO BENEFIT THOSE PARCELS, REQUIRING THE OWNERS THEREOF TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, AND ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PROVIDE FOR SAME, AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code Sections 5709.40, 5709.42, and 5709.43 provide that this Council may describe public infrastructure improvements to be, made which benefit certain parcels, declare improvements (as defined in O. R. C., Section 5709.40) with respect to such parcels of real property located in the City to be a public purpose, thereby exempting those Improvements from real property taxation for a period of time, and provide for the making of service payments in lieu of taxes by the owners of such parcels, and establish a municipal public improvement tax increment equivalent fund into which such service payments shall be deposited; and

WHEREAS, in connection with the development of the CanDo, Inc., lands within located at the Dual Rail Industrial Park Project, and with expected future development with commercial and manufacturing facilities, to be located on the individual parcels to be subdivided and developed within the approximately 274.891 acre area described in Exhibit A (the total 274.891 acre area being herein referred to as the "Property"), the City listed public infrastructure improvements (which public infrastructure improvements were referred to as the "Dual Rail Industrial Park Road Project: that once made would benefit the Property and each individual parcel within the Property; and

WHEREAS, the City determined that it was and is necessary and appropriate and in the best interests of the City to provide for service payments in lieu of taxes with respect to the Property pursuant to Section 5709.42 of the Ohio Revised Code, and to authorize the Mayor to enter into an agreement to provide for same with owners now or in the future upon any lands described within Exhibit A of Ordinance 1999-39; and

WHEREAS, the Ridgedale Local School District, voted on July 10, 2003 to amend the public infrastructure improvements that were described in Exhibit B of Ordinance 1999-39, and the City of Marion concurs.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio, that:

Section 1. To the Dual Rail Industrial Park Infrastructure Project Improvements numbered 1 to 6 described in the original exhibit B is added #7, additional public roads, public sanitary sewer, public storm sewer, and public utilities within the Dual Rail Industrial Park. (Amended by approval of the Ridgedale Local School District 7/10/2003 and Marion City Council 7/28/2003) to be made by the City which in total are hereby designated as those public infrastructure improvements that benefit, or that once made will benefit, the Property and each individual parcel within the Property, which are described as amended B made a part of this Ordinance.

Section 2. Sections 2 through 6 of Ordinance No. 1999-39 shall remain in effect as originally adopted with the 20-year exemption period commencing as indicated at the effective date of the ordinance on March 23, 1999.

Section 3. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, welfare and safety of the City and for the further reason that this Ordinance is required to be immediately effective in order to provide for the Funding of the above improvements so that such improvements may be constructed as quickly as possible, in order to provide necessary jobs and employment opportunities and improve the economic welfare of the people and generate vitally needed Taxes, and payments in lieu of tax revenues; wherefore this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise

Ordinance No. 2003-75, Page Two

Passed JUL 2 3 2003, 20

it shall become effective from and after the earliest period allowed by law.

Keith A. Koshinski
PRESIDENT OF COUNCIL

APPROVED: JUL 2 3 2003

Paul L. Kelley
MAYOR

ATTEST:

Cathy Chappie
CLERK OF COUNCIL

EXHIBIT A

Being those lands as are described as follows:

Recorded on the Official Record of the Marion County Recorder, Book 436, Page 87, further described as:

Located within the City of Marion, County of Marion, State of Ohio, being all of Lot #18052 containing approximately 25.231 acres; all of Lot #18051 containing approximately 47.907 acres; all of Lot #18053 containing approximately 40.745 acres; those lands lying within the Ridgedale School District on Lot #18054 which has a total acreage of approximately 133.130 and those lands lying within the Ridgedale School District on Lot #18050 which has a total acreage of approximately 27.878.

EXHIBIT B

TIF PROJECTS

1. Sanitary Sewer to U. S. Yachiyo
2. Railroad Loop in Park
3. Improvement in Marion-Williamsport Road from Kellogg Parkway to Hillman-Ford Rd.
4. Extension west of Marion-Williamsport Rd. to:
 - A. To S. R. 309
 - B. To S. R. 95*
5. Bridge on Marion-Williamsport Rd. over Route 4 and N & S Railroad.
6. Bridge on Marion-Williamsport over CSX Railroad or relocate Hillman-Ford Rd.*

* Not highly likely without another TIF on another industrial property outside of this park.

7. Additional public roads, public sanitary sewer, public storm sewer, and public utilities within the Dual Rail Industrial Park. (Amended by approval of the Ridgedale Local School District 7/10/2003 and Marion City Council 7/28/2003).

RECORD OF ORDINANCES

0319

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-76, Page One

Passed JUL 28 2003, 20

AN ORDINANCE REQUESTING THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY TO PETITION THE DIRECTOR OF THE OHIO DEPARTMENT OF DEVELOPMENT AND GIVING THE CONSENT OF THE CITY OF MARION TO AMEND THE CITY OF MARION'S URBAN JOBS AND ENTERPRISE ZONE AS PROPOSED IN EXHIBIT A ATTACHED HERETO, AND DECLARING AN EMERGENCY.

WHEREAS, on November 5, 1985, Clarence D. Pavlicki, Director, Ohio Department of Development, certified an Urban Jobs and Enterprise Zone for parts of the City of Marion; and

WHEREAS, on September 3, 1997, Donald E. Jakeway, Director, Ohio Department of Development approved an amendment to include the Dual Rail Industrial Park and certified that the full zone met the distress requirement of Section 5709.61 (a) (1) (c) and (h); and

WHEREAS, the City of Marion desires now to amend the zone to add a one block area to the zone, which block has no inhabitants and is within the same school districts as the existing zone (2000 Census of Population); and

WHEREAS, the Ohio Enterprise Zone Act ("the Act"), under Ohio Revised Code Section 5709.61 through 5709.69 has authorized counties, with the consent and agreement of affected municipalities and townships therein, to designate areas as Enterprise Zones and to execute agreements with certain enterprises for the purpose of establishing, expanding, renovating or occupying facilities and hiring new employees and preserving jobs within said zones in exchange for specified local tax incentives granted by the county; and

WHEREAS, the City Council of the City of Marion ("The Council") upon due consideration desires to implement said Act and to designate an amended Enterprise Zone within the boundaries of the City to promote the economic welfare of said Municipality; and

WHEREAS, it is necessary for the Council to formally request from the County Commissioners of Marion County, Ohio, ("The Board") the inclusion of the Municipality in an Enterprise Zone proposal and to include such an ordinance in a petition to the Director of the Department of Development of the State of Ohio to certify the amended area described as such a zone; and

NOW, THEREFORE, BE IT ORDAINED that the City Council hereby authorizes the County to include the portion of the Municipality described in Exhibit A in the Enterprise Zone; and

BE IT FURTHER ORDAINED that the Clerk of the Board of County Commissioners of Marion County, Ohio is hereby authorized to include this ordinance in the petition to the Director of the Department of the State of Ohio.

Section 1. The Council finds and determines that designation of the zone pursuant to the Ohio Revised Code Section 5709.63 will promote the economic welfare of the residents of the Municipality by creating new jobs and retaining and preserving existing jobs and employment opportunities within such areas and is in the best interest of said Municipality; and

Section 2. The Council understands that the Board of County Commissioners is required by law to administer all Enterprise Zones and agreements within the County and will therefore appoint a designee to be responsible for 1) the establishment and operation of the Tax Incentive Review Council as specified in Ohio Revised Code Section 3709.85, 2) to ensure that the Enterprise Zone Agreements contain the information required in Ohio Revised Code Section 5709.631, including but not limited to a description of the project, the amount to be invested, the number of jobs created and/or retained, the annual new payroll associated with these jobs, and the specific percentage and term of the tax exemptions being granted toward real and/or personal property, 3) to

RECORD OF ORDINANCES

Ordinance No. 2003-76, Page Two

Passed JUL 28 2003, 20

forward copies of all Enterprise Zone Incentive Agreements to both the Ohio Department of Development and the Ohio Department of Taxation within fifteen days after the agreement is entered into, as specified in the Ohio Revised Code, 4) to notify affected school boards of proposed projects a minimum of fourteen days prior to formal local legislative consideration and to include comments by the school boards as part of the review process as required under Ohio Revised Code Section 5709.83, 5) to maintain a centralized record of all aspects of the Zone, including copies of the agreements, a list of the members of the Tax Incentive Review Council, and a summary of the Tax Incentive Review Council's annual review of each agreement, and 6) to submit a comprehensive annual zone activities on or before March 31 of each year pursuant to Section 5709.68.

Section 3. The Council is requesting designation of an Enterprise Zone which includes all or part of the municipal corporation and meets the population, boundary and distress requirements to be certified as an Enterprise Zone under Section 5709.63.


Section 4. The Council continues, as is now, to request from the Board of County Commissioners the power and duty to negotiate Enterprise Zone Agreements as permitted in Ohio Revised Code Section 5709.63 and that the Council agrees to negotiate agreements and to assist the Board of County Commissioners in the administration of the Enterprise Zone and will approve all agreements before submitting agreements to the Board of County Commissioners for approval; and

Section 5. The Council hereby agrees to the establishment of a Tax Incentive Review Council or Councils pursuant to Ohio Revised Code Section 5709.85 and will appoint two representatives to said Council within sixty days after the state development director certifies the Zone.

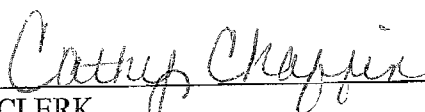
Section 6. That this ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and the inhabitants thereof, and for the further reason that it is necessary for the daily operation of the City and the expansion of economics and immediate job opportunities; and as such, shall take effect and be in force immediately upon its passage by two-thirds vote of all members elected and approval by the Mayor; otherwise it shall become effective from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: JUL 29 2003


MAYOR

ATTEST:


CLERK

Beginning at the centerline intersection of Delaware Avenue and McKinley Park Boulevard;

thence westerly along the centerline of McKinley Park Boulevard a distance of approximately 580 feet to the centerline of Harding Memorial Parkway;

thence southerly along the centerline of Harding Memorial Parkway a distance of approximately 1610 feet to the intersection of Executive Drive;

thence northeasterly along the centerline of Executive Drive a distance of approximately 880 feet to the centerline of Delaware Avenue;

thence northwesterly along the centerline of Delaware Avenue a distance of approximately 1250 feet to the place of beginning.

RECORD OF ORDINANCES

6301

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-77 Passed AUG 11 2003, 2003

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$297,746.70 as follows:

GENERAL FUND

Transfer to School Resource 101.7745.580694 \$ 5,782.70

HEALTH FUND

Salaries 214.2221.510110 \$ 9,200.00

REVOLVING LOAN FUND

Street Improvements 274.4539.530325 \$ 4,300.00

Sanitary Sewers 274.4539.530330 5,700.00

TOTAL \$ 10,000.00

DRIP PARK FUND

Quarry Park 431.3421.550520 \$ 2,664.00

SEWER REPLACEMENT FUND

Fairground/Mark St. 504.5031.550520 \$ 44,100.00

STORM WATER UTILITY FUND

Fairground/Mark St. 509.5031.550520 \$ 226,000.00

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

Keith A. Krehmer
PRESIDENT OF COUNCIL

APPROVED: **AUG 11 2003**

Jacob L. Kelley
MAYOR

ATTEST:

Cathy Chappin
CLERK

RECORD OF ORDINANCES

0303

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-78Passed AUG 11 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH J & J RENOVATIONS OF MARION FOR THE DEMOLITION OF 603 DAVIDS STREET AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance 2003-62 authorized the Safety/Service Director to prepare specifications and advertise for bids for the demolition of the fire damaged property at 603 Davids Street and

WHEREAS, the structure was heavily damaged by fire on February 4, 2002 and is declared a public nuisance and has not been remediaded in accordance with Chapter 1360 of the Marion Codified Ordinances, and

WHEREAS, the property owners Lien Holders have been served proper notification; and

WHEREAS, J & J Renovations submitted the lowest and best bid for the demolition of 603 Davids Street

BE IT ORDAINED by the Council for the City of Marion, Ohio:

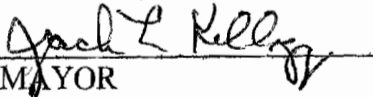
Section 1. That the Safety/Service Director be authorized to enter into contract with J & J Renovations for the demolition of 603 Davids Street.

Section 2. The demolition cost of \$6,500 will be paid for through insurance proceeds.

Section 3. That this ordinance is hereby declared to be an emergency measure for the welfare and safety of the City of Marion and inhabitants thereof; and as such shall take effect and be in force upon passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall come effective from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: AUG 11 2003


MAYOR

ATTEST:


CLERK OF COUNCIL

Ordinance No. 2003-79

Passed AUG 11 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH S.E. PARK ENTERPRISES OF MARION FOR THE DEMOLITION OF 569 N. STATE STREET AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance 2003-47 authorized the Safety/Service Director to prepare specifications and advertise for bids for the demolition of 569 N. State Street and

WHEREAS, the structure was declared to be a nuisance by Marion County Common Pleas Court, and

WHEREAS, S.E. Park Enterprises submitted the lowest and best bid for the demolition of 569 N. State Street

BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. That the Safety/Service Director be authorized to enter into contract with S.E. Park Enterprises for the demolition of 569 N. State Street.

Section 2. The demolition cost of \$7,990 will be paid for through demolition of building fund.

Section 3. That this ordinance is hereby declared to be an emergency measure for the welfare and safety of the City of Marion and inhabitants thereof; and as such shall take effect and be in force upon passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall come effective from and after the earliest period allowed by law.

Keith A. Koehner
 PRESIDENT OF COUNCIL

APPROVED: **AUG 11 2003**

Jack L. Kelly
 MAYOR

ATTEST:

Cathy Chappin
 CLERK OF COUNCIL

Ordinance No. 2003-80 Page One, As Amended *Passed* OCT 13 2003, 2003

ORDINANCE AMENDING MARION CITY CODE TO CREATE AND PROVIDE FOR CHAPTER 1365 AND THE RELEVANT SECTIONS CONTAINED THEREIN TO FURTHER ADDRESS A REAL AND PRESENT NEED TO TAKE ADVANTAGE OF O.R.C. 715.263 AND THE ABILITY TO ALLOW FOR NUISANCE ABATEMENT VIA REAL ESTATE TAX CREDITS, AS AMENDED

WHEREAS, the Council has previously adopted various changes and modifications to existing sections of City Code related to structures which because of their condition are negatively impacting the community. More specifically, the deplorable condition and neglect in up-keep have negatively impacted the neighboring properties resulting in actual nuisances in need of abatement, and

WHEREAS, the Council finds after significant investigation, lively debate, due consideration and a real and present need within the community to take advantage of the program authorized by O.R.C. 715.263,

BE IT ORDAINED by the Council of Marion, Marion County, Ohio:

Section 1. Marion City Code Chapter shall be amended to include Chapter 1365 and all of the provisions as are set forth below in order to address the real and present need to create incentives to cause the abatement of existing nuisances within the City:

(All amendments are marked in BOLD ITALICS)

PART THIRTEEN - STRUCTURE & SAFETY

CHAPTER 1365: NUISANCE ABATEMENT VIA REAL ESTATE TAX CREDITS

- Section
- 1365.01 Definitions
- 1365.02 Certification of nuisance
- 1365.03 Eligible parties
- 1365.04 Application procedures
- 1365.05 Receipt of tax credit

1365.01 Definitions

(A) As used in this section:

- (1) "Immediate family" means a spouse who resides in the same household, and children.
- (2) "Nuisance" means a building that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.
- (3) "Delinquent lot or parcel" means either of the following:
 - (a) A lot or parcel of land against which delinquent taxes, assessments, interest, and penalties remain unpaid for more than one year after the lot or parcel is certified delinquent on the delinquent land list compiled under section 5721.011 of the Revised Code;
 - (b) A lot or parcel of land constituting nonproductive land that has been acquired by the municipal corporation pursuant to Chapter 5722. of the Revised Code.

1365.02 Certification of nuisance

In order to initiate the granting of a tax credit under this section, the Safety/Service Director or his/her agent may initiate the certification process that a nuisance exists on any delinquent lot or parcel located in the municipal corporation. Once a nuisance is identified, the Safety/Service

Ordinance No. 2003-80 Page Two, As Amended *Passed* OCT 13 2003, 20

Director shall recommend to the Board of Building Appeals that property which he, in his discretion, considers to be a nuisance. The Board of Building Appeals shall consider each recommendation from the Safety/Service Director and if they concur, by a simple majority of those present, the property shall be added to the list of certified nuisances. The Safety/Service Director or his/her agent shall maintain said list of all certified nuisances. Each entry on the list shall identify the delinquent lot or parcel and describe the nuisance. The Safety/Service Director or his/her agent shall certify a copy of the list to the county auditor. Any time the Safety/Service Director or his/her agent adds a nuisance to the list, it shall certify an updated copy of the list to the county auditor. The list shall be open to public inspection both at the Safety/Service Director's Office and at the offices of the county auditor.

1365.03 Eligible parties

A person is eligible for a tax credit under this section if that person purchases at a foreclosure sale held pursuant to proceedings under section 323.25 or Chapter 5721. of the Revised Code, at a sale of nonproductive lands under section 5722:07 of the Revised Code, or at a sale of forfeited lands under Chapter 5723. of the Revised Code a lot or parcel on the list certified to the county auditor under division (B) of this section. However, the purchaser is not eligible for a tax credit under this section if the purchaser is the owner of record of the lot or parcel immediately prior to the judgment of foreclosure or forfeiture or a member of the following class of parties connected to that owner: a member of the owner's immediate family, a person with a power of attorney appointed by the owner who subsequently transfers the parcel to the owner, a sole proprietorship consisting of the owner or a member of the owner's immediate family, or a partnership, trust, business trust, corporation, or association in which the owner or a member of the owner's immediate family owns or controls directly or indirectly more than fifty per cent. ***No person or property shall be eligible if the subject property has at anytime been enrolled or otherwise received any benefit from any of the Community Reinvestment Programs.***

1365.04 Application Procedures

After purchasing the lot or parcel, the person may demolish or otherwise abate the nuisance and apply to the municipal corporation for a certificate of completion of abatement. ***Application shall be made prior to any work being performed and no credit will be applied except for approved work completed after initial approval by the Municipality.*** The application shall identify the lot or parcel on which the nuisance was abated, and shall state the date the lot or parcel was purchased at the foreclosure, forfeiture, or nonproductive land sale, the date of completion of the demolition or other abatement, and the cost of the demolition or other abatement. The cost shall be the lowest bid from among at least three bids solicited and received by the applicant. The applicant shall include with the application evidence of at least three bids solicited and received by the applicant and an affidavit stating that the purchaser of the lot or parcel at the foreclosure, forfeiture, or nonproductive land sale was not the owner of record of the property immediately prior to the judgment of foreclosure or forfeiture or a member of the class of parties connected to that owner specified in this division ***and that the property has never been enrolled or otherwise received any benefit from any of the Community Reinvestment Programs.***

~~Upon receipt of the application, the municipal corporation~~ ***Once the municipality is advised the work has been completed, it*** shall cause the lot or parcel to be examined. If the municipal corporation determines the nuisance is demolished or otherwise abated to its satisfaction, it shall issue a certificate of completion of abatement to the owner of the lot or parcel. ***If the nuisance has been abated via demolition, the owner shall provide the municipality a copy of the destroyed property report obtained from the County Auditor prior to receipt of any credit.*** The certificate shall identify the lot or parcel on which the nuisance was abated, and shall state the date the lot or parcel was purchased at the foreclosure, forfeiture, or nonproductive land sale, the date of completion of the demolition or other abatement, the cost of the demolition or other abatement, and the percentage of that cost for which a credit shall be granted. That percentage shall not exceed one hundred per cent of the cost of the demolition or abatement as verified and adjusted by the municipal corporation, except that the amount of the credit shall not exceed ten thousand dollars. Before issuing the certificate, the municipal corporation shall verify, and may adjust, the cost of the demolition or other abatement as reported on the tax credit application. The cost for which a credit is granted shall not exceed the lowest of the bids submitted with the application. The municipal corporation shall certify a copy of the certificate to the county auditor.

Ordinance No. 2003-80 Page 3, As Amended Passed OCT 13 2003, 20

Before issuing a certificate of completion of abatement that will result in a tax credit in an amount that exceeds seventy-five per cent of the real property taxes due on the lot or parcel for the tax year for which the most recent tax duplicate certified to the county treasurer is compiled, not including any delinquent amounts carried forward from tax years preceding the tax year for which that duplicate is compiled, the municipal corporation shall send written notice to the board of education of the city, local, or exempted village school district in which the lot or parcel is located. The notice shall state that the municipal corporation intends to grant a tax credit against the lot or parcel, and shall include the verified and adjusted cost of the demolition or other abatement, the percentage of that cost for which the credit is proposed to be granted, and the amount of the proposed credit. Within thirty days after the notice is delivered to the board of education, the board of education shall adopt a resolution approving or disapproving the proposed credit and shall certify a copy of the resolution to the municipal corporation. The municipal corporation shall grant the credit as proposed if the board of education approves the proposal or if the board of education does not adopt a resolution approving or disapproving the proposal within the required thirty-day period. If the board of education adopts a resolution disapproving the proposed credit within the required thirty-day period, the municipal corporation shall not grant the credit.

Any person who has been aggrieved may file an appeal to the Board or Building Appeals which is vested with the original jurisdiction and authority to decide any question involving the interpretation of matters related hereto. The Boards decision shall be binding on all parties. It may impose such requirements and conditions with respect to the intent of this section as it deems fit to serve the public interest.

1365.05 Receipt of tax credit

The owner of a lot or parcel for which a certificate of completion of abatement has been issued shall receive a tax credit equal to the percentage of the cost of the demolition or other abatement as stated on the certificate, except that the amount of the credit shall not exceed ten thousand dollars *and the maximum period for which the credit may be applied is ten (10) years, irrespective of any remainder existing thereafter.* The credit shall apply only to real property taxes charged against the lot or parcel, and not to special assessments, personal property taxes, or real property taxes charged against a different lot or parcel. *Further, the owner must perform routine maintenance upon the property, including but not limited to lawn maintenance and esthetic appearance, in order to receive the credit.*

After receiving a copy of a certificate of completion of abatement from a municipal corporation, the county auditor shall reduce by the amount of the credit the taxes charged against the lot or parcel the next time the county auditor certifies such taxes to the tax list and duplicate of real and public utility property under section 319.30 of the Revised Code. If the amount of the credit exceeds the amount of taxes charged at that time, the excess amount shall be carried forward to future tax years until the entire amount of the credit is used. If the lot or parcel is sold, any carried-forward tax credit shall run with the land. The reduction in taxes charged against the lot or parcel each year shall be apportioned ratably among the various taxing authorities otherwise entitled to receive those taxes.

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

Keith A. Koehne
President of Council

APPROVED: **OCT 14 2003**

Jack R. Kelly
Mayor

Attest;

Cathy Chappin
Clerk of Council

Ordinance No. 2003-81, Page One

Passed AUG 25 2003, 20

**ORDINANCE AMENDING MARION CODIFIED
ORDINANCE CODE SECTIONS 159.01 AND 941.30
RELATING TO THE MARION MUNICIPAL AIRPORT.**

BE IT ORDAINED by the Council of the City of Marion, Marion,
County, Ohio:

Section 1. That Section 159.01 of the Codified Ordinances now
reading in part as follows:

“ 159.01 COMPOSITION; QUALIFICATIONS

(A) For the purpose of assisting Council and the Director of Public Safety/Service, there is created a Board of Airport Commissioners which shall consist of nine persons, one of whom shall be a member of Council; one of whom shall be a person utilizing the Marion Municipal Airport for either private or personal business flying; one of whom shall be a person employed or associated with a fixed base operator at Marion Municipal Airport; one of whom shall be a person employed or associated with a non-fixed base operator at the Marion Municipal Airport; one of whom shall be a person employed or associated with a company or association utilizing the Marion Municipal Airport with non-based equipment; one of whom shall be a member of the Marion Chamber of Commerce; and one whom shall be associated with agriculture and farming; one of whom shall be a person who resides within two miles of Airport; and one of whom shall be a person who is a member of the Airport Zoning Board or Airport Board of Zoning Appeals.”

is hereby amended to read as follows:

“ 159.01 COMPOSITION; QUALIFICATIONS

(A) For the purpose of assisting Council and the Director of Public Safety/Service, there is created a Board of Airport Commissioners which shall consist of ~~ten~~ persons, one of whom shall be a member of Council; one of whom shall be a person utilizing the Marion Municipal Airport for either private or personal business flying; one of whom shall be a person employed or associated with a fixed base operator at Marion Municipal Airport; one of whom shall be a person employed or associated with a non-fixed base operator at the Marion Municipal Airport; one of whom shall be a person employed or associated with a company or association utilizing the Marion Municipal Airport with non-based equipment; one of whom shall be a member of the Marion Chamber of Commerce; and one whom shall be associated with agriculture and farming; one of whom shall be a person who resides within two miles of Airport; one of whom shall be a person who is a member of the Airport Zoning Board or Airport Board of Zoning Appeals; **and one of whom shall be the President of Central Ohio Soaring Association at Marion Municipal Airport or one of his designees.**”

Section 2. That Section 941.30 of the Codified Ordinances now
reading in part as follows:

“941.30 AUTHORIZATION.

The aircraft parking policy for the Marion Municipal Airport is authorized by the provisions of 941.01 through 941.18 of this chapter and Ordinance 65-123, passed 12-13-65 and as amended. Specific rules and regulations shall be

RECORD OF ORDINANCES

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-81, Page Two

Passed AUG 25 2003, 20

formulated by the Airport Commission. Parking changes shall be established by the Airport Commission subject to the approval of the Council.”

is hereby amended to read as follows:

“941.30 AUTHORIZATION.

The aircraft parking policy for the Marion Municipal Airport is authorized by the provisions of 941.01 through 941.18 of this chapter and Ordinance 65-123, passed 12-13-65 and as amended. Specific rules and regulations shall be established by the Airport Commission. Parking changes shall be established by the Airport Commission subject to the approval of the Council.”

Section 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

APPROVED: AUG 26 2003

Keith A. Krehmer
PRESIDENT OF COUNCIL

Jack L. Kellogg
MAYOR

ATTEST:
Cathy Chappin
CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

Ordinance No. 2003-82

Passed AUG 25 2003, 20

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO PREPARE PLANS AND SPECIFICATIONS, AND ADVERTISE FOR BIDS FOR THE 2003 SEWER IMPROVEMENTS PROJECT 01-5S AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director is hereby authorized and directed to prepare plans and specifications, and advertise for bids for the 2003 Sewer Improvements Project 01-5S, which consists of the following:

- A. Mary Street sanitary and storm sewer replacement
- B. High and Vine Streets sanitary and storm sewer replacement
- C. Forest Lawn Drive and private drive culvert improvements

Section 2. That the cost of such contract shall be payable from the Sewer Replacement Fund, the Sewer Improvement Fund and the Storm Water Utility Fund.

Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety of the City of Marion and the inhabitants thereof, and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.

Keith W. Koelbein

President of Council

APPROVED: **AUG 26 2003**

Jack L. Kellogg

Mayor

ATTEST:

Cathy Chappin

Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0395

Ordinance No. 2003-83, Page One Passed AUG 25 2003, 20__

ORDINANCE MAKING APPROPRIATION ADJUSTMENTS IN
VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31,
2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be appropriation adjustments made in various funds in the amount of \$73,940.76 as follows:

Help Me Grow Fund

FY03 Grant

Salaries	256.2543.510110	\$	(32.02)
Benefits	256.2543.510120		(82.54)
Supplies	256.2543.540420		(5.06)
Equipment	256.2543.550450		(16.00)
Total FY03		\$	(135.62)

FY04 Grant

Salaries	256.2544.510110	\$	316.65
Benefits	256.2544.510120		(8,600.00)
Travel	256.2544.520220		(924.47)
Schooling	256.2544.530221		(600.00)
Utilities	256.2544.530310		75.40
Professional Services	256.2544.530320		650.00
Janitorial Services	256.2544.530424		2,580.00
Supplies	256.2544.540420		(2,353.69)
Postage	256.2544.540423		(154.18)
Reimbursements	256.2544.570721		(13,496.00)
Total FY04		\$	(22,506.29)

General Fund

Clothing	101.6621.510140	\$	(54.25)
Clothing	101.7741.510140		187.40
Clothing	101.7743.510140		132.10
Total General Fund		\$	265.25

SCMR Fund

Clothing	207.6612.510140	\$	(2,454.23)
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Parks Fund

Clothing	221.3421.510140	\$	888.90
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Sewer Revenue Fund

Clothing	505.5552.510140	\$	4,842.38
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Sanitation Fund

Clothing	506.5561.510140	\$	(1,177.87)
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Recycling Fund

Clothing	508.5564.510140	\$	(268.06)
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Storm Water Utility Fund

Clothing	509.5554.510140	\$	(1,748.13)
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Central Garage Fund

Clothing	601.9601.510140	\$	334.43
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DRIP TIF Ridgedale Fund

Roadway Sewer	346.4430.550520	\$	25,000.00
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RECORD OF ORDINANCES

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-83, Page Two

Passed AUG 26 2003, 2003

DRIP Infrastructure Fund

Railroad Loop 430.6033.550520 \$ 50,000.00

Sewer Replacement Fund

Mary Street Project 504.5015.550520 \$ 10,000.00


Safety City Trust Fund

Trust Expenditures 738.1824.570731 \$ 2,000.00


Law Enforcement Trust Fund

Safety City 737.1824.570731 \$ 8,900.00


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


PRESIDENT OF COUNCIL

APPROVED: AUG 26 2003


MAYOR

ATTEST:


CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0337

Ordinance No. 2003-84

Passed SEP 08 2003, 2003

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO AGREEMENT WITH ROMANKO SALES & SERVICE – GENERAL CONTRACT, RHODES HEATING, COOLING AND AIRCONDITIONING – HVAC AND PLUMBING, AND GALION FIRE APPLIANCE – FIRE PROTECTION FOR THE CONSTRUCTION OF THE VEHICLE STORAGE GARAGE AND DECLARING AN EMERGENCY.

WHEREAS, Romanko Sales and Service submitted the lowest and most responsive bid for the general contract of the Vehicle Storage Garage, Rhodes Heating, Cooling and Air Conditioning submitted the lowest and most responsive HVAC and plumbing bid, and Galion Fire Appliance submitted the lowest and most responsive bid for fire protection at the Vehicle Storage Garage.

THEREFORE, BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director by authorized and is directed to enter into contract with the following contractors:

General Contract	Romanko Sales & Service	\$560,609.00
HVAC/Plumbing	Rhodes Heating and Cooling	\$111,000.00
Fire Protection	Galion Fire Appliance	<u>\$ 16,949.00</u>
		\$688,588.00

Section 2. That said cost of contracts shall be paid by the Central Garage Fund.

Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and the inhabitants thereof, and for further reason the city vehicles needed proper storage for winter months, and shall take effect and be in force immediately upon it's passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall become effective from and after the earliest period allowed by law.

Keisha Kachum
PRESIDENT OF COUNCIL

APPROVED: SEP 29 2003

Jack L. Kellogg
MAYOR

ATTEST:

Cathy Chappie
CLERK OF COUNCIL

Ordinance No. 2003-85

Passed SEP 08 2003, 2003

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH BUILD-MOR, INC. FOR THE PURCHASE OF A VEEDER ROOT MONITORING SYSTEM TO REPLACE THE ONE DESTROYED IN THE GARAGE FIRE FOR THE CENTRAL GARAGE AND DECLARING AN EMERGENCY.

WHEREAS, this Council by passage of Ordinance No. 1991-136, requires approval of all capital expenditures exceeding \$2,500.00 except for expenditures necessary for the health and safety of the citizens of the City of Marion, Marion County, Ohio and

WHEREAS, Build-Mor, Inc. submitted the best proposal for the purchase of a veeder root monitoring system, therefore

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be authorized and is hereby directed to enter into contract with Build-Mor, Inc. to purchase one veeder root monitoring system for the use at the Central Garage. The cost is \$25,987.00 funded from the Central Garage Fund.

Section 2. That this ordinance is hereby declared to be an emergency measure for the welfare and safety of the City of Marion and the inhabitants thereof and for the further reason that is necessary for the daily operation of the City; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise, it shall become effective from and after the earliest period allowed by law.

Keith A. Koshenkov

PRESIDENT OF COUNCIL

APPROVED: **SEP 09 2003**

Jack L. Kellogg

MAYOR

ATTEST:

Cathy Chapin

CLERK OF COUNCIL

Ordinance No. 2003-86, As Amended Passed SEP 08 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH S. E. JOHNSON, FINDLAY, OHIO FOR RUNWAY 12/30 PAVEMENT REHABILITATION AT THE MARION MUNICIPAL AIRPORT, AND DECLARING AN EMERGENCY AS AMENDED.

WHEREAS, Council on July 14, 2003, by passage of Ordinance 2003-61, authorized the Safety/Service Director to prepare specifications and advertise for bid for Runway 12/30 pavement rehabilitation, for the Marion Municipal Airport.

WHEREAS, The City of Marion has been allocated \$244,807.00 FAA Grant and \$175,000.00 ODOT Grant, known as Project 14, toward construction estimate of \$447,000.00

BE IT ORDAINED by the Council of the City of Marion, Marion, County, Ohio:

Section 1. That the Safety/Service Director is hereby authorized and directed to enter into contract with S. E. Johnson for pavement rehabilitation to Runway 12/30 at the Marion Municipal Airport. Bid amount \$398,485.00.

Section 2. The specifications were prepared by Yager and Associates of Toledo, Ohio, who was selected per FAA guidelines and authorized by Ordinance 1997-111.

Section 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

AMENDED TO ADD:

Section 4. *That this ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and the inhabitants thereof, and for further reason that contract needs to be executed in order to complete the project, and shall take effect and be in force immediately upon its' passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.*

Keith A. Koelbe

 PRESIDENT OF COUNCIL

APPROVED: SEP 09 2003

Jack L. Kelly

 MAYOR

ATTEST:

Cathy Chappie

 CLERK

RECORD OF ORDINANCES

0403

Ordinance No. 2003-87

Passed SEP 08 2003, 2003

ORDINANCE TO ESTABLISH AN ECONOMIC DEVELOPMENT INITIATIVE (EDI) GRANT PROGRAM THROUGH H.U.D. AND TO AUTHORIZE THE MAYOR TO APPLY FOR THE EDI FUNDS AND ADMINISTER THE GRANT, AND DECLARING AN EMERGENCY.

WHEREAS, this Council recognizes the need for programs which remove slum and blight and assist in revitalizing the downtown; and

WHEREAS, Congressman Michael Oxley has arranged for the City of Marion to receive \$201,184 from the Economic Development Initiative account pursuant to the VA-HUD-Independent Agencies Appropriation Act of FY 2003 for a special project which will be used to construct an urban plaza; and

WHEREAS, the Mayor must submit an application to the U.S. Department of Housing and Urban Development to receive funds which have been authorized for the City of Marion to be used on eligible activities to develop an urban plaza in Downtown Marion.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1 That this Council hereby authorizes the Mayor to submit an application for EDI funds, including the following tentative budget and activities:

1. Acquisition/legal	\$ 102,000
2. Engineering/Environmental review	\$ 13,000
<u>3. Construction</u>	<u>\$ 86,184</u>
TOTAL	\$ 201,184

Section 2 That upon approval of the City of Marion's grant application, the Mayor is hereby authorized to accept the grant and administer the EDI Program in the City of Marion.

Section 3 This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety of the City of Marion and the inhabitants thereof and for the further reason that the grant application must be filed immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; it shall become effective from and after the earliest period allowed by law.

Keith A. Koelbman
PRESIDENT OF COUNCIL

APPROVED: SEP 09 2003

Jack L. Kellogg
MAYOR

ATTEST:
Cathy Chappin
CLERK OF COUNCIL

RECORD OF ORDINANCES

0.05

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-88

Passed SEP 08 2003, 20

**ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR
TO PREPARE SPECIFICATIONS AND ADVERTISE FOR BIDS FOR THE PURCHASE OF A
NEW AERIAL APPARATUS AND DECLARING AN EMERGENCY.**

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

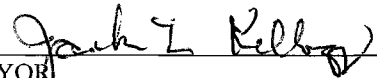
Section 1. That the Safety/Service Director be authorized and is hereby directed to prepare specifications and advertise for bids for the purchase of a new aerial apparatus.

Section 2. That this ordinance is hereby declared an emergency measure for the welfare and safety of the City of Marion and the inhabitants thereof and for the further reason that it is necessary for the daily operation of the City; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall become effective from and after earliest period allowed by law.



PRESIDENT OF COUNCIL

APPROVED: **SEP 09 2003**



MAYOR

ATTEST:



CLERK OF COUNCIL

RECORD OF ORDINANCES

0407

Ordinance No. 2003-89 Passed SEP 08 2003, 20

AN ORDINANCE TO RESCIND THE AGREEMENT WITH BEENEY & BEENEY, INC. AND DONALD J. BEENEY, INDIVIDUAL LESSOR OF REAL PROPERTY FOR THE PURPOSE OF ABATEMENT OF A PORTION OF REAL PROPERTY TAX AT A FACILITY LOCATED AT 390 EAST CENTER STREET, WHICH PROPERTY WAS GREATLY IMPROVED BUT HAS BEEN TRANSFERRED.

WHEREAS, the City Council by Ordinance No. 1996-75 signed July 9, 1996 designated a "Community Reinvestment Area II", which includes 390 East Center Street; and

WHEREAS, the Director of the Ohio Department of Development confirmed the new district as Area No. 101-2485-01 on August 7, 1996; and

WHEREAS, THE City Council of Marion found that Beeney & Beeney, Inc. was qualified by financial responsibility and business experience to renovate a building and create employment opportunities, and the City executed an agreement with Mr. Beeney August 27, 1996 for a 50% abatement for 10 years; and

WHEREAS, Beeney & Beeney, Inc. successfully renovated the property at 390 East Center Street and created jobs taking a run down corner and making it into a thriving business center; and

WHEREAS, Beeney & Beeney, Inc. sold the building, and neither he nor his successors filed the required report as a condition to transfer and continue the abatement with the new owner for the last few eligible years; and

WHEREAS, Donald J. Beeney does not also now meet the required job commitment as his rental business at the site was closed; and

WHEREAS, the Tax Incentive Review Committee and housing officer recommend repeal;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. The Council hereby rescinds the agreement with Beeney & Beeney, Inc. and Donald J. Beeney effective January 1, 2003, also for the reason that failure to rescind the agreement without an annual report to the State of Ohio would cause the City of Marion to be liable for substantial late fees.

Section 2. That this ordinance shall become effective from and after the earliest period allowed by law.

Keith A. Kuehner

PRESIDENT OF COUNCIL

APPROVED; **SEP 09 2003**

Jack L. Kellogg

MAYOR

ATTEST:

Cathy Chappin

CLERK OF COUNCIL

RECORD OF ORDINANCES

0109

Ordinance No. 2003-90, Page One Passed SEP 08 2003, 2003

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$209,936.00 as follows:

GENERAL FUND

Marion Port Authority	101.4539.530503	\$	2,500.00
Fire EMS '04	101.1131.534223		6,686.00
Fire Utilities	101.1131.530310		5,800.00
Recreation Utilities	101.3422.530310		2,700.00
Senior Center Utilities	101.3424.530310		1,400.00
City Hall Utilities	101.7741.530310		4,800.00
Police Benefits	101.1111.510120		48,880.00
Fire Benefits	101.1131.510120		46,450.00
Dispatch Benefits	101.1113.510120		7,280.00
Recreation Benefits	101.3422.510120		1,910.00
Senior Citizens Benefits	101.3424.510120		1,310.00
Airport Benefits	101.6621.510120		2,190.00
Mayor Benefits	101.7710.510120		1,600.00
Auditor Benefits	101.7711.510120		3,850.00
Income Tax Benefits	101.7712.510120		1,850.00
Law Director Benefits	101.7714.510120		4,400.00
Human Resources Benefits	101.7715.510120		1,600.00
Safety/Service Benefits	101.7716.510120		1,880.00
Municipal Court Benefits	101.7731.510120		7,590.00
City Hall Benefits	101.7741.510120		1,600.00
Engineering Benefits	101.7743.510120		<u>2,880.00</u>
Total General Fund		\$	159,156.00

SCMR FUND

Benefits	207.6612.510120	\$	16,280.00
Utilities	207.6612.530310		<u>500.00</u>
Total SCMR Fund		\$	16,780.00

HEALTH FUND

Admin Benefits	214.2221.510120	\$	3,900.00
Inspection Benefits	214.2222.510120		<u>2,530.00</u>
Total Health Fund		\$	6,430.00

TRANSIT FUND

Benefits	502.6543.510120	\$	5,100.00
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SEWER REVENUE FUND

Benefits	505.5552.510120	\$	18,680.00
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Ordinance No. 2003-90, Page Two

Passed SEP 08 2003, 2003

RECYCLING FUND

Benefits 508.5564.510120 \$ 2,190.00

UTILITY BILLING FUND

Benefits 612.5571.510120 \$ 1,600.00

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

Kevin A. Koehne
PRESIDENT OF COUNCIL

APPROVED: SEP 8 9 2003

Joseph L. Kelly
MAYOR

ATTEST:

Cathy Chappie
CLERK

Ordinance No. 2003-91

Passed SEP 16 2003, 2003

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/
SERVICE DIRECTOR TO TAKE ALL STEPS NECESSARY TO
EXTEND THE SIDEWALK TO THE MUNICIPAL BOUNDARY
AT PARKVIEW AVENUE, AND DECLARING AN EMERGENCY
AS AMENDED.

WHEREAS, the Council finds the real and present need to extend the sidewalk which exists on the north side of East Center St. at ~~Kensington~~ *Madison Ave.* to the Municipal boundary at Parkview Ave., and

WHEREAS, the Council proclaims it to be in the best interests of the citizens of Marion to pursue a co-operation agreement with the Marion Township Trustees and the Marion City Board of Education in order to provide an additional walkway to the new City High School.

BE IT ORDAINED by the Council for the City of Marion, Ohio:

Section 1. Council finds a real and present need exists to extend the sidewalk which currently terminates on the north side of East Center St. at ~~Kensington~~ *Madison Ave.* and extend same to the Municipal boundary at Parkview Ave.. The Safety/Service Director is authorized and directed to complete all acts necessary to ensure said sidewalk is extended. The estimated cost of \$11,500 shall be paid from the Capital Improvement Fund.

Section 2. This ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, welfare and safety of the City of Marion and the inhabitants thereof, due to the real and present need to extend the sidewalk system towards the City High School; and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to council; otherwise it shall become effective from and after the earliest period allow by law.

Keith A. Koehusen
President of Council

APPROVED: SEP 17 2003

Jack L. Kellogg
Mayor

Attest:

Cathy Chappin
Clerk of Council

RECORD OF ORDINANCES

0113

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-92, Page One

Passed OCT 27 2003, 2003

ORDINANCE TO ACCEPT THE PETITION FOR ANNEXATION OF CERTAIN TERRITORY LOCATED SOUTH OF THE CITY OF MARION, CONTAINING 26.877 ACRES OWNED BY J.M. PUA, MANAGEMENT EXPANSION, INC. AND TEXAS LUDCO, INC.

WHEREAS, a petition for annexation of certain territory in Marion Township was duly filed by Ted M. McKinniss, as Agent, (Petitioner being Management Expansion, Inc. and Texas Ludco, Inc.);

WHEREAS, the petition was duly considered by the Board of County Commissioners of Marion County, Ohio on August 7, 2003, after litigation which resulted in the reversal of their previous denial; and

WHEREAS, the Board of County Commissioners has approved the annexation of the territory to the City of Marion as hereinafter described; and

WHEREAS, the Board of County Commissioners certified the transcript of the proceedings in connection with the annexation with the map, the petition as required in connection therewith to the Clerk of Council who received the same on September 8, 2003; and

WHEREAS, sixty days from the date of the filing have now elapsed in accordance with the provisions of R.C. 709.04, now, therefore,

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the proposed annexation as applied for in the petition of Ted M. McKinniss, Agent for the J.M. Pua, Management Expansion, Inc. and Texas Ludco Inc., filed with the Board of County Commissioners of Marion County, Ohio on October 22, 2001, and which the petition prayed for annexation to the City of Marion, Ohio, of certain territory adjacent thereto as hereinafter described, and was approved for annexation to the City of Marion by the Board of County Commissioners on August 7, 2003, be and is hereby accepted. The territory is described as follows:

DESCRIPTION 26.877 ACRES

Being part of the Southeast Quarter of Section 34, Township 5 South, Range 15 East, Marion Township, Marion County, State of Ohio; Being tracts now or formerly owned by Management Expansion, Inc. (O.R. 515 Pg. 724 & OR. 499 Pg. 588), J.M. Pua (D.B. 523 Pg. 319) and Texas Ludco, Inc. (O.R. 47 Pg. 802); and being more particularly described as follows;

Commencing at an existing O.D.O.T. monument box located at the intersection of the centerline of State Route 423 with the East-West Half Section Line of Section 34 (also being the centerline of County Road 138); thence along said East-West Half Section Line N 88° 42' 30" E for a distance of 810.94 feet to an existing stone on the West Corporation Line of the City of Marion; thence continuing along said East-West Half Section Line N 88° 54' 40" E for a distance of 660.16 feet to an existing 1" dia. iron pin on the South Corporation Line of the City of Marion and the point of beginning; thence continuing along said East-West Half Section Line (also being the South Corporation Line of the City of Marion) N 88° 54' 40" E for a distance of 126.08 feet to an existing railroad spike on the centerline of Qu-Qua Ditch; thence along said centerline S 8° 19' 00" E for a distance of 1337.65 feet to a point on Grantor's South Line; thence along Grantor's South Line S 89° 26' 45" W for a distance of 941.03 feet to a 1" dia. iron pin set on Grantor's West Line (passing over 1" dia. iron pin set at 30.00 feet); thence along Grantor's West Line N 17° 32' 20" W for a distance of 748.23 feet to 1" dia. iron pin set on Grantor's North Line; thence along Grantor's North Line N 88° 38' 10" E for a distance of 244.93 feet to 1" dia. iron pin set on Grantor's West Line; thence along Grantor's West Line N 1 21' 50" W for a distance of 279.52 feet to a 1" dia. iron pin set; thence continuing along Grantor's West Line N 0° 12' 20" W for a distance of 290.00 feet to an existing railroad spike on the South Corporation Line of the City of Marion (passing over a-1" dia. iron pin set at 260.00 feet); thence along said South Corporation Line N 88° 54' 40" E for a distance of 610.00 feet to an existing Railroad spike on the East Corporation Line of the City of Marion; thence along said East Corporation Line N 0° 15' 00" W for a distance of

30.00 feet to an existing 1" dia. iron pin on the East-West Half Section Line of Section 34 and the point of beginning. Containing 26.877 acres more or less and being subject to legal highways, easements, restrictions, and agreements of record. For basis of bearing, see Plat Book 5 Pg. 123, Marion County Recorder's Office. This description prepared from a survey performed by Thomas L. Boblenz, Registered Surveyor 5719, and dated October 12, 2001. All 1" dia. iron pins set have a plastic identity cap with the following caption, "TLB & Associates."

The certified transcript of the proceedings for annexation with an accurate map of the territory, together with the petition for its annexation and other papers relating to the proceedings thereto of the County Commissioners are all on file with the Clerk of Council and have been for more than sixty days.

Section 2. That the property shall be zoned R-1A (Residential – Single Family Low Density).

Section 3. The Clerk of Council be and she is hereby authorized and directed to make three copies of this ordinance to each of which shall be attached a copy of the map accompanying the petition for annexation, a copy of the transcript of proceedings of the Board of County Commissioners relating thereto and a certificate as to the correctness thereof. The Clerk of Council shall then forthwith deliver one copy to the County Auditor, one copy to the County Recorder and one copy to the Secretary of State and shall file notice of this annexation with the Board of Elections within thirty (30) days after it becomes effective, and the Clerk shall do all other things required by law.

Section 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

APPROVED: OCT 8 8 2003

Keith A. Koepf
PRESIDENT OF COUNCIL

Jack L. Kelley
MAYOR

ATTEST:

Cathy Chappin
CLERK

RECORD OF ORDINANCES

015

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-93

Passed SEP 22 2003, 20

ORDINANCE AUTHORIZING THE SAFETY/SERVICE DIRECTOR TO DISPOSE OF ONE VEHICLE PREVIOUSLY UTILIZED BY THE ENGINEERING DEPARTMENT, ONE VEHICLE PREVIOUSLY UTILIZED BY THE FIRE DEPARTMENT AND ONE VEHICLE PREVIOUSLY UTILIZED BY THE STREETS DEPARTMENT, DECLARING THEY ARE NO LONGER NECESSARY FOR ANY PUBLIC PURPOSE AND DECLARING AN EMERGENCY.

WHEREAS, the Council has been advised by the Fire Department, Streets Department and Engineering Department that the three vehicles previously used by these departments are no longer necessary, and

WHEREAS, the Council has been advised by the Safety/Service Director that the three vehicles mentioned are no longer necessary for any municipal purpose.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio;

Section 1. That the Safety/Service Director is hereby authorized and directed to dispose of the following vehicles previously used by the Fire Department, Streets Department and Engineering Department which have been determined to have exceeded its useful purpose and are no longer necessary for any municipal purpose, to-wit:


1982 Ford Packer #4 VIN: IFDYW80UOCVA18729
1992 Plymouth Sundance VIN: IP3XP24D4NN162551
1990 Ford Emergency Squad VIN: 1FDKE30M7LHA85306

Section 2. That the disposal authorized herein shall be in compliance with the mandates contained within the Ohio Revised Code.

Section 3. That this ordinance is hereby declared an emergency measure for the welfare and safety of the City of Marion and the inhabitants thereof and for the further reason that it is necessary for the daily operation of the City for further reason that the Police auction is occurring on October 4, 2003; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: **SEP 23 2003**


MAYOR


CLERK OF COUNCIL

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0-17

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-94, Page One

Passed SEP 22 2003, 20

ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF MARION TO EXECUTE A CONSENT TO THE SUBLEASING BY MARION GENERAL HOSPITAL, INC. OF CERTAIN PROPERTY, AND DECLARING AN EMERGENCY.

WHEREAS, on December 31, 1983, the City of Marion, Ohio (the "City") entered into a Lease and on October 26, 1992 the City supplemented and amended that Lease (the "Lease"), pursuant to which it leased the Marion General Hospital real estate and facilities to Marion General Hospital, Inc. (the "Hospital"), an Ohio corporation not for profit; and

WHEREAS, Section 6.1 of the Lease contains the following provision:

"This Lease may not be assigned in whole or in part and, except for subleases for Hospital Specialty Services or Convenience Activities, the Leased Premises may not be subleased as a whole or in part, by Lessee without the prior written consent of Lessor, which consent will not be unreasonably withheld."

And,

WHEREAS, the Hospital is desirous of using a portion of the proceeds of the Hospital Facilities Refunding Revenue Bonds, Series 2003D (OhioHealth Corporation) (the "Series 2003 Bonds") to be issued by the County of Franklin, Ohio (the "County"), for the benefit of the Hospital, Southern Ohio Medical Center and OhioHealth Corporation (the "Corporation"), to refinance the \$33,000,000 County of Clinton, Ohio Variable Rate Demand Hospital Revenue Bonds (Ohio Hospital Capital, Inc. Pooled Financing Program - OhioHealth Corporation Project), Series 2000 (the "Series 2000 Bonds"), which Series 2000 Bonds were used to finance the costs of certain fixtures, equipment, renovations and improvements of the Hospital and Southern Ohio Medical Center heretofore completed; and

WHEREAS, in connection with the Hospital's participation in the Series 2003 Bond issue, the Hospital proposes to lease to the Corporation the real property (the "Leased Real Property") described in Exhibit A hereto; and

WHEREAS, the Corporation proposes to acquire such leasehold interest in the Leased Real Property and proposes to sublease the Leased Real Property to the County; and

WHEREAS, the County proposes to acquire such leasehold interest in the Leased Real Property and proposes to sublease the Leased Real Property to the Corporation for a rental which will at least equal the bond service charges to be paid on the Bonds (the "Basic Rent"); and

WHEREAS, the Corporation proposes to acquire such leasehold interest in the Leased Real Property and proposes to sublease the Leased Real Property to the Hospital for a rental in the amount of the percentage of Basic Rent payable by the Corporation approximately equal to the percentage of the proceeds of the Bonds allocable to the Corporation paid to or for the benefit of the Hospital; and

WHEREAS, there is an urgency in this matter, in that the above described lease agreements must be entered into in connection with the Hospital's participation in the Series 2003 Bond issue, which participation is scheduled to occur by mid-October, and Council therefore determines that said facts constitute a good and sufficient reason for said Ordinance to be passed as an emergency measure.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Marion, Marion County, Ohio:

Section 1. In order to facilitate the Hospital's participation in the Prom-am, the Mayor of the City shall sign and deliver, in the name and on behalf of the City, the Consent, in substantially the form as is now on file with the Clerk of this Council. That Consent is approved, together with any changes or amendments that are not inconsistent with this Ordinance, that are not substantially adverse to the City and that are approved by the Mayor on behalf of the City, all of which shall be conclusively evidenced by the signing of the Consent. The Mayor is also authorized to undertake all additional actions necessary so as to consent to the subleasing of the Leased Real Property as herein described. **Neither this Ordinance nor the Consent shall be construed as an amendment, modification, or extension of the term, of current term of the Lease.**

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22, Ohio Revised Code.

Section 3. Council determines that this Ordinance is an emergency measure for the reason that the actions herein authorized must occur shortly; and for the further reason that it provides for the immediate preservation of the public peace, health and safety of the City; and as such shall be effective immediately upon its passage by an affirmative vote of two-thirds of the members elected to Council and the signature of the Mayor; otherwise to become effective from and after the earliest period allowed by law.

Keith G. Koehner
 PRESIDENT OF COUNCIL

APPROVED: SEP 23 2003

Jack L. Kelly
 MAYOR

Approved As Submitted Pursuant
 To M.C.C.
 MARK D. RUSSELL
 DIRECTOR OF LAW
 CITY OF MARION

ATTEST:

Cathy Chappin
 CLERK OF COUNCIL

RECORD OF ORDINANCES

0.19

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-95

Passed SEP 22 2003, 20

ORDINANCE AUTHORIZING THE MAYOR AND THE SAFETY/SERVICE DIRECTOR TO ENTER INTO AN AGREEMENT TO PROVIDE SANITARY SEWER SERVICE TO THE VILLAGE OF GREEN CAMP, WAIVING CERTAIN SECTIONS OF THE CITY CODE RELATED THERETO AND DECLARING AN EMERGENCY

WHEREAS, the City of Marion has evaluated and analyzed the request received from the Village of Green Camp, Ohio to provide sanitary sewer service to the existing Village residents, and

WHEREAS, after due consideration the Council finds it to be in the best interest of the City of Marion, Ohio to provide sanitary sewer services to the Village of Green Camp pursuant to the terms negotiated by the City Administration, and

WHEREAS, the Council finds a real and present public need as demonstrated by the City Administrators,

BE IT ORDAINED, by the Council of the City of Marion, Marion County, Ohio:


SECTION 1. The Council authorizes the Mayor and the Safety/Service Director to enter into an agreement, attached hereto and made a part hereof, with the Village of Green Camp, Ohio for the provision of sanitary sewer services to said Village. Further, the Council adopts all the terms and conditions as contained within said agreement as its' Order. Including the waiver of any conflicting existing City Code section which would otherwise mandate the annexation of the sovereign entity of the Village of Green Camp itself, but not waiving any said requirement as to any and all lands which may be served which are presently outside the current Village boundaries. Providing for the rate structure to be charged as is contained in said agreement. Further, providing that the cost the City will incur in the construction of the gravity sewer ahead of the Campbell road connection shall be paid from the tap fees generated from the 183 initial taps within the Village.

SECTION 2. That this Ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and its' inhabitants thereof given the immediacy of the project and the need to proceed without delay and avoiding additional debt cost and loss of existing funding sources; and as such shall take effect and be in force immediately upon its' passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council, otherwise it shall become effective from and after the earliest period allowed by law.



President of Council

APPROVED: SEP 23 2003



Mayor

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

ATTEST:



Clerk of Council

RECORD OF ORDINANCES

0.21

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-96

Passed SEP 22, 2003, 20

ORDINANCE AUTHORIZING THE CITY AUDITOR TO PAY BILLS FROM VARIOUS CITY DEPARTMENTS PURSUANT TO OHIO REVISED CODE §5705.41(D), AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the City Auditor is hereby authorized to pay bills from various city departments pursuant to OR.C. §5705.41(D) which reads in part as follows: "No subdivision or taxing unit shall make any contract or give any order involving the expenditure of money unless there is attached thereto a certificate of the fiscal officer of the subdivision that the amount required to meet the same... such taxing authority may authorize the issuance of a warrant in payment of such amounts due upon such contract, but such resolution or ordinance shall be passed within thirty days from the receipt of such certificate."

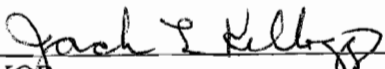
General Fund	\$ 3,765.00
Central Garage Fund	37,835.00

GRAND TOTAL	\$41,600.00
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Section 2. That this ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and the inhabitants thereof and for the further reason that it provides for the daily operation of the City; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise, it shall become effective from anti after the earliest period allowed by law.


PRESIDENT OF COUNCIL

APPROVED: **SEP 23 2003**


MAYOR

ATTEST:


CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0.23

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-97

Passed SEP 22 2003, 2003

ORDINANCE MAKING APPROPRIATION ADJUSTMENTS IN VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be appropriation adjustments made in various funds in the amount of \$29,993.00 as follows:

Violence Against Women Fund

Salaries	212.1542.510110	\$	(546.00)
Benefits	212.1542.510120		(419.00)
Schooling	212.1542.530221		<u>191.00</u>
Total VAWA		\$	(774.00)

SCMR Fund

Salaries	207.6612.510110	\$	22,267.00
Pavement Bonds	207.6816.570268		<u>5,000.00</u>
Total SCMR		\$	27,267.00

Health Fund

Weed Control	214.2222.530426	\$	3,500.00
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Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Keith A. Kerkhimer
PRESIDENT OF COUNCIL

APPROVED: SEP 23 2003

Jack L. Kelby
MAYOR

ATTEST:

Cathy Chappin
CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0.25

Ordinance No. 2003-98

Passed OCT 13 2003, 20

ORDINANCE AUTHORIZING AND DIRECTING THE SAFETY/SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH UNDERGROUND UTILITIES, INC. FOR THE 2003 SEWER IMPROVEMENTS, PROJECT O1-5S FOR THE CITY OF MARION, OHIO AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance No. 2003-82 authorized the preparation of plans, specifications and advertising for bids for the 2003 Sewer Improvements, Project O1-5S for the City of Marion, Ohio, and

WHEREAS, Underground Utilities, Inc. submitted the lowest and best bid of \$1,241,112.24.

BE IT ORDAINED BY the Council of the City of Marion, Marion County, Ohio:

Section 1. That the Safety/Service Director be directed to enter into contract with Underground Utilities, Inc., for the 2003 Sewer Improvements, Project O1-5S.

Section 2. That said contract shall be payable from the Sewer Improvement Fund, Sewer Replacement Fund, and the Storm Water Utility Fund.

Section 3. That there be \$1,307,045.50 appropriated as follows:

Sewer Replacement Fund		
Project 01-5S	504.5015.550520	\$446,138.01
Storm Water Utility Fund		
Project 01-5S	509.5015.550520	\$520,907.49
Sewer Improvement Fund		
Project 01-5S	550.5015.550520	\$340,000.00

Section 4. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety of the City of Marion and the inhabitants thereof, and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.

Kirk A. Krehmer
President of Council

Approved: **OCT 14 2003**

Jack L. Kellogg

Mayor

Attest:

Cathy Chapman

Clerk of Council

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION

RECORD OF ORDINANCES

0127

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 2003-99

Passed OCT 13 2003, 2003

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN VARIOUS FUNDS FOR THE YEAR ENDING DECEMBER 31, 2003.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be additional appropriations made in various funds in the amount of \$188,504.24 as follows:

GENERAL FUND

Community Corrections Benefits	101.7732.510120	\$ 2,952.00
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WIC FUND

FY 04 GRANT

Salaries	215.2544.510110	\$ 157,136.00
Benefits	215.2544.510120	84,548.00
Travel	215.2544.520220	200.00
Telephone	215.2544.530310	2,100.00
Equipment Maintenance	215.2544.530360	600.00
Janitorial Services	215.2544.530424	2,580.00
Supplies	215.2544.540420	2,003.00
Equipment	215.2544.540423	2,061.00
Contingency	215.2544.570624	<u>(51,807.01)</u>

Total FY 04 Fund		\$ 199,420.99
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SMART PROGRAM FUND

Professional Service	219.1111.530320	\$ (13,000.00)
Building Rent	219.1111.530371	<u>(1,000.00)</u>

Total Smart Program Fund		\$ (14,000.00)
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SEWER REVENUE FUND

Clothing	505.5552.510140	\$ 131.25
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Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Keith A. Koehnen
PRESIDENT OF COUNCIL

APPROVED: **OCT 14 2003**

Jack L. Kelly
MAYOR

ATTEST:

Cathy Chappin
CLERK

Approved As Submitted Pursuant
To M.C.C.
MARK D. RUSSELL
DIRECTOR OF LAW
CITY OF MARION