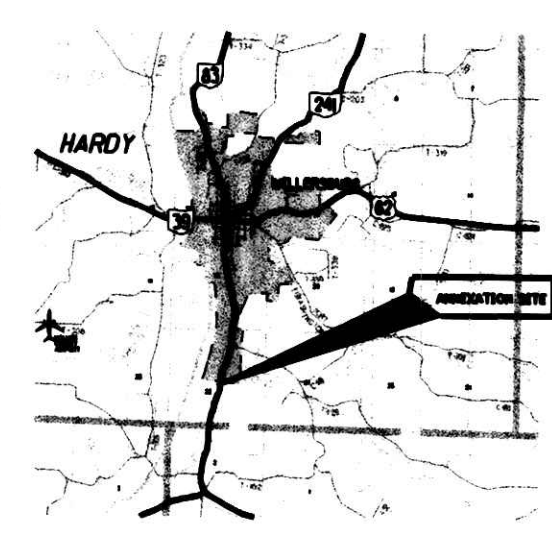
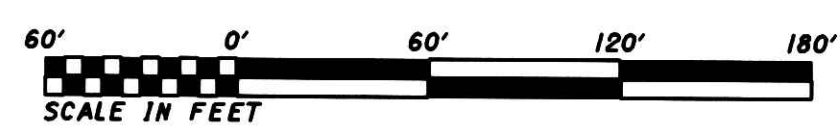


ANNEXATION TO THE VILLAGE OF MILLERSBURG

**HARDY TOWNSHIP
SECTION 22, T-9, R-7
HOLMES COUNTY, OHIO**



LOCATION MAP
SCALE: 1" = 2 MILES

KNOW ALL MEN BY THESE PRESENTS, OWNERS OF THE LAND SHOWN ON THIS DO HEREBY ACKNOWLEDGE THE MAKING OF THIS ANNEXATION PLAT TO BE AT THEIR REQUEST AND APPROVAL.

WITNESS
 NAME: Stephen M. Lucas DATE: 6/18/07
 NAME: Mary G. Newbauer DATE: 6/18/07
 PROPERTY OWNER
 NAME: James Beasley DATE: 6/18/07
 State of Ohio
 James G. Beasley, Director
 Ohio Department of Transportation

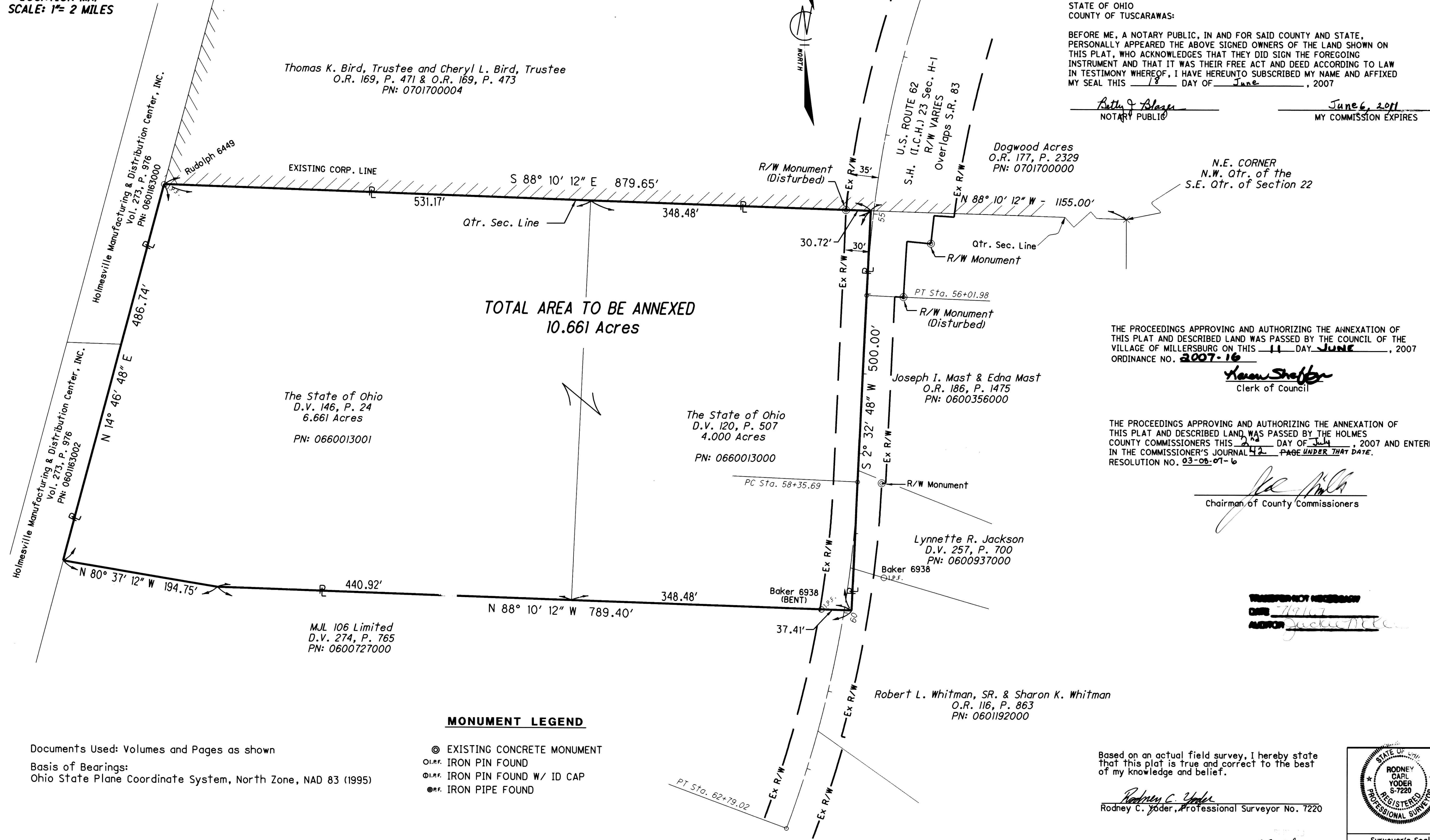
STATE OF OHIO
COUNTY OF TUSCARAWAS:

BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED THE ABOVE SIGNED OWNERS OF THE LAND SHOWN ON THIS PLAT, WHO ACKNOWLEDGES THAT THEY DID SIGN THE FOREGOING INSTRUMENT AND THAT IT WAS THEIR FREE ACT AND DEED ACCORDING TO LAW IN TESTIMONY WHEREOF, I HAVE HERETO SUBSCRIBED MY NAME AND AFFIXED MY SEAL THIS 18 DAY OF June, 2007

Betty J. Blazyn NOTARY PUBLIC
June 6, 2011 MY COMMISSION EXPIRES

120'
60'
0
1" = 60'
HORIZONTAL SCALE IN FEET

CALCULATED JRP CHECKED RCY



THE PROCEEDINGS APPROVING AND AUTHORIZING THE ANNEXATION OF THIS PLAT AND DESCRIBED LAND WAS PASSED BY THE COUNCIL OF THE VILLAGE OF MILLERSBURG ON THIS 11 DAY JUNE, 2007 ORDINANCE NO. 2007-16

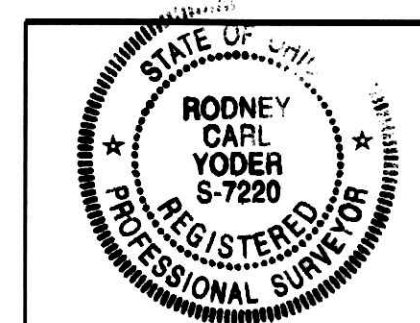
Karen Shaffer
Clerk of Council

THE PROCEEDINGS APPROVING AND AUTHORIZING THE ANNEXATION OF THIS PLAT AND DESCRIBED LAND WAS PASSED BY THE HOLMES COUNTY COMMISSIONERS THIS 24 DAY OF JULY, 2007 AND ENTERED IN THE COMMISSIONER'S JOURNAL 42 PAGE UNDER THAT DATE. RESOLUTION NO. 03-08-07-6

[Signature]
Chairman of County Commissioners

Based on an actual field survey, I hereby state that this plat is true and correct to the best of my knowledge and belief.

Rodney C. Yoder
Rodney C. Yoder, Professional Surveyor No. 7220



7-3-07 [Signature]

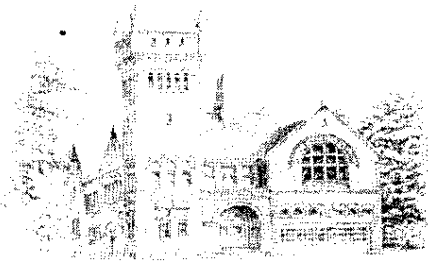
ANNEXATION PLAT FOR THE STATE OF OHIO

OHIO DEPT. OF TRANS.
HOLMES COUNTY GARAGE

1
1

200700051048
Filed for Record in
HOLMES COUNTY OH
ON 06/18/07 BY
RODNEY C. YODER
PLAT LARGE
OR Book 2 Page 448 - 448
OR 148 pgs. 837

6 North Washington Street
Millersburg, Ohio 44654
FAX (330) 674-9044
www.millersburgohio.com



VILLAGE OF MILLERSBURG

Jeff Huebner, Mayor

Kevin Brooks, Village Administrator
Karen Shaffer, CMC, Village Clerk-Treasurer, Tax Administrator
S. Thomas Vaughn, Police Chief
Nate Troyer, Zoning Inspector

Village Offices (330) 674-1886
Income Tax (330) 674-6891
Police Department (330) 674-5931

CERTIFICATION

The undersigned, Clerk-Treasurer, of the Village of Millersburg, Holmes County, Ohio, hereby certifies that the foregoing are true and correct copies of actual proceedings and legislation on the annexation of property to the Village of Millersburg by the State of Ohio

Karen S. Shaffer, CMC
Clerk-Treasurer
Village of Millersburg

7-3-07

Date

200700051049
Filed for Record in
HOLMES COUNTY, OH
SALLY MILLER
07-10-2007 At 12:57 pm.
RESOLUTION 124.00
OR Book 198 Page 337 - 350

1 of 4 pg

**Village of Millersburg
Resolution No. 2007-16**

Instrument Book Page
200700051049 DR 198 838

**A RESOLUTION ACCEPTING ANNEXATION ON APPLICATION OF THE STATE
OF OHIO WITH ANNEXATION AGREEMENT FOR 10.66 ACRES**

WHEREAS, the State of Ohio has petitioned the Village of Millersburg for the annexation of two parcels of property containing a total of approximately 10.66 acres (the "Property"), and

WHEREAS, pursuant to RC 709.021 and 709.022 the following parties entered into an Annexation Agreement dated February 14, 2007 attached hereto as Exhibit 1 and incorporated herein by reference to facilitate such annexation: the State of Ohio by and through the Ohio Department of Transportation, the Village of Millersburg, the Hardy Township Trustees, and Thomas K. and Cheryl L. Bird as Trustees of the Thomas K. Bird and Cheryl L. Bird Trust, and

WHEREAS, the State of Ohio filed its Petition for Annexation (expedited Type 1 with the Holmes County Commissioners, which Petition was approved by the Holmes County Commissioners on March 8, 2007 by resolution attached hereto as Exhibit 2, and

WHEREAS, the certified copy of the entire record of the annexation proceedings including all resolutions of the board, signed by a majority of its members, the petition map, and all other papers on file, and the recording of the proceedings are on file with the Village Clerk, and

WHEREAS, the Village Clerk has laid the resolution of the Holmes County Commissioners approving the petition, the petition, and the accompanying Annexation Plat before Village Council at the next regularly scheduled Council Meeting after the expiration of sixty days after the approval of the Commissioners, and

WHEREAS, the Petition, Annexation Agreement and all accompanying materials appear to be in conformity with the law and it further appears that the proposed annexation of the Property is in the best interest of the Village.

BE IT RESOLVED:

Section 1. The proposed annexation as applied for in the petition is hereby accepted. The territory annexed is described and depicted on the Annexation Plat that is hereby approved and incorporated herein by reference.

Section 2. The Village hereby affirms the Annexation Agreement in its entirety.

Section 3. The Clerk shall perform the following acts:

- (1) Make three copies of the petition, the map accompanying the petition, the annexation agreement, the proceedings of the Commissioners, and resolutions and ordinances in relation to the annexation.
- (2) Attach a signed certification to each with a seal of the Village that authenticates that the copies are correct
- (3) Deliver one copy to the Holmes County Auditor, one to the Holmes County Recorder and one to the Ohio Secretary of State
- (4) File notice of this annexation with the Holmes County Board of Elections within thirty days after it becomes effective
- (5) All other acts required by law

Section 4. This resolution shall become effective thirty days after passage.

Passed at a regular meeting of Millersburg Village Council on the 11 day of June, 2007.

2007 4 17

Notice of this Resolution shall be published in the Wooster Daily Record and/or the Holmes County Hub and/or the Holmes County Journal once per week for two (2) consecutive weeks as required by the Ohio Revised Code.

Reading 1 5-15-07 Reading 2 5-29-07 Reading 3 6-11-07

PASSED in Council this 11 day of JUNE, 2007.

Vote: All yea

Attest: Karen Shaffer
Karen Shaffer, Clerk of Council

Greg Hardesty
Greg Hardesty, President of Council

Approved: 6-11-07, 2007

Jeff Huebner
Jeff Huebner, Mayor

Document prepared by Robert Hines

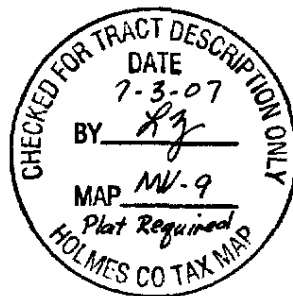
TRANSFER NOT NECESSARY

DATE 7/9/07

AUDITOR Jacqueline McKel

304 A7

Instrument 20070051049 OR Book Page 198 840



DESCRIPTION OF A 10.661 ACRE TRACT FOR ANNEXATION TO THE VILLAGE OF MILLERSBURG

Situated in the Township of Hardy, the County of Holmes and the State of Ohio and being located in the south half of Section 22 of Township 9, Range 7 and being known as all of a 4.00 acre tract conveyed to the State of Ohio in Deed Vol. 120, P. 507 and all of a 6.66 acre tract (6.661 acres by survey) conveyed to the State of Ohio in Deed Vol. 146, P. 24 and being more fully described as follows:

Beginning at a point at the northeast corner of the 4.00 acre tract, said point being located N 88° 10' 12" W, 1155.00 feet from the northeast corner of the northwest quarter of the southeast quarter of Section 22;

Thence from said PLACE OF BEGINNING and along the easterly line of the 4.00 acre tract, S 02° 32' 48" W a distance of 500.00 feet to a point in U.S. Route 62;

Thence along the southerly line of the 4.00 acre tract and the aforementioned 6.66 acre tract, N 88° 10' 12" W a distance of 789.40 feet, but passing over an iron pin found (disturbed) at 37.41 feet;

Thence continuing along the southerly line of the 6.66 acre tract, N 80° 37' 12" W a distance of 194.75 feet to the easterly line of a 1.565 acre tract conveyed to Holmesville Manufacturing and Distribution Center, Inc. in Deed Vol. 273, P. 976;

Thence along the easterly lines of the 1.565 acre tract and a 4.447 acre tract conveyed to Holmesville Manufacturing and Distribution Center, Inc. in Deed Vol. 273, P. 976, N 14° 46' 48" E a distance of 486.74 feet to an iron pin found at the northwest corner of the 6.66 acre tract;

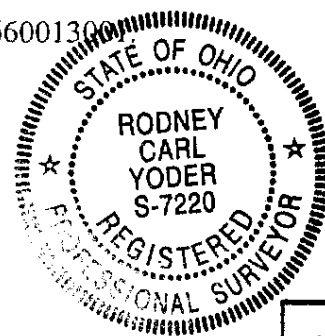
Thence along the north line of the 6.66 acre tract, S 88° 10' 12" E a distance of 879.65 feet to the PLACE OF BEGINNING, containing 10.661 acres but subject to all legal highways, rights of way and leases of record.

Bearings for the above description are based on The Ohio State Plane Coordinate System, North Zone, NAD 83 (1995).

This description was prepared by Rodney C. Yoder, Professional Surveyor No. 7220 and is based on a survey made by the Ohio Department of Transportation, District 11, New Philadelphia, Ohio, in May 2007.

The above described tract is all of Auditor's Parcel No.'s 060013000 and 0660013000

[Signature] Rodney C. Yoder, P.S. 7220



See Plat Book 2 Page 448 for survey plat.

4 of 4 pg

Annexation Agreement

This Annexation Agreement (the "Agreement") is made and entered into this TH14 day of ~~February~~, 200~~7~~⁷ pursuant to Ohio Revised Code Section 709.022, by and between the Village of Millersburg, Ohio (the "Village"); the Trustees of Hardy Township, Ohio (the "Township"), the State of Ohio by and through the Ohio Department of Transportation ("ODOT") and Thomas K. Bird and Cheryl L. Bird, Trustees of the Thomas K. Bird and Cheryl L. Bird Trusts ("Birds") with reference to the following facts:

1. Birds are the owners in fee simple of certain real property described in Exhibit A attached hereto and made a part hereof. A plat map of the Property is attached hereto as Exhibit B and made a part hereof. This individual parcel is hereinafter referred to as the "Bird Property".

2. ODOT is the owner in fee simple of certain real property described in Exhibit C attached hereto and made a part hereof. A plat map of the property is attached hereto as Exhibit D and made a part hereof. This individual parcel is referred to hereinafter as the "ODOT Property".

3. The Bird Property and ODOT Property are hereinafter collectively referred to collectively as the "Property".

4. Both ODOT and Birds desire to develop the Property by installing municipal water and sewer service to it.

5. The parties desire to enter into a mutual agreement, which outlines their respective rights, duties and obligations with respect to the Property.

A. Construction and Installation of Water and Sewer lines. Birds shall be primarily responsible for ensuring that water and sewer utilities (collectively, the "Utilities") are available to the Property. It is understood that the term Utilities includes extensions of the water and sewer mains, but does not include any lateral lines which will be located within the Property to be constructed on the Property. The Village shall not be responsible for maintaining such lateral lines at any time. Birds shall be responsible for obtaining any necessary permits, easements or licenses necessary to extend the Utilities, including the lateral lines, to the boundaries of the Property. In addition, Birds shall be responsible for all costs of engineering, construction and installation in and on the Property of all necessary pipelines as more fully outlined in the site plan, attached hereto as Exhibit F (the "Site Plan"), and made a part hereof. The above-referenced utility lines, including the lateral lines, shall be constructed in accordance with the standards established by the Village and the OEPA for such facilities. The Village and the

Ohio Environmental Protection Agency ("OEPA") shall approve the plans for all such utility lines, including the lateral lines, prior to commencing construction.

B. Provision of Water and Sewage. Upon completion of construction of the necessary water and sewage pipelines and facilities and connection of these systems to the Village facilities, and after dedication of same to the Village the Village shall be responsible for providing water and sewage utility services to the Property.

C. Ownership of Systems: Maintenance and Repair. After the Utilities are completed per the specifications of the Village and EPA, the Village will issue a Certification of Completion. Thereupon, the Utilities will be offered for dedication, which offer will be accepted by the Village. Thereafter, the Village shall be the owner of said lines for all purposes. Notwithstanding said dedication, consistent with Sec. 1133.16 of the Village Ordinances, for one year from the acceptance of the dedication, the owners of the property on which the line(s) is located shall be responsible for all maintenance and repair for said Utilities.

D. Easement. Upon dedication of the water and sewer lines, but not including the lateral lines, the Birds and ODOT shall grant to the Village an easement to enter upon the property to maintain, replace or improve said lines. Said easement shall be at least fifteen feet (15') on either side of the centerline of said lines. The easement document shall include a metes and bounds description of said easement. Preparation and recording of said document shall be the responsibility of ODOT.

6. After completion of all the work necessary as aforesaid, ODOT agrees that it will pay to Birds a tap in fee of Forty seven Thousand Dollars (\$47,000).

7. The ODOT Property is not now annexed to the Village of Millersburg. The parties desire said property to be annexed into the Village pursuant to and under the authority of Ohio Revised Code Sections 709.021 and 709.022.

8. Simultaneous herewith, ODOT is filing with the Village a Petition for Annexation pursuant to Ohio Revised Code Sections 709.021 and 709.022.

9. Effective as of thirty days after the passage of a resolution of the Village accepting ODOT's Petition for Annexation, the ODOT Property shall be annexed to the Village of Millersburg, Holmes County, Ohio and the corporate limits of the Village of Millersburg shall be extended to include and encompass the ODOT Property. Once annexed to the Village of

Millersburg, the ODOT Property shall no longer be a part of the territory of Hardy Township and shall be the exclusive territory of the Village of Millersburg for all purposes, including but not limited to, allocation of real property, and income tax proceeds.

10. Once annexed, the Property initially shall be classified for zoning purposes as agricultural. As soon as possible after the annexation, and after the appropriate action by the Planning and Zoning Board, the Village will reclassify the Property's zoning status to B-2.

11. Every covenant, term, and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against either party.

12. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

13. This Agreement shall be construed in accordance with, and governed by, the laws of the State of Ohio.

14. If any party to this agreement believes another party has failed to perform its part of any provision of that agreement, including the failure to make any payment of moneys due under the agreement, that party shall give notice to the other party clearly stating what breach has occurred. The party receiving the notice has ninety days from the receipt of that notice to cure the breach. If the breach has not been cured within that ninety-day period, the party that sent the notice may sue for recovery of the money due under the agreement, sue for specific enforcement of the agreement, or terminate the agreement upon giving notice of termination to all the other parties.

15. This Agreement shall be interpreted to give it fair meaning, and any ambiguity shall not be construed against either party.

16. This agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties.

17. The financial obligations of the State of Ohio are subject to the provisions of Section 126.07 of the Ohio Revised Code.

Executed this _____ day of _____, 2006.

“Village”

Village of Millersburg, Ohio

By: Jeff Huebner
Its: Mayor

“Township”

Hardy Township Trustees

By: David E. Carlson
Dick Baker
Its: Academy

“ODOT”

State of Ohio
Department of Transportation

By: Kevin C. Swearingen, P.E. P.S. /esp

Its: Acting Director
2-5007

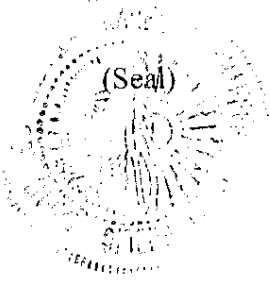
“Birds”

By: Thomas J. Buel

Its: Trustee

State of Ohio:
County of Holmes:

The foregoing instrument was acknowledged before me this 26 day of February, 2007, by Karen Shaffer, Clerk-Treas of the Village of Millersburg, Ohio.



Notary Public

Karen Shaffer

State of Ohio:
County of Holmes:

The foregoing instrument was acknowledged before me this _____ day of _____, 2006, by _____ of the Hardy Township Trustees.

(Seal)

Notary Public

State of Ohio:
County of ~~Holmes~~ FRANKLIN

The foregoing instrument was acknowledged before me this 5 day of Feb., 2007, by CATHERINE PERKINS of ODOT. ON BEHALF OF KEITH SWLAKINGEN, ACTING DIRECTOR

(Seal)

Notary Public



THOMAS P. PANNETT
Attorney At Law
Notary Public, State of Ohio
Lifetime Commission

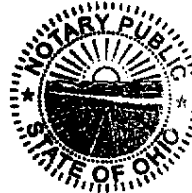
State of Ohio:
County of Holmes:

The foregoing instrument was acknowledged before me this 18th day of DECEMBER, 2006, by THOMAS K. BIRO, Trustee of the _____ Trust.

Notary Public

Robin Roach

This instrument prepared by:
Robert B. Hines
Solicitor, Village of Millersburg
6 West Jackson St.
Millersburg, Ohio 44654
(330)674-1886



ROBIN ROACH
Notary Public, State of Ohio
My Commission Expires
November 29, 2010

VILLAGE OF MILLERSBURG

RESOLUTION # 2007-06

To approve an Annexation Agreement that will ultimately result in the annexation of 10.66 acres owned by the State of Ohio (Department of Transportation) into the Village of Millersburg

WHEREAS, the State of Ohio is the owner of two (2) parcels of real property containing a total of approximately 10.66 acres (the "Property"). The State of Ohio desires that the property be annexed to the Village of Millersburg, Ohio, and

WHEREAS, pursuant to O.R.C. §§709.021 and 709.022, the Trustees of Hardy Township, Ohio (the "Township"), the State of Ohio, and Thomas K. Bird and Cheryl L. Bird as Trustees of the Thomas K. Bird and Cheryl L. Bird Trust of September 26, 1991 entered into a certain Annexation Agreement dated February 25, 2007 (the "Annexation Agreement"), a copy of which is attached hereto as Exhibit A and made a part hereof;

WHEREAS, the purpose of this Agreement is to expedite the annexation of 10.66 acres of property into the Village, and

WHEREAS, in order for this expedited annexation process to be accomplished the Village must approve the annexation agreement, and

WHEREAS, it would be in the best interests of the Village to annex said property, and

NOW, THEREFORE, BE IT RESOLVED that the Village of Millersburg, Ohio, hereby approves the aforementioned Agreement and hereby authorizes the Mayor to sign the Agreement thus binding the Village.

BE IT FURTHER RESOLVED that the Clerk of the Village shall deliver the signed Agreement along with the Petition for Annexation to the office of Holmes County Commissioners as soon as possible for their approval.

Passed at a regular meeting of Millersburg Village Council on the 26 day of February, 2007.

Notice of this Resolution shall be published in the Wooster Daily Record and/or the Holmes County Hub and/or the Holmes County Journal once per week for two (2) consecutive weeks as required by the Ohio Revised Code.

Reading 1 2/26/07 Reading 2 2/26/07 Reading 3 2/26/07

PASSED in Council this 26 day of February, 2007.

Vote: All yea

Attest: [Signature]
Karen Shaffer, Clerk of Council

[Signature]
Greg Hardesty, President of Council

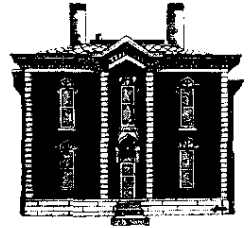
Approved: February 26, 2007

[Signature]
Jeff Hubner, Mayor



HOLMES COUNTY COMMISSIONERS

2 COURT STREET, SUITE 14
MILLERSBURG, OHIO 44654-2001
PHONE (330) 674-0286 FAX (330) 674-0566
E-MAIL: HCC@VALKYRIE.NET
WEBPAGE: WWW.HOLMESCOUNTY.COM/COMMISSIONERS/



Holmes County Commissioners

Resolution # 03-08-07-6

A RESOLUTION GRANTING THE ANNEXATION INTO MILLERSBURG VILLAGE WITHOUT HOLDING A HEARING, ORC SECTION 709.022

WHEREAS, Chapter 709. of the Ohio Revised Code provides for the annexation of land into incorporated Villages upon application to the Board of County Commissioners; and

WHEREAS, on February 25, 2007, the **VILLAGE OF MILLERSBURG** by and through its Mayor and Council President; and the **TOWNSHIP OF HARDY** by and through its Board of Trustees; and **THE STATE OF OHIO DEPARTMENT OF TRANSPORTATION** by and through Keith Swearinger, Acting Director; and **THOMAS K. AND CHERYL L. BIRD** as Trustees of the Thomas K. Bird and Cheryl L. Bird Trust of September 26, 1991 entered into an **ANNEXATION AGREEMENT**, a copy of which is attached hereto and incorporated herein by reference, providing for the annexation of certain property located within the Township to the Village; and

WHEREAS, the **ANNEXATION AGREEMENT** is entered pursuant to Ohio Revised Code 709.021 and 709.022; and

WHEREAS, the **ANNEXATION AGREEMENT** is accompanied by a **PETITION FOR ANNEXATION (EXPEDITED TYPE I)**, a copy of which is attached hereto and incorporated herein by reference, executed by the Petitioner **STATE OF OHIO**, and the petition contains the waiver of appeal language contained within Ohio Revised Code 709.022(B); and

WHEREAS, the **ANNEXATION AGREEMENT** and **PETITION FOR ANNEXATION** were filed with the Board of Holmes County Commissioners on March 01, 2007, and the next regular session of said Board is March 08, 2007; and

WHEREAS, Ohio Revised Code 709.022 provides that upon the filing of such a petition and agreement, "the Board of County Commissioners, at the Board's next regular session, shall enter upon its journal a resolution granting the annexation, without holding a hearing";

RECEIVED MAR 9 2007

Karen Shaffer

THEREFORE BE IT RESOLVED, that the Board of County Commissioners , County of Holmes, State of Ohio does hereby **GRANT** the annexation as contained in the Petition and accompanying agreement and does hereby order the Clerk to enter the same upon the Journal.

Mr. *Feikert* moved for adoption of the preceding Resolution. Mr. *Hall* seconded the motion. Upon roll call the vote was as follows:

Joe D. Miller *Joe Miller* yes/no
Ray L. Feikert *Ray Feikert* yes/no
David L. Hall *David Hall* yes/no

The below signed Clerk to the Board hereby certifies that the preceding Resolution is a true and exact copy of a Resolution adopted during the regular business meeting of March 08, 2007 and recorded in Commissioners Journal 42 under that date.

Susan L. Haun
Susan L. Haun, Clerk to the Board
Holmes County Board of Commissioners

200700051049
VILLAGE OF MILLERSBURG
MILLERSBURG OH 44654

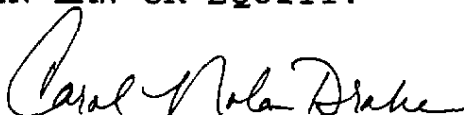
PETITION FOR ANNEXATION

The State of Ohio, the Ohio Department of Transportation (State) petitions the Holmes County Board of County Commissioners for the annexation of parcels of real property bearing Auditor's Permanent Parcel Numbers **0660013000** and **0660012001** (more fully described in Exhibit A, attached) to the Village of Millersburg. The State of Ohio, the Ohio Department of Transportation makes the above-referenced annexation petition pursuant to Ohio Revised Code Section 709.022.

In support of the petition, the State avers the following:

1. The State has attached the legal description of the above-referenced parcels of property as Exhibit A.
2. The State has attached a map of the parcels as Exhibit B.
3. The above-referenced parcels of land are adjacent to the Village of Millersburg.
4. The State of Ohio, Ohio Department of Transportation is the sole owner of the parcels of land subject to the annexation request.
5. Pursuant to Ohio Revised Code Section 709.02(E), the Director of the Ohio Department of Administrative Services is the authorized agent for the State in above annexation process and shall sign the petition on behalf of the State.
6. The State acknowledges the following:

WHOEVER SIGNS THIS PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL ANY ACTION ON THE PETITION TAKEN BY THE BOARD OF COUNTY COMMISSIONERS. THERE IS ALSO NO APPEAL FROM THE BOARD'S DECISION IN THIS MATTER IN LAW OR EQUITY.



Carol Nolan Drake, Acting Director
Ohio Department of Administrative Services

Date: Jan. 23, 2007